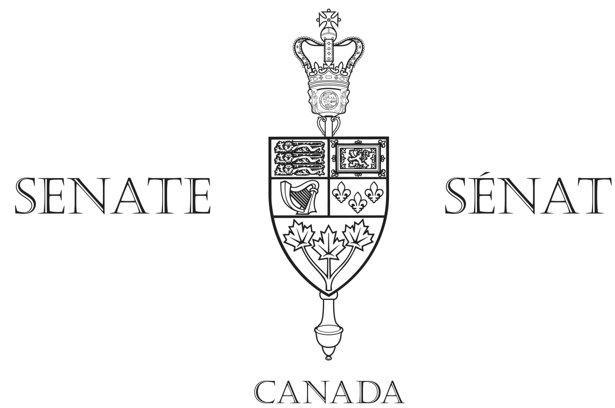

DEBATES OF THE SENATE

1st SESSION 44th PARLIAMENT VOLUME 153 NUMBER 225

OFFICIAL REPORT
(HANSARD)

Thursday, October 3, 2024

The Honourable RAYMONDE GAGNÉ,
Speaker

CONTENTS

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

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

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

THE SENATE

Thursday, October 3, 2024

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

Prayers.

SENATORS' STATEMENTS

INNOVATION IN CARBON ACCOUNTING

Hon. Colin Deacon: Honourable senators, imagine navigating a ship through dense fog. You can't see the shoreline, but you know it's rocky. You don't have a GPS, and there are no channel markers. It's nearly impossible to chart a safe course.

Now imagine that ship is our economy and the fog is the uncertainty surrounding greenhouse gas emissions.

Carbon accounting is our GPS. Carbon accounting shows us exactly where we are and where we must go, and it guides us through the complexities of the journey to net zero and, ultimately, to net negative.

Data are the bedrock of informed decision making, especially in our fight against climate change. This was reaffirmed in the Net-Zero Advisory Body's recent report, which emphasized the importance of creating a national carbon budget for Canada and the regular accounting of our emissions.

To successfully create a sustainable environment for future generations, we require tools that accurately quantify the carbon we emit and the carbon that we sequester.

As usual, Canadian innovators are stepping up. Calgary-based Arbor is one such leader, developing cutting-edge tools that make carbon accounting broadly accessible, cost-efficient and reliable.

For most organizations, charting a path to net zero seems daunting. Arbor has simplified a crucial piece of the puzzle — carbon accounting — and their tools follow globally recognized standards like ISO 14067 and the Science Based Targets initiative, or SBTi. Users can measure their Scope 1, 2 and 3 emissions, create detailed reports and identify clear pathways to a reduced carbon footprint.

This means that Canadian businesses can track and reduce their emissions, which not only contributes to Canada achieving its national climate objectives but also enables these companies to gain a competitive edge in a global market that increasingly values sustainability. This is crucial to building a future in which economic growth and environmental responsibility go hand in hand.

Colleagues, just over two years ago the Senate committed to reaching a net-zero emissions target by 2030. Last year, we benchmarked our current emissions, and earlier this year we identified specific actions that will enable us to reduce our emissions by 45% by 2030.

However, to actually reach net zero, we must be able to confidently track and report on our progress with certainty and cost-efficiency. This requires innovation and underlines why we need to support Canadian innovators whose globally leading technologies and tools can help us all.

Colleagues, as Canada works to meet its national target of net zero by 2050, let's prioritize the adoption of practical, cost-effective and innovative Canadian solutions.

Thank you.

WORLD TEACHERS' DAY

Hon. Jane MacAdam: Honourable senators, I rise today to speak about World Teachers' Day, celebrated on October 5, to recognize the vital role teachers play in our communities and in shaping future generations.

Teachers are the heartbeat of the education system, nurturing, mentoring and empowering youth and mature learners with tireless dedication and commitment. World Teachers' Day is an occasion to emphasize their crucial contributions to promoting education and development. It is also an opportunity to raise awareness about the ongoing challenges they face and the support and resources they require to continue their invaluable work and to thrive in their profession.

Teachers do much more than deliver lessons. They act as counsellors, coaches, mentors and advocates. They challenge students to explore, ask questions and help them to reach their full potential.

In my own life, I had the pleasure of having George and Anne Morrison as both my high school teachers and basketball coaches. While I didn't become a point guard in the Women's National Basketball Association, or WNBA, or have a successful coaching career like their son Scott, an assistant coach in the National Basketball Association, or NBA, I remember how they pushed me to reach my potential and are part of the reason I am here today.

My son Robert is a high school principal in my home province of Prince Edward Island. He works tirelessly to maximize classroom learning and helps ensure that adequate support systems and enrichment opportunities are in place for the well-being of the students.

In sharing these personal connections, I know that all of us can name a teacher who made an impact, even so far as to change the trajectory of our lives. To teachers across Canada: thank you.

Your hard work does not go unnoticed, and the devotion to drive education and self-betterment helps to build a better future for everyone.

Thank you.

OSTOMY CANADA SOCIETY

Hon. Wanda Thomas Bernard: Honourable senators, I rise today to pay tribute to thousands of Canadians who live with one of Canada's best-kept secrets. Did you know that approximately 150,000 Canadians live with an ostomy, and 3,000 of them are from my home province of Nova Scotia?

Perhaps you think you do not know a person who lives with an ostomy, and that is likely due to the stigma and it being taboo subject matter, even though it is an essential, life-saving intervention.

Despite the stigma and silence around ostomies, there is hope. The Ostomy Canada Society is a not-for-profit volunteer organization dedicated to helping ostomates live life to the fullest. There are support groups available for people to connect with other ostomates. They offer support, education, collaboration and encouragement.

Ostomy Halifax has been providing support, education and awareness for over 50 years. Their mission is to uplift and empower Nova Scotians who live with an ostomy.

On August 30, George and I celebrated our forty-ninth wedding anniversary, which has been made possible because of the 17-year relationship he has had with his second-best friend: his ostomy. I say second-best friend because, of course, I am his best friend. George's early acceptance of his new reality is largely due to the trained visitors from Ostomy Halifax who have supported him and us during a very challenging transition. I look forward to speaking on Halifax Ostomy Education and Awareness Day on October 19.

World Ostomy Day was yesterday, October 2. Every year the Ostomy Canada Society celebrates "living life to the fullest" with an awareness event called Step Up for Ostomy. Honourable colleagues, this year, I boldly and proudly step up to use my voice to break through the stigma and silence and thank all ostomates who bravely work through the challenges they face to live life to the fullest.

• (1410)

George helps me to find joy every day, and he has been doing so for 49 years. I thank him for his courage and self-determination, and I ask, colleagues, that you please join me in thanking Ostomy Canada for the unwavering support they provide to ostomates across Canada every day.

Thank you.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Captain John David MacIsaac, Company of Master Mariners of Canada, and polar ice navigator for the annual refueling of NORAD's North Warning Stations in the western Canadian Arctic. He is the guest of the Honourable Senator Coyle.

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

Hon. Senators: Hear, hear!

OCTOBER 7 ATTACK ON ISRAEL

FIRST ANNIVERSARY

Hon. Leo Housakos: Honourable senators, Monday marks one year to the day that Canada's Jewish community woke to the news of their brothers and sisters in Israel being kidnapped and massacred by the genocidal Palestinian terrorist organization Hamas. The images that emerged were difficult to watch and believe: entire families bludgeoned or burned alive in their homes, young people at a music festival shot, raped and butchered. Innocent people as young as 9 months and as old as 86 years were kidnapped and dragged to the dungeons of Gaza. It was the deadliest day for the Jewish people since the Holocaust.

Eight Canadians were among Hamas victims that day: Judih Weinstein, whose body is still being held hostage; peace activist Vivian Silver; Ben Mizrachi, a 22-year-old known for his compassion; Netta Epstein, who jumped on a grenade to save his fiancée; Shir Georgy, known as someone who always radiated light; Adi Vital-Kaploun, a mother of two young children; Tiferet Lapidot, a loving young woman murdered just shy of her twenty-third birthday; and the charismatic Alexandre Look from my hometown of Montreal.

But the horror of Hamas' actions didn't end on October 7, as more than 100 hostages remain in Gaza, including the youngest of two Bibas children. Those hostages have endured one full year of starvation, sexual abuse and torture.

Monday also marks one year of the Trudeau government's overt and despicable abandonment of the Jewish people, both at home and abroad.

Here in Canada, October 7 sparked riots in our streets that continue to this day. Protesters masked themselves and called for violence against Jews in the name of "Free Palestine." Synagogues and Jewish schools have faced arson and shooting attacks. Yet, this government has failed to criminalize the perpetrators and hold them accountable.

Abroad, we have failed to stand by our ally Israel in its war against Hamas, as well as Hezbollah and other Iranian proxies. Instead of holding UNRWA, the United Nations Relief and Works Agency for Palestine Refugees, to account for its employees' participation in the October 7 massacre, Justin

Trudeau provides it with more taxpayer funds. At the same time, Minister of Foreign Affairs Mélanie Joly brags about cutting Canada's supply of defensive weapons to Israel.

The war goes on so long as the hostages remain in Gaza, so long as the threat to Israel's right to exist remains. Canada's support for Israel and the Jewish people must be unwavering.

It is my hope as we mark the one-year anniversary since October 7 that Israel continues to fight for the return of all hostages and for the destruction, once and for all, of Hamas. It is also my hope that Canada will soon again be considered a friend to the Jewish community and their brothers and sisters in Israel.

May the memory of the 1,200 victims of the October 7 massacre — of Judih, Vivian, Ben, Netta, Shir, Adi, Alexandre and Tiferet — be a blessing. May the hostages come home, and may we have peace in the Middle East and among all Canadians.

Thank you, colleagues.

An Hon. Senator: 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 Kailee Deacon, daughter of the Honourable Senator Deacon (*Ontario*).

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

Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Beverly Jacobs, Professor of Law of the University of Windsor, and Aly Bear, former 3rd Vice Chief and Chief Candidate of the Federation of Sovereign Indigenous Nations. They are accompanied by missing and murdered Indigenous women and girls survivors and family members. They are the guests of the Honourable Senator Pate.

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

Hon. Senators: Hear, hear!

DIVERSITY, EQUITY AND INCLUSION

Hon. Kim Pate: Honourable senators, this is Women's History Month, Rosh Hashanah, and Monday was National Day for Truth and Reconciliation. Yesterday, as we just heard, was World Ostomy Day, as well as International Wrongful Conviction Day. Tomorrow is the National Day of Action for Missing and Murdered Indigenous Women and Girls. October 17 is the International Day for the Eradication of Poverty. October 18 is Persons Day and — well, you get the picture.

We need to think about and acknowledge marginalization and oppression and lift up the work of those whose lives have been dedicated to overcoming and remedying injustices.

I pay tribute to friends who have devoted their lives to working with and on behalf of too many who are left behind, ignored and/or forgotten. Fabulous women such as Dr. Bev Jacobs and Bridget Tolley — like our colleague senator Michèle Audette, the former president of the Native Women's Association of Canada and Missing and Murdered Indigenous Women and Girls commissioner; senator Mary Jane McCallum, senator Brian Francis and many other survivors of residential and day schools; and family members of missing and murdered Indigenous women and girls — are working with generations of inspirational young leaders like former third vice chief and current chief candidate of the Federation of Sovereign Indigenous Nations, Aly Bear, and her brothers, Dray and Dalyn.

We must all work together to address the significant racial, gender and economic inequalities in Canada today by implementing the Calls for Justice of the Missing and Murdered Indigenous Women and Girls Inquiry, especially for a national guaranteed livable income to eradicate poverty and the many other calls from that and the Truth and Reconciliation Commission's Calls to Action to increase equality, not to mention improve mental and physical health, lower health care costs, lower victimization, crime and incarceration rates.

As we recognize this month, these days and the work of so many amazing individuals and groups, we also congratulate our colleague senator Wanda Thomas Bernard, Speaker Greg Fergus and the Honourable Murray Sinclair, who are being honoured this weekend with Nation Builder and Lifetime Achievement awards.

Congratulations, and thanks to all of you in this chamber, in the gallery and beyond for your work, your decades of service to all of us. We thank you for leading the way to prevent, relieve inequality and oppression. Let us follow your lead and strive to make bold changes that are capable of addressing long-standing, systemic discriminatory attitudes, biases and institutions.

Canada is a rich and diverse country that can weave a strong and flexible tapestry of social, economic and health systems that leave nobody behind and provide opportunities for people to rebound out of personal, systemic and historic challenges and oppression, and not only support all but ensure that every person in this country can be fed, clothed, housed, educated and, most importantly, that they can thrive.

Meegwetch, thank you.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Her Excellency Vaira Vīķe-Freiberga, former President of the Republic of Latvia.

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

Hon. Senators: Hear, hear!

CANADIAN FOOTBALL LEAGUE

Hon. Larry W. Smith: Honourable senators, I would like to take this opportunity to recognize the Canadian Football League, or CFL, for the important steps it took over the last two weeks in advancing truth and reconciliation with Indigenous peoples. As a former player, team president and commissioner, but also as someone who deeply values the power of sport to unite and heal, I could not be prouder.

The CFL's efforts to commemorate the National Day for Truth and Reconciliation during week 17 of the season were compelling statements of acknowledgment, respect and a commitment to meaningful change. Across the league, players, coaches and officials came together with Indigenous communities to honour their contributions, culture and histories.

• (1420)

[*Translation*]

The nine CFL teams wore logos designed by Indigenous artists displayed prominently on the players' helmets, where they were clearly visible to fans in the stands and viewers across Canada.

[*English*]

Created by local artists, these logos reflected the deep and long-standing relationship between football and Indigenous communities across the country. Each design told a story, and collectively, they represented the CFL's commitment to recognizing the past while building a path forward rooted in awareness, education and action.

Moreover, Indigenous leaders, musicians, artists and community members across the country were honoured and celebrated in the lead up to the National Day for Truth and Reconciliation. These efforts were supported by educational content that highlighted Indigenous cultures, stories of Indigenous athletes and the deep ties between football and Indigenous communities.

[*Translation*]

I am thrilled to see the league paving the way to reconciliation with Indigenous peoples. Once again, we are reminded that sports can play an important role in bridging divides and building kinder, more tolerant communities.

[*English*]

Colleagues, it is essential that we acknowledge that reconciliation is ongoing. I echo the sentiments of the current CFL commissioner Randy Ambrosie who said:

> Our vision for a stronger, safer, more united Canada must be built on continued acknowledgment of where we have been and what has been done, as well as a promise to be better.

I wish to congratulate the CFL for undertaking this important initiative, and I look forward to its continuation.

Thank you.

ROUTINE PROCEEDINGS

NATIONAL FRAMEWORK ON ADVERTISING FOR SPORTS BETTING BILL

ELEVENTH REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE PRESENTED

Hon. Leo Housakos, Chair of the Standing Senate Committee on Transport and Communications, presented the following report:

Thursday, October 3, 2024

The Standing Senate Committee on Transport and Communications has the honour to present its

ELEVENTH REPORT

Your committee, to which was referred Bill S-269, An Act respecting a national framework on advertising for sports betting, has, in obedience to the order of reference of May 9, 2024, examined the said bill and now reports the same without amendment.

Respectfully submitted,

LEO HOUSAKOS

Chair

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

(On motion of Senator Deacon (*Ontario*), bill placed on the Orders of the Day for third reading at the next sitting of the Senate.)

[*Translation*]

CANADA NATIONAL PARKS ACT

BILL TO AMEND—ELEVENTH REPORT OF ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE PRESENTED

Hon. Josée Verner, Deputy Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Thursday, October 3, 2024

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

ELEVENTH REPORT

Your committee, to which was referred Bill C-76, An Act to amend the Canada National Parks Act, has, in obedience to the order of reference of Tuesday, October 1, 2024, examined the said bill and now reports the same without amendment but with certain observations, which are appended to this report.

Respectfully submitted,

JOSÉE VERNER

Deputy Chair

(*For text of observations, see today's* Journals of the Senate*, p. 3091.*)

(Pursuant to the order adopted by the Senate on September 25, 2024, the bill was placed on the Orders of the Day for third reading later this day.)

[*English*]

PHARMACARE BILL

TWENTY-FIFTH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED

Hon. Ratna Omidvar, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, October 3, 2024

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

TWENTY-FIFTH REPORT

Your committee, to which was referred Bill C-64, An Act respecting pharmacare, has, in obedience to the order of reference of Tuesday, June 18, 2024, examined the said bill and now reports the same without amendment but with certain observations, which are appended to this report.

Respectfully submitted,

RATNA OMIDVAR

Chair

(*For text of observations, see today's* Journals of the Senate*, p. 3092.*)

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

(On motion of Senator LaBoucane-Benson, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.)

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF INTERESTS AND ENGAGEMENT IN AFRICA

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

> That, notwithstanding the order of the Senate adopted on Thursday, October 26, 2023, the date for the final report of the Standing Senate Committee on Foreign Affairs and International Trade in relation to its study on Canada's interests and engagement in Africa, and other related matters be extended from December 31, 2024 to March 31, 2025.

THE SENATE

NOTICE OF MOTION TO AFFECT COMMITTEE PROCEEDINGS FOR REMAINDER OF CURRENT SESSION

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

> That, for the remainder of the current session and notwithstanding any provision of the Rules, previous order or usual practice, in scheduling their business committees prioritize their work in the following order:
>
> 1. Government business;

2. Commons public bills; and
3. All other bills, studies or business referred to the committee.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Patti LaBoucane-Benson (Legislative Deputy to the Government Representative in the Senate): Honourable senators, pursuant to the order adopted December 7, 2021, I would like to inform the Senate that Question Period with the Honourable Marc Miller, P.C., M.P., Minister of Immigration, Refugees and Citizenship, will take place on Tuesday, October 8, 2024, at 4:00 p.m.

• (1430)

CANADA NATIONAL PARKS ACT

BILL TO AMEND—THIRD READING

Hon. Karen Sorensen moved third reading of Bill C-76, An Act to amend the Canada National Parks Act.

She said: Honourable senators, I am incredibly heartened by how both chambers of Parliament have come together for Jasper this past week.

On Tuesday, I had the honour of introducing Bill C-76 in this place. The bill, by amending the Canada National Parks Act, provides Jasper the authority to manage land use and development within its town limits. The devastating wildfire that swept through the town this summer changed everything. With 30% of the town site destroyed, Jasper needs to rebuild as quickly as possible.

That's why the government has taken decisive action to initiate this transfer of powers. This measure achieved rare multi-partisan support, receiving unanimous consent in the other place.

I would like to express my sincere appreciation for our elected counterparts and to my colleagues in this place for agreeing to expedite our processes to get this exemption through. I'm also incredibly grateful to the members of the Standing Senate Committee on Energy, the Environment and Natural Resources for their insightful questions and thoughtful study, and for keeping the people of Jasper at the forefront of their minds.

Three observations were added during the committee hearings. Two emphasized the need for continued fulsome Indigenous consultations and the duty to consult, and the third recognized the importance of mitigation and preventative measures. I was glad we were able to come together and advance this much-needed bill.

Colleagues, Jasper is a special place for all Canadians but especially for the people who live there. Jasper's mayor and council understand this and have always embraced the opportunity to work with Parks Canada experts to balance the needs of visitors and residents with the crucial need to protect wildlife and preserve the natural beauty of the park.

As we studied this bill, I heard from my colleagues who feel the same way, and so I do want to reiterate that this bill is not a development free-for-all. It does not impact Parks Canada's jurisdiction over Jasper National Park. It does not allow Jasper to expand its town site past its current footprint or exceed its commercial cap. Parks Canada will continue to work closely with Jasper to ensure the highest standards of the conservation and environmental protection of the park.

The minister will have to sign off on Jasper's community plan, and Jasper will be bound by Alberta's provincial legislation governing municipalities. Once the process is complete, this will be the same system that has worked beautifully in my town of Banff for over three decades.

This bill is a common-sense amendment, limited in scope, that will help the people of Jasper in their time of dire need.

Thank you for your time and support. *Hiy hiy*.

Hon. Senators: Hear, hear.

[*Translation*]

Hon. Éric Forest: Dear colleagues, I'm pleased to speak to Bill C-76, which would give the Municipality of Jasper more control over land use planning.

I would like to start by saluting our colleague, Senator Sorensen, for her hard work and leadership on this file.

As we all know, more than 25,000 people, including the 5,000 residents, were forced to evacuate from Jasper as wildfires ravaged more than 33,000 hectares this summer.

When you witness a disaster like this, you feel powerless. You wish you could do something to help. Well, colleagues, we have a golden opportunity to do so with this bill, which will enable the community of Jasper to get back on its feet and participate fully in its land development.

In July 2022, the Municipality of Jasper asked Parks Canada to consider amending the 2001 Agreement for the Establishment of Local Government in the Town of Jasper to expand the services currently provided by the Municipality within the town boundaries to include certain land use planning and development responsibilities.

In response to this request from the Municipality of Jasper, in early 2023, Parks Canada consulted with Canadians locally, regionally and nationally to establish a fair and transparent process for determining how the community in Jasper National Park should be managed and preserved into the future.

During these consultations, the Municipality of Jasper emphasized how important it was that the community be able to contribute to the development of its territory.

The municipality also identified the need for greater transparency, clarity and consistency in planning policies and processes, as well as better long-term planning and greater responsiveness to local issues.

This is known as the principle of subsidiarity, and it means that decisions must be made by the level of government closest to the citizen.

Obviously, it makes more sense for key decisions to be made by Jasper's elected officials rather than public servants in Ottawa. People from the municipal sector who may be watching us will be surprised to learn, for example, that even the building permits were issued by Parks Canada rather than by the municipality.

In concrete terms, the hope is that simplifying the governance model will improve the land management services currently provided by Parks Canada. Residents also hope that a future agreement will help ensure a better balance between services for tourists and services for residents.

Of course, the immediate hope is that Bill C-76 will facilitate the development of plans to help residents and businesses recover and rebuild following the damage caused by July's fire, which destroyed more than a third of the city's homes and businesses, including more than 800 residential units.

Following discussions with Parks Canada, the town of Jasper now has a new urban planning department. Through their local council and the town's advisory committees, residents will have a direct say in local land development.

It's important to understand that land use planning plays a central role in the development of 21st-century communities because it directly influences quality of life, economic efficiency and environmental sustainability. Strategic land, infrastructure and resource use planning can ensure that communities meet current needs while preparing for future challenges.

First of all, land use planning promotes a balanced distribution of residential, commercial and tourist areas, supports local job creation, reduces regional inequalities and improves access to essential services, such as education, health care and transportation.

Urban planning and transportation choices influence economic productivity and social well-being.

Second, land use planning is a crucial lever for sustainable natural resource management and environmental protection.

Factoring in the risks associated with climate change, such as fires and desertification, helps minimize the negative impacts of urban expansion and preserve biodiversity.

Through strategies such as soft densification and the promotion of renewable energy sources, communities can reduce their environmental footprint while encouraging sustainable growth and active mobility.

Finally, land use planning helps improve social inclusion and cohesion. Designing public spaces that are accessible, safe and pleasant encourages social diversity and strengthens residents' sense of belonging. Green spaces, parks and community centres are all places that encourage social interaction and improve quality of life.

That being said, I have witnessed several transfers of responsibilities from the federal government to municipalities in eastern Quebec, and I echo the concerns voiced by citizens during the 2023 public consultations when I say that I can't help but worry that the transfer of responsibilities from Parks Canada to the Municipality of Jasper will result in increased costs that will have a direct impact on the property taxes of residents and business owners.

As we all know, Jasper is struggling with its budget because its costs are skyrocketing and because the fire wiped out a large part of its tax revenue.

I am confident that local officials have done their due diligence and will get the necessary guarantees before reaching a final agreement.

In closing, I would like to offer my best wishes to residents and local authorities as they cope with this ordeal. I'm sure that they will build a strong community. The fire in the summer of 2024 is a tragedy, but it is also an opportunity.

I hope that the new powers that Bill C-76 will give the community will make it possible to design a living space that is better tailored to the needs of local residents. Thank you.

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

Hon. Senators: Agreed.

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

• (1440)

[*English*]

BILL TO AMEND THE CRIMINAL CODE AND THE WILD ANIMAL AND PLANT PROTECTION AND REGULATION OF INTERNATIONAL AND INTERPROVINCIAL TRADE ACT

TWENTY-FIFTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE—DEBATE

On the Order:

Resuming debate on the motion of the Honourable Senator Cotter, seconded by the Honourable Senator Woo, for the adoption of the twenty-fifth report of the Standing Senate Committee on Legal and Constitutional Affairs (*Bill S-15, An Act to amend the Criminal Code and the Wild Animal and Plant Protection and Regulation of*

International and Interprovincial Trade Act, with amendments and observations), presented in the Senate on June 20, 2024.

Hon. Marty Klyne: Honourable senators, as sponsor of government Bill S-15, I rise in support of our Legal and Constitutional Affairs Committee's excellent report on this legislation, including significant amendments and observations.

As you know, this bill proposes legal protection for captive elephants and great apes. Through amendments in the report, the bill can also provide a mechanism to protect more wild species over time, like big cats, as well as public safety.

Before moving to the report, as a refresher, Bill S-15 answers the government's electoral mandate from Canadians to protect captive wildlife, building on Canada's 2019 whale and dolphin captivity laws. The legislation has the support of Dr. Jane Goodall — who visited us in the spring — and a coalition of 10 leading Canadian zoos and animal welfare organizations.

Bill S-15 would require a licence for the acquisition, breeding, import or export of elephants and great apes, which is limited to the purposes of either their best interests, conservation or scientific research. Currently, all 25 elephants and 30 great apes would be grandfathered in, with these two groups held at four locations in Canada.

The bill aims to end the commercial breeding and sale of elephants in Canada, including the cruel breakup of mother-daughter pairs, who normally stay together for life. It will also prevent the repeat of sad situations like that of Lucy, the lone elephant in Edmonton, while allowing relocations to sanctuaries in a warmer climate, if advisable.

In addition, Bill S-15 would prevent the import of humanity's closest living relatives — great apes — to roadside zoos or as exotic pets, covering chimpanzees, gorillas, orangutans and bonobos. Finally, Bill S-15 would ban using these species in performances for entertainment, such as the circus-style shows with elephants that have occurred in Ontario.

Let's turn to the Legal Committee's report. Over three months, we held 12 meetings, hearing from 45 witnesses, including Environment and Climate Change Minister Steven Guilbeault, as well as scientists, non-governmental organizations, or NGOs, zoos, sanctuaries and law professors.

We also received 22 written briefs.

Today, I will address the following: first, the scientific and legal evidence received by the committee; second, the amendments in the report; and lastly, the committee's observations.

First, there is the scientific and legal evidence for Bill S-15. The committee received conclusive evidence from independent scientists that captivity risks cruelty to elephants and great apes, and this bill is needed to protect these self-aware, emotional and highly social beings.

For example, neuroscientist Dr. Bob Jacobs told us that impoverished environments and chronic stress in captivity can cause brain damage, abnormal behaviour and compromised immune systems in elephants, great apes, big cats and other wild species. In regard to elephants, he said, "In many ways, it is the equivalent of forcing a human to live for a lifetime in a bathroom."

Committee evidence included concerns specific to Canada, such as keeping elephants indoors in the winter, separating mother-daughter elephant pairs and using the threat of bullhooks to control elephants through pain and fear.

On elephant science, the committee heard testimony in support of the bill from Dr. Keith Lindsay and Dr. Jan Schmidt-Burbach, and received written briefs in support from Dr. Jacobs and 24 elephant experts.

On great ape science, the committee heard testimony in support of the bill from Dr. Lori Marino and Dr. Mary Lee Jensvold. As to the legalities of Bill S-15, evidence before the committee confirmed that federal jurisdiction includes criminal and international trade laws to prevent animal cruelty or protect public safety.

On this point, I invite colleagues to consider the testimony of Professor Angela Fernandez and Professor Jodi Lazare and their written brief signed by four additional law professors.

The scientific and legal evidence before the committee was exhaustive and determinative. Captivity of wild animals such as elephants and great apes can amount to cruelty, and Bill S-15 is within its federal jurisdiction.

I now turn to the amendments contained in the report on Bill S-15.

First, the committee adopted an amendment from Senator Clement to ban elephant rides. For context, African Lion Safari near Hamilton previously offered elephant rides, resulting in an attack and serious injuries to a trainer in 2019. The Association of Zoos and Aquariums, or AZA — a United States-based accreditor — ended elephant rides at member organizations in 2011. Canada's Accredited Zoos and Aquariums, or CAZA, did the same in 2021. This amendment will give that policy legal effect in Canada.

Second, the committee adopted a series of amendments from Senator Clement that altered one of the three purposes of potential licensing from "scientific research" to "scientific research for conservation purposes." These amendments were at the request of the Jane Goodall Institute of Canada and nine leading Canadian zoos and animal welfare NGOs. Their purpose is to close a potential loophole, whereby elephants could be bred and imported or exported for profit on a thin scientific pretense without benefit to the conservation of the species.

Indeed, the committee heard that elephant captivity and related scientific research in North America does not have significant conservation value. This amendment will better protect captive elephants, particularly by helping to keep mother and daughter elephants together, having confirmed that their separation is cruel and unnatural.

Third, the committee adopted a plain language definition of "great ape" by listing the types, as proposed by Senator Batters. This makes the law easier to understand, and that's a good thing.

Fourth, the committee adopted an amendment from Senator Simons regarding sentencing for captivity offences. In addition to a fine and summary conviction for illegal breeding or performance, Senator Simons' amendment encourages judges to order conditions to protect the relevant animals or to relocate them to better locations with costs to the offender. Such a measure might have encouraged the Ontario Crown to follow through on the Niagara police's charges in 2021 against Marineland for allegedly illegal dolphin shows. Kaitlyn Mitchell, a lawyer for Animal Justice, told us that Marineland appears to have been able to flout that law.

Fifth, as the bill's sponsor and as an independent senator who has worked on this subject for several years, I have moved a series of amendments known as the "Noah Clause," which was adopted by the committee. Named for Noah's ark by the Honourable Senator Murray Sinclair, this measure provides a mechanism for the federal cabinet to possibly designate additional wild species for the same legal protections as elephants and great apes by executive order.

Adding the "Noah Clause" was a request —

POINT OF ORDER—SPEAKER'S RULING RESERVED

Hon. Donald Neil Plett (Leader of the Opposition): Your Honour, I am rising on a point of order. Until now, Senator Klyne has been talking about the scope of the bill, what the bill does and what the bill is intended to do. Now he is going off on a tangent about bringing every animal that Noah had on his ark into this when, of course, that is not what the bill is about.

I think this is the appropriate time to speak about my point of order regarding Bill S-15, An Act to amend the Criminal Code and the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act.

I'm cautiously optimistic, Your Honour, that this time the decision reached by this chamber will be based on facts and rules. I sometimes have the feeling that our rulings here are like the Tower of Pisa — always somewhat leaning in the same direction.

I feel that our precedents should be followed, Your Honour, notwithstanding the fact that some people believe that Justin Trudeau, in fact, created a new Senate, erasing 150 years of history. Your Honour and colleagues, we in the Conservative caucus will continue to put forward motions and points of order based on the Constitution of our country and, indeed, the *Rules of the Senate of Canada.*

I was surprised yesterday to hear so many colleagues tell me that I was right on my point of order in regard to this bill needing a Royal Recommendation and, thus, it needed to be started in the other place.

One senator told me I hit it out of the park. Those were his words: I hit it out of the park. Then yesterday, he voted against that hit out of the park. Somehow, he went out to left field way up there somewhere and brought the ball back into the park. I found that very strange.

• (1450)

Nevertheless, colleagues, these issues are not a popularity contest. They are about applying precedents and rules.

My point of order is regarding the amendment made by the Standing Senate Committee on Legal and Constitutional Affairs during its examination of this bill, which Senator Klyne was just getting into. The amendment I am referring to was moved, indeed, by Senator Klyne, and he already called it by the right title, the "Noah Clause." Although the amendment is much too lengthy to read into the record, I will do my best to summarize it for you by quoting some of Senator Klyne's testimony at the committee.

When introducing the amendment, Senator Klyne said the following:

> The first part of the "Noah Clause" would establish in the Criminal Code an executive authority for the federal cabinet to protect, by order, additional wild species in the context of captivity to prevent animal cruelty and/or to protect public safety. If a wild species is protected in this manner, such as lions or tigers, the same legal framework would apply as it does for elephants and great apes. . . .

And yet the bill is about elephants and great apes. Senator Klyne went on to say:

> To prevent animal cruelty and/or protect public safety, the Governor-in-Council must consider whether the species can survive in captivity based on factors such as natural behaviour, relevant characteristics and needs, evidence of harms in captivity, and risk to public safety. . . .

Your Honour, I submit to you that although it is well-meaning, this amendment is out of order because it is beyond the scope of the bill as approved by this chamber at second reading, which I will demonstrate in the following remarks.

As a House of Commons publication amending bills at committee and report stages notes:

> Second reading and reference to committee is a debatable motion on the general principles of the bill. Once the motion is passed, the principle and scope of the bill are fixed. . . .

On December 9, 2009, Speaker Kinsella noted the following:

> . . . an amendment moved in committee must respect the principle and scope of the bill, and must be relevant to it. It may generally be helpful to view the principle as the intention underlying a bill. The scope of the bill would then be related to the parameters the bill sets in reaching any goals or objectives that it contains, or the general mechanisms it envisions to fulfil its intentions.
>
> Finally, relevancy takes into account how an amendment relates to the scope or principle of the bill under examination. An amendment must respect the principle of the bill it seeks to amend, must be within its scope, and must be relevant to it.

Your Honour, Senator Klyne's amendment does fall within the principle of the bill. It accords with the underlying intention of the legislation. However, it is not within the scope of the bill and significantly expands the parameters the bill sets in reaching such goals and objectives. It is important to keep the distinction between these two elements in mind.

At committee, Senator Klyne made numerous arguments against my point of order, but these were primarily referencing the principle of the bill and not the scope. The scope is evident throughout the legislation, and it is captured by the bill's summary, which reads as follows:

> This enactment amends the Criminal Code to create offences related to keeping elephants and great apes in captivity, subject to certain exceptions. It also amends the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act to, among other things, specify the circumstances in which the importation or exportation of living elephants and great apes may be permitted as well as the circumstances in which the keeping of these animals in captivity may be authorized.

As the summary indicates, the parameters set up by the bill to reach its goals and objectives are clear; it creates offences related to keeping elephants and great apes in captivity, subject to certain exceptions. The principle of the bill is to protect animals in captivity, while the scope is constrained specifically to species identified.

In his second reading speech, Senator Gold, the Leader of the Government, confirmed this when he said:

> Colleagues, Bill S-15 takes a narrower approach than Bill S-241, which was introduced in this chamber in March 2022, by focusing solely on phasing out the captivity of elephants and great apes in Canada.

I repeat, ". . . by focusing solely on phasing out the captivity of elephants and great apes in Canada." That's it. Nowhere in Bill S-15 does the legislation contemplate expanding the prohibitions to cover other species.

Senator Klyne argued at committee that adding additional species to the act does not enlarge the scope of the bill because his second reading speech invited the committee to consider amendments specifically referring to the possibility of adding a "Noah Clause." Senator Klyne says that if he suggests it, it's okay.

He also argued that the Minister of Environment and Climate Change Canada affirmed a willingness to entertain amendments to the legislation, and this, according to Senator Klyne, means that his amendment is within the scope of the legislation.

To be frank, Your Honour, this is not a reasonable argument. For the sponsor and the minister to acknowledge that they are open to amendments does not change or redefine the scope of the legislation in any way. The scope is defined by the contents of the legislation itself, not the sponsor's commentary, which was clearly borne from his desire to transform Bill S-15 into Bill S-241.

Furthermore, simply acknowledging that the committee is welcome to consider amendments does not magically make those amendments admissible or procedurally valid. Any amendment at committee must respect the scope of the bill, and this one does not.

At committee, Senator Klyne also argued that his amendment was permissible because the Senate has broad latitude to make amendments in terms of the scope to the point of amending a bill so dramatically that when it is returned to the chamber, it is, in substance, a bill other than that which was referred. However, *Senate Procedure in Practice* says this:

> . . . it is possible for a bill to undergo significant amendment in committee, provided that the text reported back to the Senate continues to respect the decision of the Senate at second reading . . . .

There is no ambiguity here, Your Honour. None. The parameters are clear. Amendments are permitted, and they can be significant. However, they must respect the principle and scope of the bill as approved by the chamber at second reading. Senator Klyne's amendment is within the principle of the bill, which is to protect animals in captivity, but it completely destroys the scope of the bill, which was constrained specifically to the two species identified.

What needs to be understood, Your Honour, is why Bill S-15 was limited to only these two species. This has significant bearing on understanding the scope of the legislation.

According to the government, Bill S-15 was limited to protecting only elephants and great apes because of scientific evidence that they contend shows that keeping these animals in captivity is inherently cruel. The government argues that based on specific biological and social characteristics of elephants and great apes, such as their size and complex social structures, captivity is particularly harmful to the point of qualifying as cruelty.

Your Honour, I strongly disagree with this conclusion. It is nonetheless crystal clear that this is what forms the justification and parameters for why these species — and only these species — were included in Bill S-15: The government believes

the science says it is cruel to keep elephants and great apes in captivity, with certain exceptions. The problem for Senator Klyne is that the science does not say the same for other species.

• (1500)

This was confirmed at committee when Senator Simons asked the minister why the legislation was drafted to only include elephants and great apes. Minister Guilbeault said, ". . . we decided to, at this point, only include elephants and great apes based on the scientific literature . . ."

He continued, saying:

> . . . the body of evidence points to the fact that keeping these animals in captivity is equal to cruelty based on some of the criteria that I've spoken about.

Those are the minister's words. As part of my critic's briefing on Bill S-15, I asked the minister's office a similar question and was told the following:

> A combination of factors grounded in scientific evidence [formed] the decision by the federal government to propose to protect elephants and great apes under this bill.

A four-page document was included in the email, entitled "Factors Supporting that Elephants and Great Apes ought not be kept in Captivity in Canada."

This document summarized the science the government was referring to.

Your Honour, the government's position is that they believe they have the scientific backing to apply the legislation to elephants and great apes, but they did not feel that the same body of science existed for other species. This is what determined the scope of the legislation and constrained it to only elephants and great apes.

The second reason why the scope of the bill was specifically limited to elephants and great apes is because of constitutional concerns. The Constitution imposes jurisdictional sensitivities which were clearly articulated by both Senator Gold and the minister. In his second reading speech, again, the government leader in the Senate, Senator Gold, said:

> Provinces and territories have primary responsibility for protecting animal welfare, and the federal government recognizes the significant role that many provinces play in regulating animals in captivity . . .

He continued, saying:

> . . . the Government of Canada has committed to engaging with provinces, territories and stakeholders to discuss the potential value of a national approach to protecting animal welfare and public safety in relation to captive wildlife and to build on existing federal and provincial roles and best practices.

When he appeared at committee, the environment minister echoed those very same comments. He said:

> As you may know, jurisdiction over animals in captivity is shared among the federal, provincial and territorial governments. Canadian provinces and territories have primary responsibility for regulating zoos and protecting animal welfare. All provinces and territories have animal protection laws, and most regulate the captivity of wild animals by private individuals and zoos, including by setting standards for their care. Federal criminal laws that protect animals primarily focus on the prevention of cruelty. This is exactly what Bill S-15 aims to do.

Those are Minister Guilbeault's words.

Your Honour, the minister was very clear on three things: First, that the bill was not intended to deal with animal welfare, as this is provincial jurisdiction.

Second, before determining if legislation could move beyond these two species, consultations with provinces would be necessary.

Third, it was the issue of "cruelty" to animals which formed the nexus between federal and provincial jurisdiction and gave them the ability to legislate on animals in captivity.

This point is critical to understand: The government cannot just add whatever it wants into the Criminal Code. The Library of Parliament's publication *The Distribution of Legislative Powers: An Overview* addresses this issue. It notes that "Under section 91(27) of the *Constitution Act, 1867*, all matters relating to criminal law are under Parliament's exclusive jurisdiction. . . ."

The Library of Parliament document then goes on to define the parameters of that jurisdiction, noting the following:

> . . . to be considered a valid exercise of its criminal law power, the federal legislation must
>
> have a valid criminal law purpose, such as public peace, order, security, health or morality;
>
> be connected to a prohibition; and
>
> be backed by a penalty for violations.

To be a valid criminal law, legislation must embody all three of these.

Therefore, in order to try to stay within its constitutional lane, Bill S-15 was intentionally crafted to address the issue of animal "cruelty," which is very narrowly defined in criminal law and falls within the criminal law purpose of protecting morality.

As passed at second reading, the bill did not engage animal welfare and did not engage public safety. The scope of this bill was restricted to the criminal law purpose of protecting morality by preventing cruelty.

When he was at committee, Minister Guilbeault's comments underscored this fact when he said:

> The approach taken under Bill S-15 to protect elephants and great apes takes a similar approach to the existing regime that prohibits the captivity of whales and dolphins in Canada. In 2019, Parliament banned cetacean captivity on the basis that it is cruel due to their high cognitive abilities, social structure, and the adverse physical and mental effects of captivity on these creatures.

On February 20 of this year, I emailed the minister's office about the criminal law purpose of Bill S-15 and asked:

> Is the government . . . of the position that the valid criminal law purpose of S-15 is both security and morality, or just morality?

The minister's office responded with the following:

> The purpose of the amendments to the Criminal Code in Bill S-15 is to phase out the captivity of elephants and great apes in Canada, on the basis that it is cruel and morally wrong to keep these animals in captivity given their inherent characteristics and negative experiences in captivity.
>
> . . . While security or public safety may be valid criminal law purposes, the Bill's focus is on morality and the cruelty that captivity of elephants and great apes represents. There is no mention of security or public safety in the preamble, nor do any of the Bill's provisions address these matters.

That is a direct quote from the minister's office.

Your Honour, the minister has been very clear on this matter. The parameters which circumscribe the scope of the legislation are not fuzzy or accidental. They are very clear and critically important to the constitutionality of this bill. This is why I find it surprising that when Senator Klyne introduced his amendment, he made no effort to hide the fact that he was breaching those parameters. When he introduced his amendment, he noted three times that the purpose of the amendment was to "protect public safety."

Your Honour, I appreciate that Senator Klyne would like Bill S-15 to capture more of what was embodied in Bill S-241. As a matter of fact, he said so in this chamber. He is not hiding that. However, the government deliberately rejected this option by only including elephants and great apes. The government knew what Senator Klyne wanted. He couldn't get what he wanted. He asked the government to present a bill. They presented a bill that didn't include what Bill S-241 had. They purposely narrowed the scope to what they felt would sustain a constitutional challenge. This again was illustrated by Senator Gold's statement in his second reading speech when he said:

> Bill S-15 has been carefully crafted to address many concerns that were raised in the context of the debate on Bill S-241 — namely, the question of constitutional jurisdiction . . . .

• (1510)

Your Honour, these points in and of themselves are enough to demonstrate that the "Noah Clause" amendment is entirely out of order. When we consider that the principle of this bill is its underlying intention, which is to provide greater protection to animals in captivity, and the scope of the bill is found in the parameters the bill sets in reaching its goals and objectives, it is clear that the "Noah Clause" amendment is out of scope and should not be allowed to stand.

I'm coming to a close here, Your Honour. However, there are two additional points I need to bring to your attention that further illustrate how this amendment has changed the scope of the bill.

The first thing I note is that this amendment changes the scope of the legislation because, as it was written and approved at second reading, it only dealt with two exotic species that are not native to Canada. Senator Klyne's amendment drastically altered that scope to include any non-domesticated animal species, including those that are native to Canada, unless they are used in farming for food purposes.

Aside from the sheer volume of species that this legislation would now capture, it illustrates the significant constitutional issues that would be engaged by this amendment. Constitutionally, the responsibility for wild animals native to Canada falls to the provinces because it is under the jurisdiction of ministries of natural resources. To pass an amendment that gives the federal government the right to ban the captivity of those species is an undeniable infringement on provincial jurisdiction.

Under Bill S-241, Senator Klyne defended the inclusion of these species by asserting that it fell within federal jurisdiction: under the umbrella of Public Safety. However, I would again note that the Minister of Environment and Climate Change was clear that Bill S-15 was not legislating on the basis of public safety or security.

I am not asking you, Your Honour, to rule on constitutional issues. I am simply pointing out how this amendment dramatically changed the scope of Bill S-15. The fact is that even if it were not unconstitutional for the federal government to legislate the captivity of wild animals native to Canada, the amendment would still be out of scope because such a reach was not anticipated by the original legislation that we passed at second reading.

The second additional point I need to raise for your consideration is the fact that, under this amendment, Bill S-15 now potentially impacts animals used in farming. Senator Klyne included an exemption for farming for food purposes, but this does not address animals that are raised for their fur or wool: for example, mink, fox or alpaca. This concern was raised by the Fur

Institute of Canada in a letter sent to the chair of the committee following the introduction of the "Noah Clause" in their letter. They stated the following:

> Bill S-15, in its original form, was very narrow in scope, focused specifically on great apes and elephants. The amendment introduced by Senator Klyne will broaden the scope to, potentially, any "non-domesticated" animal, with the exception of those farmed for food.
>
> The fact that there is an explicit exception for *only* animals farmed for food, instead of a blanket exemption for animals which are farmed, is a clear indication that Senator Klyne and the groups supporting the "Noah clause" would like to open the door to banning the keeping or breeding of animals farmed for fur.

The fact that it opens the door to this is undeniable, illustrating the significant change this amendment made to the scope of Bill S-15.

In closing, Your Honour, I want to point out that the fact that this amendment extended the scope of the bill was repeatedly acknowledged at our committee meetings, both before and after the amendment was permitted by the chair. It was admitted by the chair with no consideration.

During the debate at committee I asked Ms. Stephanie Lane, Executive Director of Legislative Governance at Environment and Climate Change Canada, or ECCC, whether this amendment would change the scope of the bill, and she said:

> I would say it does change the scope of the bill in that it allows more species to be added, some of which are domestic species.

She is a government official, Your Honour.

Senator Simons, who voted against this amendment, noted that she did so because she believed it was out of scope. She said, "I'm not sure that I believe the amendment was in scope, and I voted accordingly."

Even Senator Dalphond, who voted in favour of the amendment, later acknowledged that it had " . . . extended the scope of the bill."

This was also confirmed by stakeholders who were alarmed that the scope of the bill had been significantly enlarged. As I mentioned earlier, the Fur Institute immediately wrote the following to the committee saying:

> The introduction of the Noah Clause is deeply concerning to the Fur Institute of Canada and the fur sector. . . . As Bill S-15 in its original form had a narrow focus on great apes and elephants, so we are not implicated and as such did not seek to testify or submit a brief to this committee . . . .
>
> We implore the committee to not pass this amendment . . . .

This organization's request was ignored, Your Honour, by the committee, but their observations are nonetheless very valid: In its original form, Bill S-15 had a very narrow focus, which was significantly altered by the amendment with no warning to stakeholders.

Your Honour, I believe this is a very straightforward case. When we consider that the principle of the bill is its underlying intention, which is to provide greater protection to animals in captivity, and that the scope of the bill is in the parameters the bill sets in reaching its goals and objectives, it is clear, Your Honour, that the "Noah Clause" amendment has significantly changed that scope and should not be allowed to stand.

I respectfully ask that you rule that part out of order. Thank you, Your Honour.

Hon. Denise Batters: Honourable senators, I have a few comments to add in support of Senator Plett's point of order in this respect from the perspective of attending all those meetings at the Legal Committee. Out of all the meetings on Bill S-15 that Senator Klyne referred to, I believe six of those meetings were strictly clause-by-clause meetings. I think it was 6 out of 12 meetings or something like that.

Your Honour, Senator Klyne is the government sponsor of a government bill. For a bit of context for colleagues, as soon as we started our first clause-by-clause meeting, Senator Klyne introduced a six-page amendment to a bill that was not much longer than that six-page amendment.

Senator Klyne's massive amendment treats Bill S-15, dealing only with elephants and great apes, as a mere shell. I think this is an outrageous abuse of an amendment. Not even the government leader was prepared to confirm the government's support for this massive amendment to this government bill by the government sponsor that he selected.

As Senator Gold sat at the committee that day, I asked him whether he supported this amendment. He shockingly answered that he was abstaining and, "The government has not taken a position on this." Many months later, he still hasn't taken a position on this.

Let's also remember that while the bill itself, if it passes, gives Parliament the ability to deal with elephants and great apes, the "Noah Clause" amendment gives cabinet the ability to add nearly every type of species that exists by cabinet order, not by Parliament. That important component also, I believe, makes this massive amendment out of scope for this bill.

There are also some significant unintended consequences that could result from the "Noah Clause" being considered part of Bill S-15 and the fact that Bill S-15 has no definition of "captivity": no land area, nothing other than that someone possesses the species. Again, that could lead to a massive number of species being included under this bill.

As well, Senator Klyne referred earlier to Senator Clement's amendment regarding elephant rides being prohibited under Bill S-15, when, actually, Senator Clement's amendment came after the majority of Legal Committee members passed Senator

Klyne's "Noah Clause." As I pointed out at committee, depending on which species cabinet decides to add to the list of those in need of protection, that could mean that those rides and conveyances referred to in Senator Clement's amendment could even include horseback rides. That would not be dependent on Parliament approving, but just if cabinet has approved those species.

• (1520)

Given all these significant consequences and particularly because this would be a cabinet order, not passed by Parliament or by the people sent to the other place by the people of Canada, I support Senator Plett's point of order. Thank you.

Senator Klyne: Honourable senators, I rise to refute the unsound claim that the amendments to Bill S-15 proposed in the Legal Committee's twenty-fifth report are out of the bill's scope.

As I do not have advance notice of the contents of this point of order, in light of the critic's previous point of order and Your Honour's ruling yesterday, I will also briefly clarify that they do not spend money either directly or indirectly in an impermissible way.

As with Bill S-15 itself and yesterday's ruling, the invalid technical objections before us must not prevent the Senate's democratic debate and decision on the Legal Committee's proposed amendments in its report on Bill S-15.

Again, a major precedent is at stake. If this point of order succeeds, the Senate's authority to amend legislation would be significantly narrowed compared to its record and current practice.

All senators and Canadians have a stake in this matter in terms of the Senate's ability to contribute to public policy through amendments.

If this point of order were to succeed and such a precedent were to be applied consistently, it could call into question other Senate amendments. This point of order must be declined on the basis of the facts of the case and to uphold the Senate's legislative powers and its practice of favouring debate and democratic decisions.

Honourable colleagues, all amendments in the Legal Committee's report on Bill S-15 are within the scope of the legislation according to our procedures and practices. They are also in compliance with the Senate's constitutional restriction against initiating spending or taxation.

At issue today are four amendments that I moved as sponsor, proposing what former Senator Murray Sinclair called the "Noah Clause," named for Noah's ark, in his original iteration of legislation regarding wildlife captivity in 2020, with subsequent development in my 2022 version.

The "Noah Clause" is simply a measure proposing that the federal cabinet have the authority to designate additional wild species for the bill's protection, by executive order and according to set factors relating to preventing animal cruelty and protecting public safety.

Further to a subamendment from the critic, who challenges the validity of the amendment, the "Noah Clause" also contains consultation and reporting requirements.

Potential executive designations could, in the future, add to the bill's statutory protections for elephants and great apes, for example, to protect big cats.

The amendments adding the "Noah Clause" are within the scope of Bill S-15. The committee adopted the primary element of the "Noah Clause" on May 23 with a vote of nine yeas, three nays and two abstentions.

On the previous day, the bill's critic raised this same point of order, claiming that this amendment was out of scope. Our chair, Senator Jaffer, who demonstrated tremendous leadership, patience and grace during the hearings, found the amendment to be within scope. She said:

> Senators, it is my ruling that this bill does respect the objective of the scope of the bill. I believe it is for the committee to debate this amendment. Then, each senator will make up their mind. That's my ruling.

The critic appealed our chair's ruling, which the committee upheld. Therefore, on scope, we are revisiting a point of order declined at our committee by the chair and a ruling sustained by the committee in a vote.

If this point of order on scope were to succeed, it would unduly inhibit our democratic process and break with our honoured practices and procedures. It would set a precedent that would narrow the Senate's legislative powers compared to its record and current practice.

A Speaker's ruling on December 9, 2009, describes the scope of a bill as follows:

> . . . related to the parameters the bill sets in reaching any goals or objectives that it contains, or the general mechanisms it envisions to fulfil its intentions. . . .

A Speaker's ruling of April 13, 2017, discusses both the principle and scope of a bill. After quoting the above passage, Speaker Furey stated this:

> Amendments must, therefore, be in some way related to the bill and cannot introduce elements or factors alien to the proposed legislation or destructive of its original goals. In addition, amendments must respect the objectives of the bill. In considering these issues, it may be necessary to identify the fundamental policy and goals behind a bill. Factors such as the long title of the bill, its content and the debate at second reading may be taken into account. Debate at second reading is particularly relevant since, according to rule 10-4 "The principle of a bill is usually debated on second reading."

In my second reading speech for Bill S-15, as the sponsor, I referred to a committee's potential consideration of amendments. I said:

> . . . topics to consider for an amendment in conjunction with Bill S-15 may include banning elephant rides; authorizing judicial relocation of captive wild animals involved in illegal breeding or performance at sentencings for these offences with costs . . .

I continued, saying, ". . . and providing a mechanism to extend legal protections to additional captive wild species by cabinet decision."

That's it — ". . . captive wild species . . ." It doesn't go beyond that.

That last part is the "Noah Clause." The other two amendments I mentioned are also contained in this report, as proposed by Senators Clement and Simons, and are also in order, as are all amendments in the report.

With regard to the amendments on judicial relocations, at committee, officials commented that these remedies would already be available under the Criminal Code. So the effect of the amendment is to provide greater guidance and encouragement to the Crown and the judiciary. There's nothing new there, per se.

In reference to differences like the "Noah Clause" between the unamended Bill S-15 and the previous Bill S-241, I said the following in my second reading speech:

> . . . in my view as sponsor, as we debate Bill S-15 at second reading, the legislation is consistent with considering such amendments at later stages, particularly as both bills amend the same two statutes regarding wildlife captivity.

Also relevant, at second reading of Bill S-15, on February 8, the critic argued that Bill S-15 and the previous Bill S-241 were so similar that they amounted to the same question. In such a case, one would expect the bills to have the same or a very similar scope. As we know, Bill S-241 contained a "Noah Clause." Yet today, we hear the claim that Bill S-15 — as we heard, the same bill as S-241 — cannot have a "Noah Clause," according to its scope. This is a contradiction.

In terms of its legal proposals, Bill S-15 amends the same two statutes as Bill S-241 would have, with regard to the subject of restricting the captivity of wild species. That's it and that's all: wild species. These amendments are squarely within that scope.

Reinforcing this point, Bill S-15's long title is generally worded around wild animals and is not specific to elephants and great apes. The bill is called An Act to amend the Criminal Code and the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act, or WAPPRIITA.

At committee, Senator Dalphond pointed out that the original preamble of the bill, as adopted at second reading, is also generally worded, referring not only to elephants and great apes but also contemplating other wild species.

Senator Dalphond said the following:

> I look at the bill that is before us and I look at the preamble, which is a good indication of the intent of those who drafted it, I suppose. It states, "Whereas Parliament recognizes the evolution of public opinion on the captivity of certain animal species that are not domesticated . . . ."
>
> The first concept is related to animals that are not domesticated, so that eliminates a certain amount of animals.
>
> The second "whereas" is this:
>
>> Whereas Parliament is of the view that the science establishes that certain animals, particularly elephants and great apes, should not, because of the cruelty it represents, be kept in captivity . . . .
>
> It doesn't say, "Whereas Parliament is of the view that great apes and elephants should not be held in captivity." It says, "certain animals, particularly elephants," so it's part of a list. It's not exclusive or closed. It presents examples of those that we try to protect: those that are not domesticated and held in captivity.
>
> The third "whereas" is about these animals in captivity. The amendment refers to the same concepts. It uses the words and definitions on page 9 of 27. It states, ". . . the Governor in Council may designate, by order, a non-domesticated species of animal . . . ."
>
> We are always dealing with the same concept from beginning to end — not domesticated. We're not dealing with all the other animals on the planet. We're dealing with animals that are not domesticated, and that are not fit to be held in captivity. . . .
>
> Then, there are criteria that apply to the Governor-in-Council before it can use that power.
>
> In my view, this is not against the spirit or the scope of the bill as defined, as I see it. It's broader than what was introduced, but the preamble shows the intent was not to limit itself to these two species. Thank you.

• (1530)

When before the committee on this bill, Minister Guilbeault said, "I don't think it's my place to tell you senators what amendments you should make."

The minister continued:

> My message to you is that the government is very open to amendments that senators would see fit to bring to this bill.

On May 22, at committee, our Government Representative, Senator Gold, said the following about the "Noah Clause" amendment:

> My sense is this does, in fact, respect the overall intent of the legislation for the reasons that were expressed.

At committee, the critic emphasized that a departmental official commented that the amendment expands the scope of the bill's potential application. However, altering the bill's potential application does not mean that an amendment is outside of the scope of the bill in a procedural sense of admissibility. This is a question of *Senate Procedure in Practice*, not a question for government officials.

Indeed, it is inappropriate to ask departmental officials to opine on a parliamentary matter outside of their purview. Consider, for example, that different practices and procedures apply for the admissibility of amendments in the Senate as compared to the House of Commons. As Senator Dalphond commented on June 13:

> The scope of the bill is a parliamentary issue. It's a legislative issue. It's a bit unfair to ask our officials, who are representing the Department of Justice, on the drafting of bills — if this is, according to our rules, to go that far.

Moreover, we recall many Senate amendments in recent years that altered and often expanded a bill's applications or potential applications that are now laws. Those include the following: There was a Senate amendment to Bill C-6 in 2017 to add an appeal mechanism for a person facing citizenship revocation on the grounds of fraud or false representation.

That same year, for Bill C-7, there was a Senate amendment to expand the scope of issues that could be subject to collective bargaining for the RCMP.

In 2017, for Bill S-3, there was a Senate amendment to further eliminate gender discrimination regarding Indian Act status as compared to the original bill.

Again, this same year, for Bill S-5, there was a Senate amendment to prohibit menthol and clove cigarettes.

Also in 2017, for Bill C-224, the Good Samaritan Drug Overdose Act, there was a Senate amendment to expand the bill's immunities to charges and conditions of release with respect to drug possession.

In 2018, for Bill C-49, there were Senate amendments to expand transportation assistance to soybean farmers and to widen access to long-haul interswitching, addressing limited competition in the rail sector.

In 2019, for Bill C-68, there were Senate amendments to add restrictions to the bill regarding whale and dolphin captivity and shark fin imports.

In 2019, for Bill C-75, there was a Senate amendment to add a new sentencing principle to the Criminal Code to consider the increased vulnerability of female victims, particularly Indigenous women.

Again that year, for Bill C-91, there was a Senate amendment to provide federal services in Indigenous languages whereby capacity and demand exist.

In 2021, for Bill C-7, there was a Senate amendment to expand access to medical assistance in dying to persons with a mental disorder as the sole underlying medical condition with a sunset clause, since altered by Bill C-39.

In 2022, for Bill S-5, there was a Senate amendment to phase out chemical testing on animals.

Senators, this chamber has adopted many other proposed amendments to alter a bill's application that did not become law but which senators viewed as deserving of consideration by the government and the other place.

One example was Bill C-68 in 2019, with Senator Wells's amendment to add habitat banking to the legislation. In 2021, we recall Senator Wallin's amendment to add advance directives for medical assistance in dying to Bill C-7 — a proposal now under consideration as a Senate public bill. In 2022, we recall the amendment from Senator Patterson of Nunavut to add measures to Bill S-5 regarding the assessment of genetically modified organisms.

Were all of the amendments that I described out of scope? I think not.

Again, we need to be consistent. Canadians are watching.

As senators, we also do not want a precedent that would unduly narrow our ability to contribute to public policy through amendments, undermining our constitutional role of sober second thought.

Page 141 of *Senate Procedure in Practice* states that the Senate has a broad latitude to make amendments:

> Beauchesne notes that "[t]he committee may so change the provisions of the bill that when it is reported to the House it is in substance a bill other than that which was referred. . . .

With the "Noah Clause" in Bill S-15, we should not depart from our procedures and practices of allowing debate and a decision on this proposal, which is squarely within scope.

To close, as I have not yet noted the specific contents of today's point of order, I will comment briefly on the question of whether any of the amendments initiate spending or a tax, as the critic sometimes raised this subject at committee but did not raise such a point of order there. All of the amendments in the report comply with the Senate's constitutional restriction against initiating expenditures, which prohibits both introducing money bills and amendments that spend money. The amendments in the report do not increase appropriations or taxes, which is the restriction set out on page 153 of *Senate Procedure in Practice*. It is also the case that these amendments do not require a Royal Recommendation because they do not propose a novel expenditure, which is the criterion identified on page 154 of the same authority.

In the present case, Bill S-15 is essentially establishing prohibitions and, with amendments, potentially extending such prohibitions in the future, but only if the federal cabinet decides to do so. The amendments do not cost anything.

On May 22, in response to a question from Senator Dalphond, the department confirmed that the "Noah Clause" does not initiate any expenditures or require the department to do anything. The amendments are also closely related to the existing purpose of the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act of protecting wildlife as well as its existing authorities to regulate and license the import, export and possession of wildlife, including species contemplated in the amendments, such as big cats.

Per yesterday's Speaker's Ruling, we also know that the original legislation enacting the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act did not carry a Royal Recommendation. This point is decisive, including with respect to these amendments, should they ever be applied.

The situation with Bill S-15 is like many bills that come before the Senate in terms of amending a bill that involves prohibitions. Again, directly on point, federal law includes prohibitions with potential licensing around captive whales and dolphins. In creating those laws in 2019, both Bill S-203 and the Senate amendments to government Bill C-68 originated in the Senate and did not breach the constitutional requirement.

As well, the "Noah Clause" amendment would not apply to clause 6 regarding notifications, where I understand that Environment Canada has raised the possibility of developing an IT system. Even if the "Noah Clause" is used at some point in the future, this can be done with only minor permissible administrative expenses.

• (1540)

Finally, on all matters I have addressed today, the Senate has a presumption that matters are in order and that the debate may proceed. Page 83 of *Senate Procedure in Practice* states:

> The Senate is often flexible in the application of the various rules and practices governing debates. As stated by Speaker Molgat in a ruling on April 2, 1998:
>
>> It is my view that matters are presumed to be in order, except where the contrary is clearly established to be the case. This presumption suggests to me that the best policy for a Speaker is to interpret the rules in favour of debate by Senators, except where the matter to be debated is clearly out of order.

To our Speaker and all colleagues, I submit that this is not a close case with respect to admissibility on any of the amendments in the Legal and Constitutional Affairs Committee's report. Even were it one, which it is not, the Senate's presumption should apply that these matters are in order.

I, therefore, invite you to please decline this point of order, which, if successful, would have the effect of limiting debate and preventing a democratic decision on the proposed amendments before us now and perhaps later.

In the big picture, we also need to be mindful of precedents that would narrow the Senate's power to amend legislation compared to its record and current practice. There are long-term and even permanent consequences at issue here.

Thank you. *Hiy kitatamihin*.

Some Hon. Senators: Hear, hear.

Senator Plett: I will be brief, Your Honour. Thank you for the opportunity to speak.

I listened and tried to find out what Senator Klyne was objecting to. I have never objected to amendments being made to a bill. As a matter of fact, as he said, there were a number of amendments made to Bill S-15 that we did not consider out of order. We voted for some and against some. He listed I don't know how many bills that had amendments received to them. I fail to see any of the relevance in that because amendments can be made. When amendments are out of scope, they are out of scope. When they are not out of scope, they are voted upon. I am not sure where he went with that.

Your Honour, he started off making comments like "honoured practices and procedures" and saying we don't have the right to rule something out of scope. You don't have the right to rule something out of scope, Your Honour, because that somehow is not democratic.

Since 1867, Speakers have ruled for or against points of order and so on and so forth. They are going to continue, Your Honour, whether I am or Senator Klyne is in the chamber or, in fact, still in the Senate.

Yet, somehow he is suggesting you don't have the right to make a ruling on this one, but he was happy about the ruling that you made yesterday. We could litigate yesterday's ruling, which he wanted to do here. I'm not sure why he cannot accept yes for an answer. I'm the one who should be complaining about yesterday's ruling, not him. Nevertheless, maybe he wants to debate that more.

Senator Klyne is talking about wild species. He says that he does not include any animals other than wild species. That's it — wild species. Then why does he explicitly say, "not native to Canada"? Senator Klyne's amendment drastically altered the scope including non-domesticated animals, including those that are native to Canada unless they are used for farming or food purposes. Then he turns around and says there is nothing that says that. It says it right there. It is on the record, Your Honour.

Then he says that it doesn't include all animals on the planet. Well, in his introduction today, Your Honour, when he started speaking about the "Noah Clause," he said it is named for Noah's ark. Now, I was not around at that time, but I read my Bible every so often, and I understand in Noah's ark that they had two of every animal in the world. All of a sudden today, that doesn't apply anymore. He said it is named for that Noah, but it does not apply to this Noah, today's Noah.

Either it is a "Noah Clause" or it isn't, Senator Klyne. You can't have it as, "Well, we're having a 'Noah Clause,' but we'll eliminate these."

The minister, Senator Gold and government officials, Your Honour, indicated or said implicitly that it's out of scope, clearly. Yes, the minister said, "I'm open to amendments." But I would like to ask the minister, "Are you open to amendments that are out of scope?" I did not think that I needed to ask that question. I think that we know the answer. The minister would say, "No, I'm not open to amendments that are out of scope." He wasn't asked that question. He was asked, "Are you open to amendments?" Certainly, they are open to amendments.

As Senator Batters said, I find it strange. Here we have the government sponsor, who was unhappy that Bill S-241 was not going anywhere. I do not blame him. I would be unhappy, too, if my bill was not going anywhere, and I had that for a while.

Sorry, did I interrupt you at any point?

An Hon. Senator: Yes.

Senator Plett: No, I didn't. Did I ask you for anything? No, I asked him.

Sorry, Your Honour.

The Hon. the Speaker: You can continue.

Senator Plett: One thing that you did there, Senator Klyne, you got me off my train of thought.

An Hon. Senator: Start from scratch.

An Hon. Senator: Page one.

Senator Plett: The minister was clear. When I spoke with the minister's office, I asked him, "Why Bill S-15? Are you willing to accept a number of amendments?" The answer was, "Senator Plett, we put two animals into that bill for a very specific reason."

Senator Klyne and the animal activists had been hounding the government to bring a bill forward because I was stopping his bill. They brought a bill forward that they wanted, Your Honour. They had a copy of Bill S-241. If they had wanted Bill S-241, the government would have submitted it. I could not have stopped it. Senator Gold could have done time allocation on Bill S-241 if it had been a government bill, but they did not want that.

Senator Gold was very clear about why Bill S-15 was about two animals. Senator Klyne implied we shouldn't listen to the opinions of government officials. We should, rather, listen to the opinion of a chair. I have chaired some meetings. That does not make me an authority on every subject. Certainly, Senator Jaffer, God love her, was not an authority on this subject.

Frankly, if we want to tell tales — well, it wasn't in camera — Senator Jaffer took that much time. When the government official sits there and says it is out of scope, and a chair does not even take it into consideration, I would say that the fix is in, Your Honour, and that's what happened. We had a government official who said that this amendment is out of scope. And now Senator Klyne says we should not listen to government officials. Then let's not bring them there; let's not waste their time. Let's just have Senator Klyne and company bring us our bills, rubber-stamp them, not debate them.

Your Honour, the last comment is he referred to us as being the chamber of sober second thought. First of all, this isn't the second thought — this is the first one — and I doubt this amendment is a very sober amendment. Thank you, Your Honour.

Some Hon. Senators: Hear, hear.

The Hon. the Speaker: I would like to thank Senator Plett for bringing this question to our attention and also for the participation of Senators Batters and Klyne to this debate. I will take the question under advisement. Thank you.

• (1550)

CRIMINAL CODE

BILL TO AMEND—
AMENDMENTS FROM COMMONS CONCURRED IN

The Senate proceeded to consideration of the amendments from the House of Commons concerning Bill S-205, An Act to amend the Criminal Code and to make consequential amendments to another Act (interim release and domestic violence recognizance orders)

1. *Clause 1, pages 1 and 2*:

    (a) on page 1, replace lines 4 to 17 with the following:

    "**1 (1) Paragraph 515(6)(b.1) of the *Criminal Code* is replaced by**";

    (b) on page 1, replace line 23, in the French version, with the following:

    "tenaire intime, s'il a été auparavant condamné";

    (c) on page 2, replace line 1 with the following:

    "(2) The Act is amended by adding the following";

2. *Clause 2, pages 2 to 4*:

(a) on page 2, replace lines 9 to 12 with the following:

"**810.03 (1)** Any person who fears on reasonable grounds that another person will commit an offence that will cause personal injury to the intimate partner or a child of the other person, or to a child of the other person's intimate partner, may lay an information";

(b) on page 2, replace lines 15 and 16, in the English version, with the following:

"under subsection (1) may cause the parties to appear";

(c) on page 2, replace line 23 with the following:

"not more than 12 months.";

(d) on page 2, replace line 30 with the following:

"into the recognizance for a period of not more than two";

(e) on page 2, add the following after line 31:

"**(4.1)** If the informant or the defendant is Indigenous, the provincial court judge shall consider whether, instead of making an order under subsection (3) or (4), it would be more appropriate to recommend that Indigenous support services, if any are available, be provided.";

(f) on page 2, replace lines 32 to 34 with the following:

"**(5)** The provincial court judge may commit the defen-";

(g) on page 2, replace line 35 with the following:

"dant to prison for a term not exceeding 12 months if the";

(h) on page 3, replace line 1 with the following:

"**(6)** The provincial court judge may add any reasonable";

(i) on page 3, replace lines 4 and 5 with the following:

"or to secure the safety and security of the intimate partner or a child of the defendant, or a child of the defendant's intimate partner, including condi-";

(j) on page 3, replace line 14 with the following:

"**(c)** to refrain from going to any specified place or being within a specified distance of any specified place, except";

(k) on page 3, replace line 20 with the following:

"rectly, with the intimate partner, a child of the intimate partner or";

(l) on page 3, replace line 22, in the English version, with the following:

"intimate partner, except in accordance with any specified";

(m) on page 3, replace lines 24 and 25 with the following:

"**(f)** to abstain from the consumption of drugs — ex-";

(n) on page 3, replace line 28 with the following:

"**(g)** to provide, for the purpose of analysis, a sample of";

(o) on page 3, replace line 38 with the following:

"**(h)** to provide, for the purpose of analysis, a sample of";

(p) on page 4, replace lines 1 to 5 with the following:

"**(7)** The provincial court judge shall consider whether it is desirable, in the interests of the intimate partner's safety or";

(q) on page 4, replace lines 14 and 15 with the following:

"**(8)** If the provincial court judge adds a condition described in subsection (7) to a recognizance, the judge";

(r) on page 4, replace lines 22 and 23 with the following:

"**(9)** If the provincial court judge does not add a condition described in subsection (7) to a recognizance, the";

(s) on page 4, replace lines 26 and 27 with the following:

"**(10)** A provincial court judge may, on application of the Attorney General, the informant, the person on whose behalf the information is laid or the defendant, vary the conditions fixed in";

(t) on page 4, replace lines 29 to 31 with the following:

"**(11)** When the defendant makes an application under subsection (10), the provincial court judge must, before varying any conditions, consult the informant and the person on whose behalf the information is laid about their";

(u) on page 4, replace line 33 with the following:

"**(12)** A warrant of committal to prison for failure or re-";

3. *Clause 3, pages 5 and 6*:

   (a) on page 5, replace line 10 with the following:

   "810.01(4.1)(f), 810.011(6)(e), 810.03(7)(g),";

   (b) on page 5, replace line 15 with the following:

   "810.01(4.1)(g), 810.011(6)(f), 810.03(7)(h), 810.1(3.02)(i)";

   (c) on page 6, replace line 2 with the following:

   "810.01(4.1)(g), 810.011(6)(f), 810.03(7)(h), 810.1(3.02)(i) or".

4. *Clause 6, page 7*:

   (a) replace line 31 with the following:

   "**(e.1)** wears an electronic monitoring device (*if the Attorney General has consented to this condition*) (sec-";

   (b) replace lines 34 and 35 with the following:

   "directly, with the intimate partner, a child of the intimate partner or of the defendant or any relative or close friend of the intimate partner,";

   (c) replace line 37 with the following:

   "that the judge considers necessary (section 810.03";

   (d) delete lines 39 and 40;

   (e) add the following after line 44:

   "**(f.1)** refrain from going to any specified place or being within a specified distance of any specified place, except in accordance with any specified conditions that the judge considers necessary (section 810.03 of the *Criminal Code*);";

5. *Clause 7, page 8*: replace line 13 with the following:

   "810.01(4.1)(g), 810.03(7)(h), 810.011(6)(f), 810.1(3.02)(i) and";

6. *Clause 8, page 8*: replace lines 18 to 21 with the following:

   "**fears on reasonable grounds that another person will commit an offence that will cause personal injury to the intimate partner or a child of the other person, or to a child of the other person's intimate partner, and a provincial**";

7. *New clause 10.1, page 9*: add the following before line 23:

   "**10.1 (1) Subsections (2) and (3) apply if Bill C-21, introduced in the 1st session of the 44th Parliament and entitled *An Act to amend certain Acts and to make certain consequential amendments (firearms)* (in this section referred to as the "other Act"), receives royal assent.**

   (2) On the first day on which both subsection 1(5) of the other Act and section 2 of this Act are in force, subsection 810.03(7) of the *Criminal Code* is replaced by the following:

   (7) The provincial court judge shall consider whether it is desirable, in the interests of the intimate partner's safety or that of any other person, to prohibit the defendant from possessing any firearm, crossbow, prohibited weapon, restricted weapon, prohibited device, firearm part, ammunition, prohibited ammunition or explosive substance, or all of those things. If the judge decides that it is desirable to do so, the judge shall add that condition to the recognizance and specify the period during which the condition applies.

   (3) On the first day on which both subsection 13.12(1) of the other Act and subsection 6(2) of this Act are in force, paragraph (c) of Form 32 of Part XXVIII of the *Criminal Code* after the heading "List of Conditions" is replaced by the following:

   (c) abstains from possessing a firearm, crossbow, prohibited weapon, restricted weapon, prohibited device, firearm part, ammunition, prohibited ammunition or explosive substance and surrenders those in their possession and surrenders any authorization, licence or registration certificate or other document enabling the acquisition or possession of a firearm (sections 83.3, 810, 810.01, 810.03, 810.1 and 810.2 of the *Criminal Code*);";

8. *Clause 11, page 9*: delete clause 11.

Hon. Yonah Martin (Deputy Leader of the Opposition) moved:

> That, in relation to Bill S-205, An Act to amend the Criminal Code and to make consequential amendments to another Act (interim release and domestic violence recognizance orders), the Senate agree to the amendments made by the House of Commons; and
>
> That a message be sent to the House of Commons to acquaint that house accordingly.

She said: Honourable senators, I rise today to speak to the message from the House of Commons on Bill S-205, An Act to amend the Criminal Code and to make consequential amendments to another Act (interim release and domestic violence recognizance orders).

This bill was introduced by former senator Pierre-Hugues Boisvenu on November 24, 2021. Most senators here are well aware of Senator Boisvenu's essential mission to defend and improve the rights of victims of crime in Canada. In this lifelong mission, Senator Boisvenu is also committed to fighting violence against women and changing legislation to preserve and improve public safety.

This mission stems from the tragedy he and his family experienced on June 23, 2002, when his daughter Julie was abducted, sexually assaulted and murdered by a repeat offender in the city of Sherbrooke. Since that day, and throughout his mandate in the Senate, Senator Boisvenu has tirelessly fought to defend the rights of victims of crime. Thanks to him, Canada now has a Canadian Victims Bill of Rights, and we are grateful for that.

Today, we are once again considering Bill S-205, which has gone through various parliamentary stages in the Senate and the House of Commons since its introduction three years ago. What we now have before us is a message from the House about Bill S-205 with amendments made by our colleagues in the House of Commons. I will address the amendments made to the bill later.

Honourable senators, Bill S-205 is an important piece of legislation aimed at combating the scourge of domestic violence. In recent years, we have seen a significant and alarming increase in this type of violence, particularly against women. I would like to share some statistics available from the latest Statistics Canada report on this subject.

In 2022, Statistics Canada revealed that the rates of family violence and intimate partner violence cases increased by 19% between 2014 and 2022, whereas there had been a general downward trend from 2009 to 2014.

Women and girls make up the vast majority of victims, accounting for 8 out of 10. Women are also overrepresented when it comes to homicides. I would like to quote a passage from this report on the subject:

> From 2009 to 2022, there were 6,920 victims of solved homicide . . . in Canada. One-third (32%) of victims were killed by a family member, while nearly one-fifth (18%) were killed by an intimate partner. These proportions were much more pronounced among women and girls (59% were killed by a family member and 46% were killed by an intimate partner) than men and boys (20% were killed by a family member and 6% were killed by an intimate partner).

According to the Canadian Femicide Observatory for Justice and Accountability, there were 184 women murdered in Canada in 2022, 60% of whom were killed by a current or former intimate partner. I remind you that this equates to one woman killed every two days in Canada.

Honourable senators, the statistics I have just shared must compel us to act to combat the scourge that claims far too many victims every year, the vast majority of whom are women.

Senator Boisvenu has repeatedly emphasized in his previous speeches that the vulnerability of victims of domestic violence is often at the beginning of the judicial process when a person decides to report the violence they are experiencing to judicial authorities. Numerous cases have been documented involving murder, attempted murder or serious assault during the period of judicial interim release or when a person is subject to a section 810 peace bond.

Bill S-205 was introduced to enhance the safety of victims during these stages of the judicial process by proposing important measures such as the electronic monitoring bracelet and imposition of mandatory therapy by the court.

Allow me, colleagues, to elaborate further. One part of Bill S-205 proposes the creation of a new section 810 peace bond specific to violence against an intimate partner and their child. Currently, the Criminal Code provides for different types of section 810 peace bonds, but none are adequately tailored to situations of family violence. Yet, as I demonstrated at the beginning of my speech, the statistical magnitude of this type of violence is undeniable. It is necessary to begin specifying this category in the Code and to include measures that will be truly effective. The bill therefore proposes the creation of a new peace bond with certain conditions.

First, it will be possible to impose the wearing of an electronic monitoring bracelet on a person subject to the new peace bond. The bracelet allows for the monitoring of a perpetrator's behaviour and deters them from approaching their victim. In case of proximity, the electronic bracelet alerts both the victim and authorities of the perpetrator's location. This device allows the victim to seek safety and the authorities to intervene. It is an important technological tool that must be used in the service of justice.

I would like to quote a passage from one of the witnesses who appeared before the Standing Senate Committee on Legal and Constitutional Affairs on Bill S-205. This is Martine Jeanson, a victim and survivor:

> Electronic bracelets would also be a tool that should be implemented to protect women and enable them to be warned when their abuser is nearing their home, so they can hide before he arrives. This tool would also make it possible to notify the police.
>
> An electronic bracelet would have helped protect me from this attempted murder by my former spouse. Currently, it is impossible to protect ourselves adequately from our violent former spouses because we are not warned of their presence. Victims no longer dare to report their abuser. They no longer trust the justice system because they do not feel protected. When we report abusers and we are not protected, we put our lives at even greater risk.

• (1600)

Second, the peace bond may require offenders to undergo a treatment program, such as one for substance abuse or family violence. Therapy is increasingly seen as a preferred approach to reduce a person's violent behaviour, helping these individuals understand and change their actions. The bill strikes a balance between control measures and rehabilitation.

Senator Boisvenu initially proposed a two-year duration for this new peace bond and three years for individuals with criminal histories. Currently, the code provides for a one-year duration and two years for repeat offenders in the context of family violence. During consultations with victims, Senator Boisvenu found that a one-year period was insufficient to truly end all contact.

Unfortunately, Liberal, NDP and Bloc MPs proposed amendments that reduced the duration of these new peace bonds to align them with the periods currently provided by law. Thus the maximum duration is reduced to one year, and two years in the case of repeat offenders. These modifications weaken the original intent of the peace bond by reducing the extended protection that Senator Boisvenu sought to offer victims who had indicated during consultations that a one-year duration was not enough time to fully sever contact.

Honourable senators, the peace bond also includes an important measure for victims' rights: No condition can be changed without the justice consulting the victim regarding their security needs. This is a crucial provision that ensures respect for the rights to protections and participation included in the Canadian Victims Bill of Rights.

The bill also included another important provision I mentioned earlier in my speech regarding judicial interim release. The bill proposed amendments to section 515 of the Criminal Code to allow for the imposition of electronic monitoring and the consultation of victims regarding their security needs by the justice at the request of the Attorney General. Both of these provisions were removed in committee in the House of Commons, which is very unfortunate for victims of domestic violence, because the consultation of victims was an important measure that strengthened their rights in the Criminal Code and allowed them to express what measures they deemed appropriate for their own safety. It was also a measure that strengthened the rights set out in the Canadian Victims Bill of Rights, which I have previously cited.

This provision was added following the extensive consultation conducted by Senator Boisvenu and was supported by organizations such as the Native Women's Association of Canada. I would like to quote a passage from the testimony of Sarah Niman, legal counsel and Senior Director of Legal Services at the Native Women's Association of Canada:

> Bill S-205 considers victims' safety concerns at the earlier stages of domestic violence proceedings. NWAC supports that this bill contains mandatory victim consultations . . . .

I would also like to speak about the removal of the electronic monitoring bracelet at this stage of the judicial process. Senator Dalphond's Bill C-233, which received Royal Assent on April 27, 2023, also introduced the use of electronic monitoring under section 515(4.2) of the Criminal Code, but it was limited to a certain number of specific offences. Senator Boisvenu noted that this more restrictive framework posed a problem because important offences that could be related to domestic violence, such as intimidation, section 423; breaking and entering, section 348; and unlawfully being in a dwelling house, section 349, might not be covered under this section.

When examining cases of domestic violence and listening to victims' testimony, one quickly realizes that unlawful presence in a home and breaking and entering are often-mentioned offences in the context of domestic violence.

I would like to quote the testimony of Khaoula Grissa, a victim and survivor who testified on Bill S-205 before the Standing Senate Committee on Legal and Constitutional Affairs:

> One day, a prosecutor told me I had to move out. My answer was, "no." No, because I had already done the impossible. I was housed in a home for women victims of domestic violence. Then I changed apartments, changed my car model and colour, within my means, got my hair cut and dyed and changed my glasses. In the span of a month, my daughter had been to five different daycares. My employer did everything necessary to protect me. We had a whole scenario worked out to get me to my car safely.
>
> I told the lady prosecutor that this time it was up to the justice system to protect me. I had already made about twenty reports to the police and, despite all my efforts, that did not prevent the worst from happening. My former spouse hid in my closet and tried to take my life and that of my daughter. I was raped and confined, and he subsequently took his own life in my bedroom right in front me.

Bill S-205 proposed introducing electronic monitoring under section 515(4) of the Criminal Code, which would have allowed judges to impose this measure on a broader range of offences. This approach gave judges greater latitude in deciding whether to impose electronic monitoring, including in cases where offences often associated with domestic violence were not explicitly listed under section 515(4.2). It was an effective measure that has since been removed, and I also find that regrettable.

Honourable senators, despite these amendments to the bill, Bill S-205 remains an important piece of legislation for victims of domestic and family violence. I would like to thank my colleagues in the House of Commons for their support of the bill, particularly the House sponsor, MP Raquel Dancho, who has supported Senator Boisvenu throughout this fight and been attentive to the victims of domestic violence. Her unwavering commitment to the safety of victims and her dedication were essential to the advancement of this bill, and we are deeply grateful to her.

To conclude, I would like to convey this message from the Honourable Pierre-Hugues Boisvenu:

> Honourable senators, the Bill S-205, which we passed the first time, was primarily for the hundreds of women, all victims of domestic violence, whose safety and lives were threatened. It is the result of their courage in saying one day: "enough is enough," so that they could finally take back control of their lives. To all these women, I say "thank you." Thank you for believing . . .

The Hon. the Speaker: Your time is up. Are you asking for more time?

Senator Martin: Just for time to conclude the quote.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Martin: Thank you.

> Thank you for believing in the Senate, for believing in yourselves, and that you will continue to defend their right to safety by passing S-205 before you today. Thank you, dear colleagues.

There is one more section which I missed.

The Hon. the Speaker: Leave was granted. You still have four minutes.

Senator Martin: Thank you. Yes, I concluded Senator Boisvenu's personal note to us, and I conclude:

Senator Boisvenu worked with a large number of victims of domestic violence to draft this bill. After a long journey through Parliament, it is time for it to be passed in the name of all the victims who worked so hard to bring it to fruition.

With that, I ask you, honourable senators, to adopt the message from the House of Commons about Bill S-205, as amended.

• (1610)

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.)

[*Translation*]

ROYAL ASSENT

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

October 3, 2024

Madam Speaker,

I have the honour to inform you that the Right Honourable Mary May Simon, Governor General of Canada, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 3rd day of October, 2024, at 3:28 p.m.

Yours sincerely,

Ken MacKillop

Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bills Assented to Thursday, October 3, 2024:

An Act to amend the Canada—Newfoundland and Labrador Atlantic Accord Implementation Act and the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and to make consequential amendments to other Acts (*Bill C-49, Chapter 20, 2024*)

An Act to amend the Canada National Parks Act (*Bill C-76, Chapter 21, 2024*)

[*English*]

ADJOURNMENT

MOTION ADOPTED

Leave having been given to revert to Government Business, Motions, Order No. 192:

Hon. Patti LaBoucane-Benson (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of October 2, 2024, moved:

> That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, October 8, 2024, at 2 p.m.

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

Hon. Senators: Agreed.

(Motion agreed to.)

CITIZENSHIP ACT
IMMIGRATION AND REFUGEE PROTECTION ACT

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Jaffer, seconded by the Honourable Senator Pate, for the third reading of Bill S-235, An Act to amend the Citizenship Act and the Immigration and Refugee Protection Act, as amended.

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?

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

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

CRIMINAL CODE

BILL TO AMEND—THIRD READING—DEBATE ADJOURNED

Hon. Denise Batters moved third reading of Bill C-291, An Act to amend the Criminal Code and to make consequential amendments to other Acts (child sexual abuse and exploitation material).

She said: Honourable senators, I rise today to speak to the third reading of Bill C-291, An Act to amend the Criminal Code, and to make consequential amendments to other Acts (child sexual abuse and exploitation material).

I have proudly sponsored this bill in the Senate because it makes a significant and important change in the way sexual crimes against children are perceived, including under Canada's Criminal Code. The premise of the legislation is fairly simple. It replaces two words in the Criminal Code — "child pornography" — with six words that more accurately represent the gravity of these crimes — that is to say, "child sexual abuse and exploitation material."

Words matter. The term "pornography" more widely applies to sexual depictions involving consenting adults. Such consent can never be freely given in the production of so-called child pornography, given the age of the victim involved and the power imbalance inherent in the child-adult dynamic. That is why a more accurate term, and one widely used by law enforcement and victims' advocates, is "child sexual abuse and exploitation material."

Bill C-291 provides a simple but important change. As another senator said to me before we studied the bill at the Senate Legal Committee in September, "This is exactly what an MP's private member's bill should do." The bill is limited in scope, but significant in impact, and draws from the personal experience of its initiators.

Sexual crimes against children are a scourge in Canadian society. Statistics released this year indicate 45,816 recorded incidents of online child abuse and exploitation material between 2014 and 2022. The rate of these incidents increased by a whopping 290% during this time frame. Girls are overrepresented in these statistics, with girls aged 12 to 17 comprising 71% of all online sexual abuse child victims. Certain vulnerable groups, including Indigenous and LGBTQ2S+ children, are also particularly at risk.

An increase in the reporting of these crimes is partially responsible for the notable increase in the statistics. One of the aims of Bill C-291 — to more accurately name the serious nature of these crimes against children as "exploitation and abuse" rather than "pornography" — is to raise awareness of these crimes, which will hopefully lead to further increased reporting to law enforcement and better keep children safe.

Bill C-291 was conceptualized by my national caucus colleague and former Crown prosecutor MP Frank Caputo. Our colleague MP Mel Arnold sponsored the legislation, as he had an earlier opportunity to introduce a private member's bill in the House of Commons. When they testified before our Senate Legal Committee, both MPs explained the reasons they feel this bill is important. MP Mel Arnold said:

> Words are so important. That's why we are moving this bill through. Pornography, as you stated, typically depicts consenting adults. Children cannot legally consent to sexuality. That's why it is truly sexual abuse and exploitative material.
>
> . . . that's what it comes down to. The words in the code and in our legislation should properly depict what it is they're talking about. I don't believe there's anything that is truly child pornography. I believe it is all child sexual abuse and exploitation material.

MP Frank Caputo described his inspiration for this bill when he said this:

> For the people who are impacted by this, this —

— child pornography —

> — is viewed as an antiquated term. If it's viewed as an antiquated term professionally — and it's actually viewed as inappropriate logically for equating pornography with child

> abuse and sexual abuse — then frankly, this is long overdue. This is something we should have done years if not decades ago. The inspiration for me is just to get it right.

This initiative has met with much enthusiasm among parliamentarians and the public alike. Bill C-291 has received endorsement from major child protection and advocacy organizations, including the Canadian Centre for Child Protection, Ratanak International and First Call Child and Youth Advocacy Society.

Victims of these crimes also recognize the need for this wording change. Mr. Caputo recounted his personal experience with victims of child sexual abuse and exploitation who are appreciative of the change in terminology this bill will implement. He said:

> I had somebody who saw my initial speech, and . . . they said they felt so validated. Somebody who has been through this and was a victim can say, "What I went through wasn't pornography. It was abuse, so call it that."

> Another person who was talking to me randomly one day . . . said, "Tell me about your work." So I started talking about it, and I'll never forget this: This person just grabbed me and hugged me while I was essentially mid-sentence.

To this point, Bill C-291 has garnered widespread support in Parliament. The bill passed unanimously in the House of Commons on February 1, 2023. I spoke at second reading in the Senate chamber on March 30, 2023.

• (1620)

Senators have been overwhelmingly in support of this bill as well. Senator Patterson, the Senate critic for this legislation, and Senator Busson have been particularly supportive of this bill becoming law, and I certainly appreciate their cooperation with that.

Bill C-291 waited for a long time to be studied at the Senate committee stage. Our Legal and Constitutional Affairs Committee finally studied it two weeks ago, and I am pleased to report that the bill received unanimous support there too. I remain hopeful that this bill will receive speedy passage here soon for the protection of vulnerable children.

The impact of child sexual abuse and exploitation material is lifelong. It affects a victim's self-esteem, body image, relationships, sense of safety and security — the list goes on — touching practically every facet of a person's life. Beyond the immense physical and mental suffering caused by the hands-on, direct abuse, the distribution and recirculation of child sexual abuse and exploitation material, especially on the internet, means that victims are revictimized endlessly by anonymous perpetrators who access the material after the fact.

In the Canadian Centre for Child Protection's 2017 Survivors' Survey, one respondent described the impact this way:

> . . . it never stops, never. Even after 20 years, my old photographs can serve as satisfaction for men whose hands I may be shaking. It makes it worse that everything is documented and that because of this it never is really ever over.

Many of these victims live in fear of being recognized from the depictions of their abuse. Some fear blackmailing or stalking. Many respondents described the agony of not knowing whether people they encountered later in life had seen the images or depictions of their childhood sexual abuse, making it difficult to trust others or form relationships. Another respondent said:

> The fact that imagery was made makes it even dirtier, rottener and scarier. It's a feeling like a ticking bomb. You never know when something like that can turn up, by whom or how you'll get confronted with it. Maybe it will never happen but you're always waiting in apprehension.

Many child sexual abuse and exploitation victims find it hurtful for the recording or depiction of their childhood abuse — an endless reminder — to be described as "child pornography." One survivor summed it up by saying that there is:

> No such thing as child pornography — so I get angry when I hear that statement. There are only images of children being sexually abused or images being used for sexual gratification. . . .

MP Frank Caputo described the need for a more accurate description of this child sexual abuse and exploitation material as a major impetus for the creation of this bill. He recounted at committee:

> Some people actually don't even know they have been abused until well later in life. . . .

> I know of instances where people realized this in their thirties. There was that trauma that was under the surface, which relates to the seriousness of this. . . .

> One of my struggles in dealing with victims is that they are often, I say, imprisoned. They are serving a psychological life sentence. I used to teach a sentencing class, and we would talk about proportionality of sentencing. When we reflect the seriousness of this offence in the words, that is incredibly important, because when you meet somebody who is victimized — and you will meet them in their forties, fifties, sixties or even a few months after — the impact doesn't leave. That is the importance of this bill, in my view. . . .

MP Mel Arnold also described the profound impact viewing child sexual abuse and exploitation material has on the law enforcement officials who must review or investigate it. The mental and emotional trauma of viewing abuse images and

recordings weighs heavily on officers who work in this area, with some developing post-traumatic stress disorder as a result. Mr. Arnold said:

> . . . I want to take a second to thank every individual investigator, police officer and enforcement officer who has ever had to endure a case or an investigation with this type of material. I can't imagine it. . . .

His voice filled with emotion, MP Arnold continued:

> I'm a proud grandfather of a 3-year-old. I can't imagine anybody getting away with anything like that because of a term in a bill that we can correct. . . .

This is exactly it, honourable senators. We have the ability right here and right now to make this small change in Bill C-291 — a small change to the Criminal Code that can make a huge difference for victims of childhood sexual abuse and exploitation and for the law enforcement community. Furthermore, changing the term "child pornography" to "child sexual abuse and exploitation material" will bring Canada better in line with other countries around the world that are already using the more appropriate, modern phrase.

In 2016, the organization now known as ECPAT International, a global alliance of organizations working to end child sexual exploitation, produced the Luxembourg Guidelines to harmonize and strengthen advocacy around the world. These guidelines rejected the term "child pornography" because it inadvertently legitimizes the abuse and exploitation inherent in the material. The alliance advocated replacing the term with the more victim-centred language of "child sexual abuse and exploitation material."

Bill C-291 would bring Canada in line with the most appropriate terminology used internationally. Updating the language of Canada's statutes to this international standard would help overcome misunderstandings caused by differing terminology when child sexual abuse and exploitation investigations and prosecutions reach across international borders.

Another issue I want to address is one that emerged during second reading debate here in the Senate: the question of the terminology *pédosexuel* in the French version of this bill. This was a matter raised by Senator Miville-Dechêne at second reading, who wondered whether there might be a more appropriate term. I want to address that to tell you what I've learned about that issue since and clear up any misconceptions about it.

The prefix *pédo* is meant to refer to the concept of child, not "pedophile." As Senator Miville-Dechêne herself indicated that day, it is a correct term, although perhaps used less often than other phrases she noted.

I also note that the federal government passed a coordinating amendment regarding Bill C-291 in Bill S-12, An Act to amend the Criminal Code, the Sex Offender Information Registration Act and the International Transfer of Offenders Act. This coordinating amendment included the term *pédosexuel* in the French text. Given that it was a government bill and the amendment passed, it is obvious that the federal government is comfortable with that term.

When I asked Senator Gold about this coordinating amendment, which added language in Bill S-12 to refer to "child sexual abuse and exploitation material" rather than the outdated term "child pornography," Senator Gold said:

> I believe it reflects the government's agreement that the older way of describing this material was inappropriate, and that the definition advanced in the bill — which you sponsored here in the Senate — is a more appropriate and accurate way to describe this material. None of us wants to see it exist, but it does exist, and, therefore, it needs to be dealt with appropriately and under the Criminal Code.

That the Government of Canada used this revised wording in Bill S-12 and Senator Gold confirmed this to me in the Senate Chamber reassured me that the government also supports Bill C-291 in words and in action. I was glad to hear this, because an issue as important as the wording change in Bill C-291 should have support from all corners of this chamber, regardless of a senator's personal partisan affiliation.

The fight against child sexual abuse and exploitation material transcends political considerations in Parliament. I have been heartened to see members of all stripes unite behind this legislation. As I said in my second reading speech:

> Bill C-291 is a fundamental step in addressing the grim reality of child sexual exploitation in this country. To tackle this problem, we need to call it what it is: child sexual abuse and exploitation. This stomach-churning material is not consensual. It is not entertainment. It is not art. This is the abuse of vulnerable children, robbing them of their innocence, their childhoods, the very core of their identities over and over and over again.

Honourable senators, I hope you will join me and pass this bill swiftly. This change is practical. It is important, and it is pivotal to protecting Canadian children from sexual abuse and exploitation. Please join me and vote "yes" to Bill C-291 to make this change a reality. Thank you.

Hon. Pierre J. Dalphond: Honourable senators, I wish to thank Senator Batters for a good speech. I rise to say that this is a bill that I support fully. I feel that changing the label of that provision is a very important exercise. It sends a powerful message. At the same time, I felt very reassured by the comments that were made by the sponsor of the bill and the drafter of the bill, both of whom were witnesses before us. They said the intent was not to change the state of the law, not to change case law, not to change what was the impact on the working of the courts and of the Crown office and everything else, but to put emphasis on public awareness and a better understanding of what this provision is about. I am fully supportive of it. Changing the label sometimes means a lot. Thank you.

• (1630)

[*Translation*]

Hon. Julie Miville-Dechêne: I'd like to thank Senator Batters for doing this research. This term certainly isn't used very often, and I wasn't even sure whether it was the right term, because it hasn't been used for that long to discuss these issues. That doesn't mean it's not the right term. I think we'll get used to it. Although we used the term "child pornography" for far too long, I think this new term is more appropriate, as you said, and I expect people will get used to it.

Thank you very much for taking a remark I made quite a long time ago into account.

[*English*]

Hon. Marty Deacon: Honourable senators, rising on debate very briefly today, I want to say to my colleague I support this bill in full. It has been interesting taking the bill, going back to the lane that I served in — and that was young people — and the language and the impact of the change in language on families and families across generations, the need and the importance. It was the introduction of the bill that forced me to spend time on it and do my homework, and I'm pleased to represent that sector in supporting this bill today. Thank you.

An Hon. Senator: Hear, hear.

(On motion of Senator Patterson, debate adjourned.)

CRIMINAL CODE

BILL TO AMEND—TWENTY-SEVENTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Cotter, seconded by the Honourable Senator Dean, for the adoption of the twenty-seventh report of the Standing Senate Committee on Legal and Constitutional Affairs (*Bill S-250, An Act to amend the Criminal Code (sterilization procedures), with an amendment and observations*), presented in the Senate on September 24, 2024.

Hon. Brent Cotter (The Hon. the Acting Speaker): Are senators ready for the question?

Hon. Senators: Yes.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

The Hon. the Acting Speaker: Honourable senators, when shall this bill, as amended, be read the third time?

(On motion of Senator Boyer, bill, as amended, placed on the Orders of the Day for third reading at the next sitting of the Senate.)

[*Translation*]

LANGUAGE SKILLS ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

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

Hon. Pierre J. Dalphond: Honourable senators, I note that this item is at day 15, and I'm not ready to speak at this time. Therefore, with leave of the Senate and notwithstanding rule 4-14(3), I move the adjournment of the debate for the balance of my time.

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

Hon. Senators: Agreed.

(Debate adjourned.)

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

SIXTH REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming debate on the consideration of the sixth report (interim) of the Standing Committee on Rules, Procedures and the Rights of Parliament, entitled *Summary of Evidence: Committee Structure and Mandates*, tabled in the Senate on February 28, 2024.

Hon. Diane Bellemare: Honourable senators, first, I would like to take this opportunity to thank all of the senators, clerks, Library of Parliament analysts, interpreters, pages and other staff who participated in the work of the Committee on Rules, Procedures and the Rights of Parliament, which I have had the honour and privilege of chairing since December 2021. I will be passing the torch to Senator Audette, the newly elected chair, who will take over when I leave the Senate.

As you know, senators carry out their constitutional responsibilities in the chamber and in committee. It is in committee that the bills tabled by the government, senators and members of Parliament are examined in detail. In committee, senators also carry out special studies, some of which can take

several months or even several years. Most senators really enjoy committee work, which is generally carried out in a relaxed atmosphere.

To shorten my speech, I will refer to the standing committees of the Senate by their informal names rather than their official ones.

We currently have 18 standing Senate committees. Five of them are administrative or procedural in nature, such as the Internal Economy Committee, the Rules Committee, the Ethics Committee, the Audit Committee and the Selection Committee. The remaining 13 committees are what I would call thematic committees because they focus on specific themes, such as social affairs, or specific sectors, such as transport and communications. These 13 standing thematic committees examine bills and carry out special studies.

The Rules also provide for the possibility of creating special temporary committees and legislative committees.

Senators also sit on standing joint committees and other temporary committees.

I would note that the special studies that committees do aren't academic research undertakings. They make use of available information from academics, scientists, associations and institutions. The goal is to identify public policy directions that can improve Canadians' well-being.

• (1640)

The structure and mandates of the Senate's standing committees have not changed since 2002, and the purpose of the sixth report is to outline the first stage of a new study on committee structure and mandate.

The sixth report summarizes the testimony heard during a special study undertaken in early 2023. The aim was to propose substantive changes to the mandates of the 13 thematic committees in order to better address the concerns of Canadians.

It follows the committee's third report, which proposed minor stylistic changes to rule 12-7 in order to standardize the description of committee mandates. This report was adopted on May 12, 2023.

The first step in the in-depth study on the committee mandates was to hear from the current and former chairs and deputy chairs of the 13 standing committees, which I refer to as thematic committees. These individuals were asked whether any changes should be made to the mandates, the number of members per committee, the membership, the meeting schedules, the operating procedures, the workloads, the effectiveness of their work, or the matter of Senate orders of reference. They were also asked to comment on their technical and material capacity to properly fulfill their mandate. Some witnesses also took the initiative to suggest changes of all kinds, such as changes to the processes of witness selection and legislative follow-up, to better ensure the independence and quality of our work.

Several witnesses expressed their appreciation for this exercise and suggested that the Rules Committee regularly conduct such an exercise at fixed intervals. The clerks of the Senate, Shaila Anwar, Till Heyde and Adam Thompson, also participated and appeared before the committee. I thank them for their thoughtful testimony. A comprehensive witness list can be found at the end of the report, and I invite you to read the report for more details. That being said, due to the apparent difficulty of proposing consensus-based changes to the existing mandates and structure of the standing committees, the committee's work on this subject came to a halt after this first step.

Adapting committees' structure and mandates isn't a new challenge. There have been many committees since the Senate's inception. Some of the current ones, including the Banking Committee, the Internal Economy Committee, the Rules Committee and the joint Library of Parliament Committee, were created in 1867, and the Transport Committee was created a few years later. From time to time, the Senate has changed the committee structure, names and mandates, and it has eliminated some and created new ones.

According to the documents we consulted, after 1945, major restructuring happened in 1968, 1985 and 2002, so it's time. It's 2024. According to the Library of Parliament research services, the 1968 reform was the most significant. As summarized in *Senate Procedure in Practice*:

> Certain committees were renamed, new ones created and general areas of jurisdiction defined. After this reorganization, there were eight Senate standing committees and three standing joint committees, with the numbers gradually increasing during the following years. In 1983, the size of most standing committees was reduced from 20 to 12 members, with a corresponding reduction in quorums.

To sum up, after 1968, the number of committees went up, which forced the Senate to reduce the size of each committee because we have only 105 senators to do the work, after all.

Since my appointment to the Senate in 2012, there have been few significant changes to the structure and mandates of the committees, apart from the creation of temporary special committees, such as the Special Committee on Senate Modernization, the Special Committee on the Arctic and the Special Committee on the Charitable Sector.

As a senator and committee chair, I have seen that even though the challenge of adapting committee work to the current economic, social, climate and political environment seems urgent to me, the Senate still has neither the capacity nor perhaps even the firm will to change its ways.

The sixth report does not contain any recommendations. The committee met 18 times, and all those meetings were held in public. You can consult the transcripts of the meetings, if you like.

It was not possible to reach a consensus to make changes because, given the Senate's limited resources, any change generally involves reallocating existing resources. Some see these changes as a loss, but I remain optimistic and I believe that major changes are coming soon.

The last time the committees' structure was reformed was in early 2000, predating the technological advancements in AI, the extreme events caused by climate change, and the major demographic upheavals. Three committees were created as part of these main changes made in 2002: the Official Languages Committee, which had previously been a joint committee since 1984; the Human Rights Committee; and the National Defence and Veterans Affairs Committee. In addition, the mandate of the Fisheries Committee, which had been a single-theme committee since 1986, was changed to include an "oceans" component.

In 2011 — it was right before I arrived in the Senate, but I know that the meetings were important — the Rules Committee, chaired by Senator David Smith at the time, proposed other changes in its fourth report to the Senate to expand the scope of certain committees and modernize their mandates. For example, the report suggested grouping transport and banks together, with a mandate that would also encompass international trade. It also suggested combining national defence with foreign affairs; creating a natural resources committee that would include fisheries and oceans, agriculture and forestry; and creating a new science, technology and communications committee. This committee's fourth report, published in 2011, was not adopted.

In 2019 and during the pandemic, a group of independent senators led by the late Senator Josée Forest-Niesing took a closer look at committee work. An informal survey was conducted to gauge senators' appetite for change. The results indicated a broad range of opinions.

I'd now like to share my own thoughts on the subject. I was inspired by the evidence I heard in committee, as well as the analysis of the data gathered on committee working hours. The data was provided by the Library of Parliament and the Committees Directorate, and I would like to thank them both for helping me structure my ideas and better understand how work is distributed among senators.

This is a partial statistical analysis, but it does identify problematic situations that could be enriched by a broader statistical analysis. I compared the working hours for each of the 13 thematic standing committees. I looked at total hours, as well as the time devoted to studying bills and special studies. I compared three different years, specifically 2018-19, so before the pandemic, as well as 2022-23 and 2023-24.

Here are a few key findings. First, hours of work vary greatly by committee. The Finance, Legal Affairs and Social Affairs committees always worked far more hours than the average. Second, in each of those years, legislative work took up, on average, between 40% and 50% of committee hours. However, the percentages varied significantly depending on the committee.

The National Finance, Legal Affairs and Social Affairs committees devote most of their time to studying bills and, in the case of the Finance Committee, to considering supply. As a result, those three committees have little time for special studies, whereas six standing committees devote a large part of their time to special studies.

• (1650)

They are the Human Rights, Official Languages, Indigenous Peoples, Agriculture and Forestry, Fisheries and Oceans, and Foreign Affairs and International Trade committees. I'd like to offer a few comments in connection with this information.

First, the different division of duties in committee will translate into a different division of duties for each senator. Some senators will do a lot of legislative work, and others will mostly do special studies.

You may wonder whether these findings are specific to the periods that were studied. Is this a permanent situation? Is it related to the increase in public bills? Should we perhaps take a closer look at the data? I hope that the Committee for the Scrutiny of Regulations will be able to do just that at a later date and expand on the number of years studied.

What's more, I don't mean to pass judgment on the importance of each committee's mandate, but the fact of the matter is that the scope of the standing committees' mandates varies considerably. On the one hand, we have two committees that take care of all the legal affairs and all the social affairs involving health, science and technology as well as issues relating to labour. On the other, we have some committees with specific mandates, such as the Fisheries and Oceans, Transport and Communications, Agriculture and Forestry, National Security, Defence and Veterans Affairs, and Official Languages committees. In this context, it's inevitable that the study of bills happens mostly at the Legal Affairs and Social Affairs committees. Most bills fall under these areas.

We can understand the frustration of some senators who would like the Senate to be able to study broader pressing issues, such as artificial intelligence, employment-related problems — at the request of Senator Lankin — immigration, social media, and economic, political and social polarization.

What should we do about this? I think we can do better, and I have a few suggestions.

[*English*]

The Hon. the Acting Speaker: Senator Bellemare, your time has expired. Are you asking for a few extra minutes to complete your remarks?

Senator Bellemare: Yes, I have two minutes left.

The Hon. the Acting Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

[*Translation*]

Senator Bellemare: We could go through the exercise that Senator MacDonald suggested in committee on April 16:

[*English*]

> It would have been made easier if we had taken the approach that we are dealing with a blank slate. If . . . we were creating all new committees for the first time, we would find this to be a much easier exercise.

[*Translation*]

It's true: Everyone applauded when he said that.

My second suggestion is to analyze committee structure and mandates in other senates around the world. We might come across solutions, or at least the beginnings of solutions.

We might find that some senates structure their committees to have legislative and special committees in addition to administrative and procedural ones. Legislative work is done by committees created for that purpose. There are many of them, and all senators can contribute. Special committees do special studies. Our Rules provide for the existence of such committees, but that provision is rarely used.

I've seen that, on paper, those governments can have quite a lot of special committees dealing with all kinds of subjects. However, they're not all active at the same time. They're only activated when the senate refers a special study to them. These special committees are presented to the senate following discussions among the leadership.

We need to look at how that works, which is why we need to have a committee do a practical study on what's being done elsewhere.

There's one thing I know for sure, though. I've said it before, and I'll say it again: The Senate is a very important institution, perhaps even more so during this time of uncertainty and upheaval. The Senate of Canada must be bold. It must take its place at the forefront of public debate on the big issues of the day. It can do great things, but it has to change the way it operates.

Thank you. *Meegwetch*.

Hon. Senators: Hear, hear!

[*English*]

Hon. Donna Dasko: Would Senator Bellemare take a question?

The Hon. the Acting Speaker: You would have to ask for leave to continue these remarks. Is leave granted for the question?

Some Hon. Senators: Agreed.

An Hon. Senator: No.

The Hon. the Acting Speaker: I heard a "no." Leave is not granted.

(On motion of Senator Martin, debate adjourned.)

BUSINESS OF THE SENATE

Hon. Patti LaBoucane-Benson (Legislative Deputy to the Government Representative in the Senate): Honourable senators, with leave of the Senate and notwithstanding rule 5-13(2), I move:

> That the Senate do now adjourn.

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

Hon. Senators: Agreed.

(*At 4:55 p.m., the Senate was continued until Tuesday, October 8, 2024, at 2 p.m.*)

CONTENTS

Thursday, October 3, 2024

PAGE

SENATORS' STATEMENTS

Innovation in Carbon Accounting
Hon. Colin Deacon 7095

World Teachers' Day
Hon. Jane MacAdam 7095

Ostomy Canada Society
Hon. Wanda Thomas Bernard 7096

Visitor in the Gallery
The Hon. the Speaker 7096

October 7 Attack on Israel
First Anniversary
Hon. Leo Housakos 7096

Visitors in the Gallery
The Hon. the Speaker 7097

Diversity, Equity and Inclusion
Hon. Kim Pate 7097

Visitor in the Gallery
The Hon. the Speaker 7097

Canadian Football League
Hon. Larry W. Smith 7098

ROUTINE PROCEEDINGS

National Framework on Advertising for Sports Betting Bill (Bill S-269)
Eleventh Report of Transport and Communications Committee Presented
Hon. Leo Housakos 7098

Canada National Parks Act (Bill C-76)
Bill to Amend—Eleventh Report of Energy, the Environment and Natural Resources Committee Presented
Hon. Josée Verner 7099

Pharmacare Bill (Bill C-64)
Twenty-fifth Report of Social Affairs, Science and Technology Committee Presented
Hon. Ratna Omidvar 7099

Foreign Affairs and International Trade
Notice of Motion to Authorize Committee to Extend Date of Final Report on Study of Interests and Engagement in Africa
Hon. Peter M. Boehm 7099

PAGE

The Senate
Notice of Motion to Affect Committee Proceedings for Remainder of Current Session
Hon. Pierre J. Dalphond 7099

ORDERS OF THE DAY

Business of the Senate
Hon. Patti LaBoucane-Benson 7100

Canada National Parks Act (Bill C-76)
Bill to Amend—Third Reading
Hon. Karen Sorensen 7100
Hon. Éric Forest 7100

Bill to Amend the Criminal Code and the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (Bill S-15)
Twenty-fifth Report of Legal and Constitutional Affairs Committee—Debate
Hon. Marty Klyne 7102
Point of Order—Speaker's Ruling Reserved
Hon. Donald Neil Plett 7103
Hon. Denise Batters 7107

Criminal Code (Bill S-205)
Bill to Amend—Amendments from Commons Concurred In
Hon. Yonah Martin 7114

Royal Assent 7117

Adjournment
Motion Adopted
Hon. Patti LaBoucane-Benson 7117

Citizenship Act
Immigration and Refugee Protection Act (Bill S-235)
Bill to Amend—Third Reading 7118

Criminal Code (Bill C-291)
Bill to Amend—Third Reading—Debate Adjourned
Hon. Denise Batters 7118
Hon. Pierre J. Dalphond 7120
Hon. Julie Miville-Dechêne 7121
Hon. Marty Deacon 7121

Criminal Code (Bill S-250)
Bill to Amend—Twenty-seventh Report of Legal and Constitutional Affairs Committee Adopted
Hon. Brent Cotter 7121

Language Skills Act (Bill S-229)
Bill to Amend—Second Reading—Debate Continued
Hon. Pierre J. Dalphond 7121

CONTENTS

Thursday, October 3, 2024

PAGE

Rules, Procedures and the Rights of Parliament
Sixth Report of Committee—Debate Continued
Hon. Diane Bellemare. 7121
Hon. Donna Dasko 7124

PAGE

Business of the Senate
Hon. Patti LaBoucane-Benson 7124