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(HANSARD)

Thursday, November 28, 2024

The Honourable RAYMONDE GAGNÉ,
Speaker

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THE SENATE

Thursday, November 28, 2024

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

Prayers.

SENATORS' STATEMENTS

THE HONOURABLE GERALD J. COMEAU, P.C.

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, on December 4 of last year we lost our former colleague the Honourable Gerald Comeau. His passing has not yet been acknowledged by this chamber, and I did not want a full year to go by without remembering him. I therefore rise today to pay respect to our friend, this great man.

Senator Comeau liked a good laugh, so I don't think he would mind my telling this story. A few days before his electoral victory in the 1984 federal election, Brian Mulroney stood before a crowded auditorium in Nova Scotia alongside his candidate for South West Nova. Mr. Mulroney introduced him by saying, "My good friend Gerry Comeau." A reporter in the gym was heard asking, "Did he say Perry Como?"

That reporter might not have known who Gerry Comeau was, but the people of his riding sure did and they elected him to serve on their behalf in the House of Commons. Unfortunately, he lost re-election in 1988, but, less than two years later, he was appointed to the Senate upon the advice of Prime Minister Mulroney.

There has been a long-standing tradition to name senators who represent minority-language communities. For the Acadian community in Nova Scotia, this stretches back to 1907. Senator Comeau was honoured to carry on this tradition. He considered the adoption of his private member's bill in 2003 to make August 15 National Acadian Day as his proudest moment in the Senate. He was also rightly proud of his years of work as Chair of the Standing Senate Committee on Fisheries and Oceans.

Senator Comeau served as Deputy Leader of the Government in the Senate for the first five years of Prime Minister Harper's government. In that role, he was extremely effective at moving the Harper government's common-sense Conservative agenda forward. For much of that time, there was a small Conservative caucus in the Senate that was greatly outnumbered after many long years of a Liberal government. That sounds familiar, doesn't it?

Due in no small part to his good relationships throughout the Senate, Senator Comeau was able to achieve the government's legislative goals. His loyalty to this institution and to his party, his sense of duty and his personal integrity were evident throughout his 23 years in the Senate. In recognition of his service to Canada, Prime Minister Harper named him to the Privy Council.

In his retirement, Senator Comeau remained active in his community, notably serving as a volunteer at Nova Scotia's Bangor Sawmill Museum. Since his passing last December, he has been mourned by friends and colleagues across Canada. Sadly, his devoted wife of 53 years, Aurore, passed away in February. They were a wonderful team. On behalf of the Conservative caucus, I offer condolences to the Comeau family. May they both rest in peace.

LUCY MAUD MONTGOMERY

ONE HUNDRED AND FIFTIETH ANNIVERSARY OF BIRTH

Hon. Jane MacAdam: Honourable senators, I rise today to celebrate a woman widely regarded as one of Canada's most beloved authors whose stories and timeless characters have touched the hearts of millions across the world: Lucy Maud Montgomery. This Saturday marks the one hundred and fiftieth anniversary of her birth, and I pay tribute not only to her literary genius but also to her enduring legacy.

Born on November 30, 1874, Montgomery grew up on Prince Edward Island. Her surroundings — in brilliant hues of ruby, emerald and sapphire, as she described them — would later become the vivid backdrop for her most famous work, *Anne of Green Gables*.

Despite the early loss of her mother, a strict and lonely upbringing with her grandparents and the discrimination she faced in an era when women writers were often overlooked, Montgomery maintained boundless imagination and a resilient spirit — two qualities that shine through in her writing. The beloved character Anne Shirley, like her creator, dared to dream beyond the limitations of her circumstances.

At a time when women's roles were largely confined to domestic spaces, Montgomery's portrayal of strong, complex female characters was groundbreaking. Her heroines broke the mould: They dreamed big, pursued education and fought for the right to be heard. They offered early representations of empowered women in Canadian literature, all while providing an authentic voice to women's experiences and inner lives.

Montgomery's stories have been translated into more than 36 languages and brought to life in a variety of mediums. *Anne of Green Gables — The Musical* premiered in Charlottetown in 1965 and continues to be performed today. Other famous award-winning adaptations of her stories have amassed millions of viewers.

It is also important to acknowledge the struggles in Montgomery's personal life. By sharing this part of her story, Montgomery's family hoped to lift the stigma surrounding mental health by letting others know they are not alone. The P.E.I. chapter of the Canadian Mental Health Association has unveiled a special memorial bench at Montgomery's childhood

home in recognition of World Suicide Prevention Day. The bench holds the inscription, "Dear old world, you are very lovely, and I am glad to be alive in you."

Montgomery's work played a crucial role in putting Canada and Prince Edward Island on the literary map and has been a source of inspiration for prominent authors who continue to challenge societal norms through literature.

I invite you all to revisit or introduce yourself to Lucy Maud Montgomery's writings and to experience the charm of the island that moved her so deeply throughout her life.

In her words:

> You never know what peace is until you walk on the shores or in the fields or along the winding red roads of Prince Edward Island in a summer twilight when the dew is falling and the old stars are peeping out and the sea keeps its mighty tryst with the little land it loves.

• (1410)

Thank you.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of His Excellency Kaspars Ozoliņš, Ambassador Extraordinary and Plenipotentiary of the Republic of Latvia to Canada; Major-General Simon Bernard, Deputy Commander, Canadian Joint Operations Command; and other members of the Canadian Armed Forces. They are the guests of the Honourable Senators Patterson and Wells (*Newfoundland and Labrador*).

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

Hon. Senators: Hear, hear!

OPERATION REASSURANCE

Hon. Rebecca Patterson: Honourable senators, I recently visited Poland, Estonia and Latvia as part of the Canada-Europe Parliamentary Association with my fellow parliamentarians, in order to engage with governmental counterparts and meet with Canadian Armed Forces members serving under the land force elements of Operation REASSURANCE, Canada's contribution to NATO forward deterrence on NATO's Eastern Flank. With Latvia as our outstanding host nation, an unprecedented 14 countries will make up the NATO Multinational Brigade Latvia under the command of Canadian Colonel Cédric Aspirault.

This is the most multinational of NATO's Forward Land Forces, and the challenge to "un-Canadianize" the headquarters in order to unite all these nations as a single cohesive brigade is immense. But it is also an incredible testament to the trust and faith other countries have in Canada as a framework nation and to the leadership within the Canadian Armed Forces.

While in Latvia, we observed the conclusion of Exercise Resolute Warrior, the first significant exercise of a complete brigade of any of the Forward Land Forces, as well as the first Canadian-led brigade-level field exercise held in Europe in over 30 years. Many planners involved with the exercise, from the Canadian Joint Operations Command, are with us here in the gallery today. Military to military, at least, our nation's standing in the alliance is untarnished because of the excellence of our soldiers, sailors and aviators.

Canada's continued commitment is vital, though. Consider this — Latvia's Ambassador to Canada, who is with us today, served as a young conscript under the Soviet occupation of Latvia, where he bravely challenged his Soviet superiors. He was told that Latvia had no right to independence because it had never "invaded another country." Let that sink in.

This was the Soviet and is now the Russian criterion for statehood. Latvia borders a regime that feels entitled to its aggression and will enact it again and again if it is not stopped. Latvia understands this, and so should Canadians.

Over 2,200 Canadian Armed Forces members were in Latvia for this exercise, and 1,700 will be persistently deployed there on rotation. For approximately 80 Canadian service members and their families, this is now a three-year posting. This requires us, as parliamentarians, to ensure they have the necessary equipment and support.

The decisions we make here resonate deeply with every Armed Forces member. We cannot expect them to fulfill their duties without providing them the tools they need to succeed.

At the Halifax International Security Forum, or HFX, this past weekend, the HFX president stated, ". . . every international issue is linked to Ukraine's victory over Putin's Russia."

From Taiwan's security to stability in the Middle East and beyond, Ukraine's success is critical to global peace. I cannot emphasize this point enough.

We will remember the millions of Ukrainians who have been displaced and endured immense suffering at the hands of Russia. Canada's unwavering support for Ukraine is essential — now and after victory — not just to defend its sovereignty but as a stand for all democracies, freedom and human dignity.

Thank you, Your Honour.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

Hon. David M. Wells: Honourable senators, I want to thank Senator Patterson for her thorough encapsulation of our recent visit to Europe. Clearly, it focused on operational issues, and few are better qualified to comment in this area.

I had the privilege of leading the six-member delegation of the Canada-Europe Parliamentary Association on our visit, so I want to thank the other members included in that delegation. They are Senator Patterson, of course, Senator Brent Cotter and three MPs: the Honourable Pam Damoff, Ms. Viviane Lapointe and Mr. Stéphane Bergeron.

It is difficult to capture in three minutes all that we experienced during our visit to Poland, Estonia and Latvia — countries on the front lines of the war in Ukraine and the constant aggression from Putin's Russia. That is why Senator Patterson and I decided to speak in tandem in our report to colleagues and to Canadians.

As most of you know, parliamentary diplomacy missions include high-level meetings and discussions with various government and civil society leaders. On this visit, we met with the Canadian Ambassador to Ukraine, Natalka Cmoc; the Latvian Minister of Foreign Affairs; the Undersecretary for Political Affairs at the Estonian Foreign Ministry; the Speaker of the Latvian Parliament; and the Head of Border Security for Estonia, a country that shares a border of hundreds of kilometres with Russia that is tested daily.

We also met with NATO Secretary General Mark Rutte and General Jennie Carignan, Canada's Chief of Defence Staff. On Remembrance Day, I had the honour of laying a wreath at the Estonian national war cemetery. It was an emotional moment for me. Additionally, I had a private meeting with approximately 40 European ambassadors, during which we discussed the logistics of rebuilding Ukraine post-war.

Every meeting was informative and substantive, including the Rebuild Ukraine Exhibition and Conference we attended in Warsaw. Our delegation met with Canadian companies at this conference and appreciated their efforts to be part of this economic and humanitarian opportunity. That evening, I spoke at an event sponsored by the Canadian embassy and Natural Resources Canada, which included Canadian companies, diplomatic officials and members of the Canada-Ukraine Chamber of Commerce.

Senator Patterson provided an excellent and thorough description of our contributions to Operation REASSURANCE. While I value our high-level meetings, the most important meeting was with our troops. Shaking hands and talking with as many troops as our time allowed on a cold, rainy day in a muddy field was the highlight for me. These are the women and men in our Armed Forces who serve in this very dangerous region of the world, and they do so with dedication and professionalism.

Colleagues, over 2,200 Canadians are on the ground in Latvia, with more in Lithuania, Estonia and Poland in a coordinating role. Canada leads a 14-nation forward operating force as part of our NATO commitment. Our soldiers represent us with honour and dignity, and I am proud of them. Climbing onto and into the tanks and armoured personnel carriers and witnessing the live-fire exercises with the Secretary General of NATO and Canada's Chief of the Defence Staff was an honour only exceeded by meeting the troops at their place of work and is a highlight of my position as a senator representing Canada. 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 Aaron Swanson, who works in the Office of International Relations and Protocol for the Government of Ontario. He is the guest of the Honourable Senator McPhedran.

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

Hon. Senators: Hear, hear!

NATIONAL DAY OF REMEMBRANCE AND ACTION ON VIOLENCE AGAINST WOMEN

Hon. Paulette Senior: Honourable senators, I rise today on the unceded, unsurrendered territory of the great Anishinaabe Algonquin Nation. I do so with a heavy heart to begin the commemoration of the National Day of Remembrance and Action on Violence Against Women.

Each year, on December 6, we remember and mourn one of this country's worst mass femicides. But most importantly, we also take action. This year, I call on all of us in this chamber and in the other place to take the kind of meaningful action that delivers change. This is the kind of action that goes beyond ribbons and roses and invests transformational resources in grassroots, gender-based community interventions and prevention initiatives, not to reduce but to end all forms of violence against all women, girls and gender-diverse people, especially those rendered most vulnerable due to race, indigeneity, ability, sexuality and status, to name a few.

Honourable colleagues, it has been 35 years since the lives of 14 brilliant young women — as well as the promise of their potential — were brutally taken from them and from us. But let it be known that they will never be forgotten. In their names, we commit to act — to ensure the promise of current and future generations of young women is realized. And we also say their names: Geneviève Bergeron, Hélène Colgan, Nathalie Croteau, Barbara Daigneault, Anne-Marie Edward, Maud Haviernick, Maryse Laganière, Maryse Leclair, Annie-Marie Lemay, Sonia Pelletier, Michèle Richard, Annie St-Arneault, Annie Turcotte and Barbara Klucznik-Widajewicz. In their names, we declare gender-based violence a global pandemic and take corresponding action and make decisions to eradicate it. We advocate for massive funding for crisis lines, shelters, safe and affordable housing, public education, prevention programs, trauma-informed training, safety protocols in workspaces and the like. We resolve to finally close the gender pay gap and provide livable incomes so that nobody has to stay in an abusive relationship because of poverty.

• (1420)

We challenge power imbalance and abuse, domination and aggression. We seek opportunities to uplift and affirm the type of humanity we want to embody and experience — a humanity of equity, mutual care and compassion.

Let us all do this as we hold in our hearts the memories of the women murdered 35 years ago and the countless thousands murdered before and since. We will never forget. Thank you. *Meegwetch*.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of His Excellency Rodrigo Malmierca Díaz, Ambassador of the Republic of Cuba. He is accompanied by Dany Tur de la Concepción, Deputy Head of Mission. They are the guests of the Honourable Senator Hartling.

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 Chief Joe Alphonse, Chief Roger William and Chief Francis Laceese. They are accompanied by representatives of Tŝilhqot'in National Government. They are the guests of the Honourable Senators McCallum and Greenwood.

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

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

FOOD AND DRUGS ACT

BILL TO AMEND—THIRTIETH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED

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

Thursday, November 28, 2024

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

THIRTIETH REPORT

Your committee, to which was referred Bill C-252, An Act to amend the Food and Drugs Act (prohibition of food and beverage marketing directed at children), has, in obedience to the order of reference of Thursday, May 30, 2024, examined the said bill and now reports the same without amendment but with certain observations, which are appended to this report.

Respectfully submitted,

ROSEMARY MOODIE

Chair

(*For text of observations, see today's* Journals of the Senate*, p. 3337*.)

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

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

[*Translation*]

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

WINTER MEETING OF THE ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE PARLIAMENTARY ASSEMBLY, FEBRUARY 22-23, 2024—REPORT TABLED

Hon. Peter M. Boehm: Honourable senators, I have the honour to table, in both official languages, the report of the Canada-Europe Parliamentary Association concerning the Organization for Security and Co-operation in Europe Parliamentary Assembly's Twenty-third Winter Meeting, held in Vienna, Austria, from February 22 to 23, 2024.

ANNUAL SESSION OF THE ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE PARLIAMENTARY ASSEMBLY, JUNE 29-JULY 3, 2024—REPORT TABLED

Hon. Peter M. Boehm: Honourable senators, I have the honour to table, in both official languages, the report of the Canada-Europe Parliamentary Association concerning the Organization for Security and Co-operation in Europe Parliamentary Assembly's Thirty-first Annual Session, held in Bucharest, Romania, from June 29 to July 3, 2024.

[*English*]

THE LATE HONOURABLE MURRAY SINCLAIR, C.C., O.M., M.S.C.

NOTICE OF INQUIRY

Hon. Bernadette Clement: Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to the life and career of the late Honourable Murray Sinclair.

QUESTION PERIOD

PUBLIC SAFETY

BORDER SECURITY

Hon. Donald Neil Plett (Leader of the Opposition): Leader, this NDP-Liberal government is scrambling to deal with the threat of a 25% tariff from the United States. The other day, during an interview, Minister Anand said, "We have strong and fortified borders. And if you come to Canada illegally, you will be deported."

After a meeting with the premiers yesterday, Minister LeBlanc told reporters that to curb illegal border crossings, they will "tighten the screws" — his words, not mine — but no plan to secure the border was presented. Just a week ago, leader, 16 people were caught illegally crossing into the United States. This is why Donald Trump wants to put tariffs in place.

Leader, the premiers and Canadians are expecting a detailed plan. When will they receive one?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. I would recommend to you, senator, as well as to your caucus and all citizens an excellent article by Andrew Coyne published today that explains — as most of us, in fact, know — that it is smart politics, smart policy and a smart negotiation approach to keep one's powder dry as a plan is being formulated in order to deal with what we should be planning for or anticipating when the president-elect takes office.

The meeting with the premiers that was held yesterday is one — and only one — step toward developing a coherent and proper plan. It may be good politics, senator, but it is not in Canada's interests for the government to start speculating publicly about what it is going to do. It is already in touch with the president-elect and will continue to be in touch with its counterparts.

Senator Plett: Well, I think it is great policy to stop illegal border crossings. That's what I'm asking you about. You are saying it is not good politics to let us know what you are going to do.

Leader, even before President Trump threatened 25% tariffs, your very own Province of Quebec announced that it would send their own provincial police to secure the border because they don't trust you, leader. Would Quebec feel the need to do that if our border were truly as fortified as your government says it is?

Senator Gold: Senator Plett, the minister announced the plans to further secure the border. I'm aware, as we all are, that the RCMP notified their counterparts in the United States and, through collaboration, managed to intercede regarding those who were seeking to enter the United States. Again, I repeat: The government is working in a serious but responsible way to protect our borders and our interests.

Hon. Leo Housakos: Senator Gold, Justin Trudeau has proven himself to be a weak leader at a time when we can ill afford one. After nine years of Justin Trudeau, Canada has seen significant increases in violent crime, property crime and homicides, as highlighted in a recent Fraser Institute report.

With Canada's violent crime rate now surpassing that of the United States, how do you continue to defend your government's weak policies, such as catch-and-release for repeat offenders? Furthermore, when you include fentanyl trafficking as a result of your government's failed woke drug policy, how can you act surprised when the incoming president is carrying through on his threat to clean up our borders?

For the record, yesterday you accused me of spreading misinformation. What did I say yesterday or today that is not true, Senator Gold? The stats never lie.

• (1430)

Senator Gold: I'll answer your question. I think your reference to fentanyl smuggling into the United States dramatically misrepresents the difference in the amount of fentanyl that entered the United States or was sought to enter from Canada compared to what enters Canada or enters the U.S. from other jurisdictions. That was misleading, and the facts are publicly available, as you well know.

Nor is it a fact that the government's criminal law policies are responsible for the rise in crime. I know that ideologically your party continues to believe that the solution to crime is to simply throw more people in jail for longer periods of time. I know your solution is to not trust the institutions to apply: our courts, Correctional Service Canada or the Parole Board of Canada. That is not the position of this government.

Senator Housakos: Senator Gold, the only thing Canadians don't trust is your government.

Let me give you more facts. During the last Trump presidency, Justin Trudeau put out his infamous tweet — we all remember — welcoming U.S. asylum seekers to Canada; it's something that is in large part to blame for the current housing crisis our country is going through. With our own border once again at risk of being overwhelmed, as Mr. Trump pledges even stricter immigration enforcement, does your government have a plan? Please, Senator Gold, tell me someone has taken away Justin Trudeau's Twitter account.

Senator Gold: I'm going to let pass the use of Twitter in this political environment, which I find relatively toxic, and I'll simply say this: If I understood you correctly, and I'll give you the opportunity, Senator Housakos, if you would like to correct me, you are now blaming the housing crisis on asylum seekers — those fleeing persecution from other countries. Shame on you.

Senator Housakos: — you flip-flopped on that yourself —

The Hon. the Speaker: Senator Cormier, please.

[*Translation*]

EMPLOYMENT AND SOCIAL DEVELOPMENT

NATIONAL SCHOOL FOOD PROGRAM

Hon. René Cormier: My question is for Senator Gold.

Senator Gold, last week, the government proposed a temporary GST/HST exemption on certain junk foods, such as candy, chips and chocolate. This measure will inevitably lead to children in Canada eating more of these products.

This announcement comes just as our Social Affairs, Science and Technology Committee is wrapping up its study of Bill C-252, which seeks to prohibit the marketing of unhealthy foods and beverages to children, a bill that has the government's support. This announcement also comes at a time when the government is introducing measures to promote healthy eating in schools, namely Canada's National School Food Program.

While I commend the government for its desire to offer taxpayers some tax relief this holiday season, I don't think its rhetoric is entirely consistent with healthy eating.

How does the government reconcile these different measures?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question, senator. I also want to thank you for mentioning this important bill, as well as the National School Food Program, which will providing healthy meals to more than 400,000 kids at school and save families money in the process.

Canadians are facing real challenges, which is why the government is committed to supporting families and making life more affordable.

That's why the government has announced a series of measures, including $10-a-day day care that will save families thousands of dollars every year.

The GST holiday will help cover seasonal expenses so Canadians can focus more on celebrating with family and friends and worry less about the family budget.

As for your specific question, it's the holidays, and it's not the government's job to tell families what to give kids when they celebrate together this holiday season.

Senator Cormier: I fully understand, and I appreciate this issue.

In terms of Canada's National School Food Program, how and when does the federal government intend to sign agreements with all provincial and territorial governments? To my knowledge, only three provinces, namely Ontario, Newfoundland and Labrador, and Manitoba, have signed agreements so far.

Senator Gold: Thank you for the question and thank you for bringing more attention to this important program.

As you know, some provinces have already signed agreements. I believe that the work to sign agreements with the other provinces is ongoing and that the government hopes it will soon have more good news to share with Canadians.

[*English*]

ENVIRONMENT AND CLIMATE CHANGE

GREENHOUSE GAS EMISSIONS

Hon. Tony Loffreda: Senator Gold, my question today focuses on our efforts to clean the electricity generation mix and reduce our greenhouse gas emissions in the territories. We know that diesel is a reliable option for heat and electricity, especially in Nunavut, but it is costly to purchase and transport, and it presents serious environmental disadvantages.

What is the federal government doing to reduce the North's reliability on diesel power generation? As the Standing Senate Committee on Energy, the Environment and Natural Resources reported nearly 10 years ago, electricity systems in the territories were aging, underperforming and at capacity, and there was a lack of financial capacity to advance major projects. What advancements and achievements have there been since 2015 in greening the energy mix in the territories?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question and for highlighting what is a real issue. When I visited the North with the Standing Senate Committee on Fisheries and Oceans many years ago, I saw first-hand the reliance upon diesel and the consequences of that.

The government has launched the Northern REACHE program, which helps support northern and Indigenous communities in their transition to renewable, sustainable and affordable sources of energy. To your question, since 2016, Northern REACHE has funded 140 projects and invested over $29 million in capacity building, renewable energy and energy efficiency projects. More recently under the program, the government announced $300 million in funding to support communities launching their energy projects, such as wind, solar, geothermal, hydro and biomass, along with a new streamlined service model for communities seeking to access such resources and clean energy funding.

Senator Loffreda: Thank you for that response, Senator Gold.

According to Crown-Indigenous Relations and Northern Affairs Canada's departmental plan, we hope to replace 7 million litres of diesel with clean energy by 2030. In three years, we've cumulated only 830,000 litres of displaced diesel. Are you confident we will meet our target? Are small modular reactors being considered as a reliable and affordable alternative to diesel?

Senator Gold: Thank you. The government does believe it's on track to reduce consumption by 7 million litres by 2030. I understand that 1 million litres of diesel was avoided in 2023-24. The annual estimated reduction of 1 million litres of diesel results from 3.6 million kilowatts of installed clean energy capacity, which is equivalent to an estimated reduction of 2,800 tonnes of greenhouse gases.

HEALTH

LONG-TERM CARE SYSTEM

Hon. Flordeliz (Gigi) Osler: My question is for the Government Representative in the Senate.

Senator Gold, every person in Canada deserves to age in dignity, safety and comfort, whether it's close to home and family or, if needed, in long-term care. I recognize that over the last several years, there have been significant fiscal investments in long-term care, but as a legislator, I note that the federal government has identified the development of a safe long-term care act as a ministerial mandate priority. Consultation with stakeholders concluded in 2023, a What We Heard Report was released in August 2024 and the legislation is supposed to be tabled by the end of this year.

Senator Gold, when will Parliament see the safe long-term care act?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question highlighting the importance of investing in and improving long-term care. The government remains committed to meeting the needs of seniors, including helping to ensure that they can access the safe, quality health care that they need and deserve.

Colleague, I'm not in a position to speculate on a timetable for the tabling of the legislation, but I can assure this chamber that work is ongoing on this piece of legislation.

Senator Osler: Thank you, Senator Gold. The federal government also identified the development of national long-term care standards as another ministerial mandate priority. When will we see national standards so that every person in long-term care will receive safe, dignified and comfortable care?

Senator Gold: Thank you for your question. The government has already supported the development of independent long-term care standards for the Health Standards Organization and the CSA Group with an investment of nearly $850,000. I don't have a specific date for the promulgation of these national standards, but I can assure this chamber that the work is ongoing.

GLOBAL AFFAIRS

CANADA-UNITED STATES RELATIONS

Hon. Andrew Cardozo: My question is to the Government Representative, and it is regarding Canada-U.S. relations.

On November 6 — the day after the U.S. election — I asked you about what the federal government would be doing to prepare for the new Trump administration. Indeed, yesterday there was a first federal-provincial-territorial conference of first ministers. From the news reports, it sounds like it was one of the better days of federal-provincial-territorial relations.

• (1440)

I know we talked about this a little while ago, but I want to take it from another angle. Can you set out for us what the outcomes were that all these first ministers of different political backgrounds agreed to yesterday?

Hon. Marc Gold (Government Representative in the Senate): Senator Cardozo, I'm really not in a position to speak to the discussions that took place between the first ministers, the areas they discussed or what conclusions they did or did not reach.

As I stated in response to earlier questions about this, this government and the provinces and, indeed, the private sector and stakeholders are not sitting back passively in the face of the announcements that have been made by the president-elect and others who have been nominated to positions, or others — whether Canadian or American — who are putting pressure on the government to explain exactly how we're going to respond. The government is acting responsibly and will continue to do so.

Senator Cardozo: Thank you. I'd like to float a proposal where senators can be more involved in some of the interaction between Canada and the U.S. I'll give you a couple of examples.

Last weekend, there were eight senators, myself included, who were at the Canadian NATO Parliamentary Association session in Montreal. We interacted with various American counterparts. There were some senators at COP 29 in Azerbaijan last week. Three senators are going to the Conference of Southern Governors, and, of course, there is the Canada-U.S. Inter-Parliamentary Group, CEUS.

Senator Gold: Thank you, Senator Cardozo, for reminding us in the chamber of how involved so many of us are with our American counterparts through the different parliamentary and other associations to which we adhere.

As I mentioned the other day, I'm certainly happy and pleased to be transmitting to the government the interests of senators to be more involved, and I will let the government decide if, how and when such measures might be put in place.

ENVIRONMENT AND CLIMATE CHANGE

PARKS CANADA

Hon. Yonah Martin (Deputy Leader of the Opposition): Leader, Senator Plett and I have asked you questions this year about the invasive deer cull on Sidney Island in B.C.'s Gulf Islands. Your government paid foreign marksmen to shoot deer with semi-automatic rifles while flying around in a helicopter at a cost of $10,000 per deer.

This fall, the next phase of the cull involved Parks Canada erecting fencing made of second-hand fishing nets to herd the deer in advance of the hunt. Some deer got caught in these nets and thrashed themselves to death. As a result, Parks Canada has shut down the cull.

How much did these used fishing nets cost taxpayers, leader? What has been the total cost of the second phase of the cull so far?

Hon. Marc Gold (Government Representative in the Senate): Senator Martin, first of all, I'm distressed to hear these animals suffered as a result of being entangled. Frankly, it concerns me.

I don't know the answer to your question of how much money was spent on these nets. I can only assume that Parks Canada assumed this was a safe way to contain the herd. It is tragic that it didn't work out that way. But I don't know the exact amount that was spent, nor do I know what the future plans are, assuming — which I do, of course, assume — as you report, that the cull has been suspended, postponed or cancelled.

Senator Martin: I understand the NDP-Liberals refuse to give those figures to the Canadian Taxpayers Federation, which is quite troubling.

Leader, the first phase of this cull cost $834,000. I've asked this twice before, but I haven't received an answer. Why weren't local B.C. hunters involved from the start? They would have done this work at no cost to taxpayers perhaps. Isn't that common sense?

Senator Gold: Yes, I recall you asking the questions, senator. As you know, those were transmitted immediately to the government. I have not been advised of an answer, and I regret you haven't received one as yet, but I will follow up, as I always do.

[*Translation*]

FINANCE

TEMPORARY TAX MEASURES

Hon. Claude Carignan: Leader, the government has introduced Bill C-78 on the GST holiday. There will be a tax break on Christmas trees, but not ornaments, on children's clothing, but not size XL, on diapers for babies, but not those for seniors, on printed newspapers, but not the digital versions, on a $500 bottle of wine, but not a $30 bottle of gin, on physical video games, but not the digital version. Leader, who came up with this list? What were the objective criteria for making these choices? Don't you think that this sounds like a plan that was drawn up on the back of a napkin?

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

Regarding the details of the bill, I hope the Senate will give the committee enough time to study it properly.

As you know, there will be a vote on this bill in the House this evening.

The government had to draft the bill in such a way as to make sure this support for many Canadian families is not unlimited, not only in terms of duration, because this is meant to help families over the holidays, but in other ways as well. The government therefore had to decide which products would and would not be included. It was a pragmatic decision to help families that need help.

Senator Carignan: Here's what Pablo Rodriguez, who was a minister in your government until recently, wrote about this measure: "These measures offer nothing of substance and are likely to have a minimal impact at an extremely high cost."

That's not a Conservative comment, leader; it's from an MP who was in cabinet just a few weeks ago. Maybe you can help poor Mr. Rodriguez by telling us how a 5% discount on a bag of chips or a Christmas tree is something of substance?

Senator Gold: These measures are intended to help families with children who are in need of some joy over the festive season. The government decided to give families a little help over the holidays.

PUBLIC SAFETY

FIREARMS BUYBACK PROGRAM

Hon. Julie Miville-Dechêne: Senator Gold, once again, I'm calling out the bureaucratic delays around gun control. The government issued an order in council four years ago to buy back 4,000 prohibited assault weapons, deadly weapons. However, nothing happened. The buyback program is scheduled for next spring, but we could already be in an election campaign by then, and we know that the Conservative Party of Canada opposes these control measures. Why is the government dragging its feet? Is it worried about stirring up another controversy that could hurt its chances on the campaign trail?

Hon. Marc Gold (Government Representative in the Senate): The answer to your hypothetical question is a resounding "no."

The same question was asked yesterday. I immediately followed up yesterday and again this morning. Unfortunately, I didn't receive the response that is so eagerly awaited not only by you and the Senate, but by me, too. The government is working hard. I'm not going to go over all the other things that the

government is doing to not only limit access to guns specifically, but also to protect the victims of gun violence. I'll keep trying to get a response, because it's important.

Senator Miville-Dechêne: Mayor Valérie Plante and PolyRemembers want you to ban more military-style firearms, given the spate of gun violence that has erupted in Montreal.

• (1450)

PolyRemembers wants the existing laws and orders to be enforced, but the group would also like you to go even further. The order in council was issued four years ago, so it seems to me that it should have come into force by now. Still, it's remarkable —

The Hon. the Speaker: I regret to inform you that your time has expired.

Senator Gold: I completely understand the disappointment and frustration people are feeling. As I just said in response to your first question, I tried to get an answer yesterday to a similar question. When I didn't get it, I asked the question again this morning. I will continue to do my best to get an answer to these questions.

[*English*]

FINANCE

TEMPORARY TAX MEASURES

Hon. Krista Ross: Senator Gold, Bill C-78 is meant to give Canadians across the country a tax break and support affordability, but I believe it could hurt Atlantic Canadians. Provinces that have an HST agreement with the federal government will be unexpectedly losing out on millions of dollars. New Brunswick is projected to lose $62 million in revenue — money that is earmarked to be spent on provincial government programs to support New Brunswickers. Those funds will no longer be available to the province. Also, in response to the Maritime provinces expressing concerns, there have been no reassurances that we will be compensated for this unplanned shortfall.

Will Bill C-78 have the effect of reducing by more than 1% the total net provincial tax revenues in New Brunswick in a calendar year, meaning that the federal government will be required to compensate the province because of the HST agreement? Do you have the estimates from Finance Canada using the latest available data?

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

No, I don't have the estimates, but I am of the view that the governments that are affected, such as New Brunswick's and others, and the federal government will be in discussions, if they are not already, with regard to this measure.

The bill has not yet been voted upon. It will be voted upon today, and we will be receiving it soon thereafter. We will be studying it and, I hope, passing it before we rise. In that regard, there's time for those discussions to be completed so that all provinces are treated fairly.

Senator Ross: Besides the federal government shortchanging New Brunswick, it's adding a heavy administrative burden to small- and medium-sized enterprises, or SMEs. They're left scrambling to figure out how to implement these temporary measures. A recent survey from the Canadian Federation of Independent Business shows that up to 65% of small businesses say there's not enough time to implement the change, and they're estimating that it will cost them a median of $1,000 to do so.

Did the federal government consult any small businesses or representative organizations prior to tabling the bill? How would you suggest small businesses should administer this, considering they only have two weeks to figure out how to do it?

Senator Gold: Again, thank you for your question. There's no doubt that administering this will take some time and effort. In some cases, it might entail additional person hours and therefore costs.

I'm not aware of the discussions that took place before it, but I am hopeful that all businesses will do their part to provide the assistance that this measure will give their customers and neighbours.

FINANCE

COST OF LIVING

Hon. Donald Neil Plett (Leader of the Opposition): Leader, we know that over in the other place Liberal members like to pretend they're Indigenous, like to pretend they're Black and now we find out they also like to make up new words. On Monday the Minister of Finance introduced Canadians to a new word: "vibecession." Last year they made up the new term "rapporteur on foreign interference," and this year they've made up a new word to explain away their utter incompetence.

Apparently, this new word, "vibecession," enlightens Canadians who don't realize how wonderful the economy actually is. All those people who can't afford food, housing or gas to drive to work are just feeling bad vibes.

Leader, does your government really believe that the Canadians who are lined up at food banks don't need help, that they only think they're hungry and that it's all in their minds? Isn't that a bit insulting, leader?

Hon. Marc Gold (Government Representative in the Senate): This government does not believe that people who are hungry or lining up at food banks don't really need the help they are seeking, nor does this government view the high cost of housing or food as imaginary problems.

On the contrary, that's why this government has taken concrete action to assist Canadians within its areas of jurisdiction and beyond by using its spending power to provide, in a generous but fiscally responsible way, a measure of assistance in all of those areas.

I will not attempt to interpret for you what the minister was trying to say, except to say that there is a difference between the lived realities of individual Canadians in their day-to-day lives and actual macroeconomic measures that show that, in fact, Canada's situation has improved on a macro level.

Senator Plett: Leader, last week we heard pearls of wisdom from the Prime Minister when he said, "Let the bankers worry about the economy." I think he should hire Senator Loffreda. Maybe he would worry about the economy.

Senator Housakos: He would do a better job.

Senator Plett: Was anybody surprised by what he said, leader? No one thinks he worries about the economy. Isn't that why we need a carbon tax election — so that somebody worries about the carbon tax and balances the budget?

Senator Gold: I'm sorry, but I will leave aside the degree to which you personalize your questions — in this case not toward me.

Senator, as I just tried to answer before, the fact is that this government has managed the economy in a responsible way, as the figures show, which is a separate question from the unfortunate continuing need Canadians have for the assistance of the federal and provincial governments in difficult times.

ORDERS OF THE DAY

MISCARRIAGE OF JUSTICE REVIEW COMMISSION BILL (DAVID AND JOYCE MILGAARD'S LAW)

BILL TO AMEND—THIRD READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Arnot, seconded by the Honourable Senator Clement, for the third reading of Bill C-40, An Act to amend the Criminal Code, to make consequential amendments to other Acts and to repeal a regulation (miscarriage of justice reviews).

Hon. David M. Arnot: Honourable senators, this is my encore from yesterday.

I want to remind you that I spent about 30 minutes making these three points.

First, there is a need for a remedy for wrongful convictions and miscarriages of justice, and it's clarion. There is no doubt whatsoever what the problem is.

Second, this bill is fit for purpose. It is an amalgam of best practices, especially from the United Kingdom and Scotland. The bill is sound. Any alleged flaw is not deep enough to merit amending the bill or a vote against it. A review of the bill will take place in five years, which will be an opportunity to fix any issues that may arise.

Third, this legislation is the most innovative and transformational change in the criminal justice system in Canada in the 21st century. It makes the system more equitable and will make Canada a better place.

Colleagues, Bill C-40 is aimed at transforming how wrongful convictions are reviewed in Canada. The bill embodies a commitment to justice, ensuring that those who have been failed by our legal system are given a fair opportunity for redress. It is a crucial step forward, and, although it has sparked much debate in the other place and in the Senate, the points of broad agreement underscore the necessity and importance of the bill.

To reiterate, the core of the bill is the creation of an independent commission to handle allegations of wrongful convictions: an improvement that everyone can agree upon. Moving the responsibility away from the Minister of Justice to an impartial body ensures that the political interference that may occur is minimized and that justice will be more accessible. This is essential to restoring public trust, especially when the current system has allowed only 30 or so cases to be referred for new trials or appeals over the past two decades.

Another strength of the bill is that it emphasizes transparency. Requiring the commission to publish its decisions online assures accountability, and it allows Canadians to understand how these decisions are made.

• (1500)

All perspectives recognize this as an important model over the current opaque system, which often leaves applicants and the public without meaningful insight into decision making.

The expansion of eligibility under this legislation is another vital reform. This bill ensures that individuals who previously had no recourse — such as those who pled guilty — can now seek justice.

We also know that many vulnerable individuals, including Indigenous and racialized people, that did enter guilty pleas under duress could seek redress; those who may have feared a harsher penalty and such have pled guilty to avoid such a penalty improperly.

Bill C-40 acknowledges this reality, ensuring that the most marginalized Canadians have access to a fair process. Additionally, the bill provides critical support services for applicants. These supports are especially necessary for incarcerated individuals, who often have limited access to legal assistance. Such practical measures make justice more equitable and accessible for those who need it most.

That said, there are important concerns that, of course, merit some discussion. I will raise those now.

One issue that has been raised is the lowered threshold for investigations — from requiring proof that a miscarriage of justice "likely occurred" to only needing "reasonable grounds to believe" that one may have occurred. While some fear this could invite frivolous applications, the lowered threshold is essential to uncover hidden injustices that the current system overlooks, especially for those without the means to prove their innocence on their own.

Second, there is also a debate about the removal of the appeals exhaustion requirement. Some argue that the commission should remain a remedy of last resort. However, rigid appeals processes can prevent marginalized individuals from accessing justice, particularly those with limited financial resources or inadequate legal representation. Giving the commission the discretion to waive this requirement ensures that the review process remains focused on fairness, not just procedural formalities.

Third, another concern has been raised about the composition of the commission, with questions about whether including non-lawyers will undermine the quality of decisions. However, miscarriages of justice often result from more than just legal errors. Systemic biases, investigative mistakes and societal prejudice also play significant roles. Ensuring that the commission includes diverse perspectives beyond legal expertise will help address these underlying issues.

Fourth, some have expressed concern about increased applications overwhelming the system at the start. However, other jurisdictions with independent commissions — such as the U.K. and Scotland — have managed increased caseloads without sacrificing efficiency. With proper resources, Canada's commission will be able to strike a similar balance, providing timely relief to those wrongly convicted. We have heard from international experts that the initial influx balances out quickly to a manageable flow.

Ultimately, this bill reflects a shared understanding that miscarriages of justice are profound moral failures that must be corrected.

No system is perfect, but it is our responsibility to create mechanisms that allow us to identify and remedy those failures swiftly and effectively. Bill C-40 provides us with such a mechanism — a transparent, inclusive and fair process that ensures no individual will be failed twice by our justice system.

The importance of passing this legislation cannot be overstated. The bill offers meaningful solutions to systemic problems that have persisted for decades in this country. It is time to move forward with a justice system that is responsive to the needs of all Canadians, especially those who are marginalized.

I have had many good and candid discussions with Minister of Justice Virani. I told him that I support this bill because I have witnessed the need for it first-hand and that I would not sponsor a bill that I did not believe in.

To be frank, I believe that Bill C-40, as presented, is the best meaningful attempt to provide redress for wrongful convictions in many decades. We need this bill in order to make our justice system more just, accessible, accountable and equitable for everyone.

Bill C-40 does this by providing a pathway to address and mitigate such miscarriages. It offers a pathway for a citizen of Canada who is convicted of a crime to assert that their rights were not respected, that their life was torn apart and that they are owed a remedy. It affords an opportunity to be heard when, in the past, no one was interested.

The overarching purpose of Bill C-40 is to better detect, remedy and prevent wrongful convictions. Bill C-40 sets out a new path for Canada to deal with miscarriages of justice in a more efficient and transparent manner, which, ultimately, will help increase public confidence in our criminal justice system.

All people in Canada must have confidence that the justice system is there to protect them — that is the goal — and also that the justice system can be trusted.

This is the most important amendment to the Criminal Code in many decades. If you have any doubts about this bill, please remember the compelling testimony of Mr. Guy Paul Morin. He spoke about his pain, anxiety, fears, frustration, anguish and anger about the injustices he suffered in being wrongfully accused and then wrongfully convicted.

His testimony brought tears to his eyes — and to those of many of our Senate colleagues who were in the committee room when he gave his compelling testimony.

This bill is an important amendment to the Criminal Code because it repairs a known, glaring, decades-long flaw in the justice system. It will produce a positive, innovative, transformational change in the administration of justice in Canada.

I urge all members of this chamber to support swift passage of Bill C-40, without amendment, so that these important reforms can be implemented for the benefit of all Canadians, especially those who may have been wrongly convicted and have yet to receive a remedy.

A wrongful conviction against a person on any Criminal Code charge strikes at the heart and core of the administration justice because it strikes at public confidence in the system.

I am proud to be given the opportunity to sponsor this bill. I am confident this bill is well crafted. My private hope is to be able to tell my grandchildren — currently eight in number — this Christmas that I had a small role in bringing this bill to fruition.

Thank you.

Hon. Denise Batters: Senator Arnot, last week at the Senate Legal Committee, you, the sponsor of this government bill, supported and voted yes to including this paragraph as an observation in the Legal Committee's report on Bill C-40:

> The committee would like to underscore the fact that its study of Bill C-40 was informed by briefs and witness testimony, including a letter from the Minister of Justice that will inform interpretation of Bill C-40 and guide the mandate of the Miscarriages of Justice Review Commission, particularly with regard to the vital importance of ensuring meaningful and proactive acknowledgement and redress of sexist, racist and other systemic inequalities, in particular for Indigenous women, commencing with the cases identified in the report entitled *Injustices and Miscarriages of Justice Experienced by 12 Indigenous Women*.

It includes a hyperlink to the report.

Senator Arnot, you were a provincial court judge for many years and will keenly understand the importance of independence for the commission in these miscarriage of justice review proceedings. In fact, I understand that you championed judicial independence during your time on the provincial court.

Senator Arnot, why do you think it is appropriate that the Senate Legal Committee, through this report, is telling the commissioners who will deal with potential wrongful convictions that their first order of business should be those specific cases detailed?

Senator Arnot: There were a number of observations, and I supported every one of them. They are there for a purpose. They are there to inform, I believe, the Minister of Justice and the commission, as it is eventually formed, about the intention of Parliament, and I support that 100%.

Senator Batters: But, Senator Arnot, that particular observation links to a report that specifies 12 cases of potential miscarriages of justice, and it asks the commission to commence with the cases identified in that report. Don't you see that as a potential interference in the independence of that commission that will be set up?

• (1510)

Senator Arnot: An observation is just a suggestion. Ultimately, the commission will make its own determination. I have great confidence that those who will be appointed to the commission will be professional, neutral and have high integrity. They will not be swayed or told how to do their business. They won't be told how to create the policies and the practices that they will develop.

They will be independent; I'm sure of it. I would be surprised if they felt any pressure to take any particular cases on in advance of others.

The report you are referring to is the one that Senator Pate created. It is a compelling report, and it reinforces the need to protect Indigenous women because of the coercion that happened to the 12 in the example, which was clear and obvious.

The Hon. the Speaker: Senator Arnot, the time for debate has expired. I see Senator Batters has a supplementary question, and I know Senator Carignan also wants to ask a question.

Are you asking for more time?

Senator Arnot: An hour or so. Yes, I would like more time, please.

The Hon. the Speaker: Senator Arnot is asking for more time. Is leave granted?

Hon. Senators: Agreed.

The Hon. the Speaker: Five minutes.

Senator Batters: Senator Arnot, as you noted in your speech, the standard for determining a miscarriage of justice has been lowered in Bill C-40 to whether a miscarriage of justice may have occurred. As you also noted, in addition, it must be established that this is "in the interests of justice."

I asked the justice minister this at committee, but I really didn't get an answer, so I'll ask you this: In what situation would a potential miscarriage of justice not be in the interests of justice?

Senator Arnot: The reason "in the interests of justice" is in there is to give that commission some flexibility, some creativity and some room to manœuvre, based on what they might see in front of them. That's the purpose of that statement. It is an important one to have in there because it's in addition to the fundamental threshold.

I think it allows the commission to creatively approach their mandate in a way that they see fit. It has enough parameters in it to be useful to them, I'm sure.

[*Translation*]

Hon. Claude Carignan: Thank you, senator. We talked about recourse for correcting miscarriages of justice for our military members. I listened to witness testimony and attended committee hearings, just as you did. I heard the extremely moving testimony of Mr. Morin, and I was in touch with him afterward, in fact. What he went through was terrible.

Why shouldn't a military member who is the victim of a miscarriage of justice get the same recourse that is given to anyone else who is found guilty, but not our military members?

[*English*]

Senator Arnot: Senator Carignan, you did put forward some amendments to accommodate that. I think at the time Senator Dalphond pointed out that Bill C-66 in the other place right now would be the best place to do that.

In order to make an amendment like that, we have to have some evidence. We really didn't have some evidence that this could occur. I'm not saying it wouldn't occur or that it has not occurred, but, certainly, there is no evidence from the news media that any soldier was incarcerated for 23 years and was wrongfully convicted. I don't think that should be the case. I think it would be proper to bring that up in Bill C-66.

The other principal reason that it didn't fit this time is because we would have to consult with the Department of National Defence and the Judge Advocate General. We would have to have more evidence before that could be accommodated as an amendment, and that did not happen.

I'm not against that at all. I think over the course of five years, there will be more experience with this commission, and it may well be that at that time you could take in people in the military justice system who feel they have been wrongfully convicted.

That's for the future.

[*Translation*]

Senator Carignan: Senator Arnot, just because you didn't hear about it in the media doesn't mean it didn't happen. There have been a dozen such cases in England. I think you would agree that one case is one case too many. There is no reason for a member of our armed forces to be treated any less favourably than a civilian.

[*English*]

Senator Arnot: As I say, I don't disagree with the thought. I don't think it is the right time to do it with this bill. I think it can be accommodated in the future, and a lot of homework has to be done with the soldiers in Canada, with National Defence and the Judge Advocate General. The military justice system is a thing unto itself, and we really didn't explore that in any detail at all.

I do know that there were a few cases in Scotland and a few cases in the United Kingdom; that's true, but I know of none in Canada.

[*Translation*]

Hon. Réjean Aucoin: I'd like to thank Senator Arnot for his speech.

Honourable senators, thank you for giving me the opportunity to speak today in support of a bill that is essential for justice and human rights in our country.

Bill C-40, which aims to create an independent commission to deal with cases of wrongful conviction in Canada, is a very important piece of legislation. Miscarriages of justice continue to be a painful and unacceptable reality. Lives are shattered and families destroyed when innocent people are convicted.

I must begin by highlighting certain concerns expressed by a number of witnesses during the Legal and Constitutional Affairs Committee's study. In particular, I'm thinking of retired Justice Harry LaForme and law professor Kent Roach, two highly respected experts in the field of Canadian justice.

According to Justice LaForme, for this commission to work effectively, it must have full investigative powers and be truly independent of the government. He believes that the commission's proximity to the government could limit its effectiveness and call its impartiality into question.

Professor Roach expressed concern that the bill's mandate is too focused on individual cases, which would limit the commission's ability to address wider, systemic issues.

Mark Knox, a Canadian lawyer committed to defending the rights of the wrongfully convicted, said he was worried about the risk of creating an excessively cumbersome and slow bureaucratic process that could delay the review of certain cases.

Many other witnesses stressed the importance of ensuring diversity on the commission and including experts from different backgrounds, such as people with experience defending the rights of accused individuals and vulnerable communities, such as the Indigenous and Black communities that make up a large proportion of the prison population.

It was very moving to hear Guy Paul Morin, Brian Anderson and Clarence Woodhouse describe how their lives are still a perpetual hell, even though they were exonerated of their crimes.

Lawyer James Lockyer said:

> Between them, they waited more than 100 years for justice. It's important that we all understand that if there had been a miscarriage of justice commission 50 years ago, it would have saved them decades of their lives.

Despite these concerns, it is vital to recognize how important Bill C-40 is to the Canadian justice system. We have already seen too many cases where individuals were exonerated after spending many years behind bars. This commission could speed up the independent review process, allowing for hundreds of additional cases to be reviewed. At least, that is what happened when similar commissions were established in England and other places.

Canada is an officially bilingual country, and our legislation reflects that reality. The Official Languages Act guarantees all Canadians the right to receive government services in the official language of their choice, whether they are francophone or anglophone. What's more, under the Language Skills Act, certain positions in the federal public service must be filled by individuals who are capable of working in both official languages. The bill we are debating contains no such provision. It is imperative that this commission be accessible and sensitive to Canada's cultural and linguistic realities. That means that a sufficient number of commissioners must be bilingual, not only to guarantee fairness and transparency, but also to respect the language rights of all citizens.

• (1520)

The Barreau du Québec shared with the committee its concern that individuals who will have their cases reviewed by the commission will not receive adequate representation in their language if the commissioners do not speak both French and English.

In my practice of law in Nova Scotia's Acadian communities and during my three years as a member of the National Parole Board of Canada, I saw many clients accused of crimes or inmates appearing before the board, and I could tell how important it was for them to be clearly understood in their mother

tongue. Many times, the judges or Parole Board members failed to grasp the subtleties inherent to the language and culture of Nova Scotia Acadians.

I feel it is imperative that francophones and anglophones everywhere in Canada be able to appear before the commission and be understood by its members as they speak in their own language. Bilingualism is not only a Canadian value, but a legal obligation enshrined in law, because the Official Languages Act guarantees francophones and anglophones fair and equal access to federal institutions. By requiring some of the commissioners to be bilingual, we will not only ensure that francophones and anglophones have fair and equal access to justice, we will also send a message of inclusion and respect for the diversity of Canada's two official language communities.

Once again, as I said about Bill C-20, just including a reference to the Official Languages Act in the criteria for appointing commissioners will in no way guarantee that the commissioners will be bilingual, because they will be appointed at the discretion of the Minister of Justice. However, it would serve as a reminder to everyone to recognize that our two official languages are important when appointing commissioners. It would have been simple and appropriate to add this reference to the law.

To emphasize the importance of complying with this provision, our colleague Senator Prosper and I proposed an observation in committee calling on the government to ensure that BIPOC communities are represented on the commission and that the commission accommodates Indigenous languages. We are also calling on the government to respect the spirit and the letter of the Official Languages Act by appointing some commissioners who can speak and understand both of Canada's official languages fluently.

Bill C-40 is an important step forward for justice in Canada. The criticisms raised by many witnesses should be incorporated into the legislation as constructive elements to strengthen it when it is reviewed in five years, since all of the witnesses urged us to pass the bill as it currently stands. Also, many falsely imprisoned people are anxiously awaiting this legislation.

Honourable senators, lawyer James Lockyer, who worked closely on the cases of Guy Paul Morin and David Milgaard, appeared before the House of Commons Standing Committee on Justice and Human Rights with Joyce Milgaard in 2000. In his testimony, he called on legislators to create such a commission. When he appeared before our committee on October 30 of this year, 24 years later, he said, and I quote:

> For now, let's bring the commission into being. In my opinion, it will be the most significant change in our criminal justice system since the coming of the Charter of Rights and Freedoms in 1984. An election may or may not be coming soon, we don't know, but I know that if Bill C-40 doesn't get enacted in this Parliament, it will be another 24 years before I'm back here once more urging that a Bill C-40 equivalent be passed.

Let's deliver justice to the falsely imprisoned. Thank you. *Meegwetch*.

Some hon. senators: Hear, hear.

Hon. Lucie Moncion: Honourable senators, I have a question.

The Hon. the Speaker: Senator Moncion has a question. Would you take a question, Senator Aucoin?

Senator Aucoin: Of course.

Senator Moncion: Thank you. If I understood you correctly, Senator Aucoin, you're saying that francophones will have to give up their rights once again, because we're being asked not to make changes to this bill. It's important that a commission be put in place as quickly as possible, so once again, we're ignoring the fact that it would be good to have people who speak French or who are bilingual as part of this commission. That hasn't been included in the law, but we shouldn't make any changes, because we need this to pass? Have I understood you correctly?

Senator Aucoin: Thank you for the question. You did understand correctly. That is the case. That's why we proposed an observation. I accept the testimony of the many people who were falsely imprisoned, including the women, Indigenous people and Black people who appeared before the committee and urged us to pass the bill immediately because it can be amended later or improved when it comes up for review in five years.

Senator Moncion: Thank you for explaining that. You would probably agree that, if there was already a provision to that effect in the bill, we would not have to wait five years to incorporate that recognition of rights, and our rights would be recognized from day one.

Senator Aucoin: I obviously wouldn't be here talking to you about this if it was already in the bill. I'm trying to tell the government to put it in the bill. Once again, I have to trust that the government will read and heed the observation and appoint bilingual commissioners and staff. Thank you.

[*English*]

Hon. Brent Cotter: Honourable senators, I rise to speak to Bill C-40. I won't speak in detail about the bill itself. Others have done that, including Senator Arnot, and I am sure others will after me.

It is my intention to speak, hopefully in human terms, about the great need for this bill, to celebrate the work of many who have brought us to this point and to urge your adoption of the bill, a good but imperfect bill. It will improve the justice system, make it fairer and honour those who have worked so hard to bring us to this point.

This bill does not lend itself to levity. It deals with some profoundly important and tragic events and tries to improve the ways in which we address the tragedy of wrongful convictions. I will limit myself to one hopefully slightly humorous observation to try to make a particular point.

To begin with the great need for the bill, it has long been known that some people, innocent of crimes, accept the consequences of guilt to avoid more serious punishments. We

have heard that some people feel a sense of responsibility for circumstances that were not their fault and have admitted to guilt when they should not have done so.

We have heard circumstances where the police have colluded to build an unjust case against an innocent person. Such was the case with Donald Marshall Jr.

Mostly, wrongful convictions arise because of a confluence of very unfortunate circumstances, often combined with witnesses who lie and the trier of fact — a judge or jury — being unable to distinguish between truth and falsehoods.

Based on the many reviews undertaken with respect to the David Milgaard case, and I have read them all, this was largely the story of Mr. Milgaard's wrongful conviction, combined, in my view, with the tunnel vision of the police and inappropriate rulings on the evidence by the trial judge, unfair to Mr. Milgaard.

• (1530)

I want to zero in for a minute on the truth and falsehood point, that is the believability of witness testimony. Most cases in the criminal law turn on the trier of facts' acceptance of testimony of one or other witnesses and the non-acceptance of the testimony of others. Sometimes, judges are not culturally equipped to interpret witness testimony very well. I once defended an Indigenous man in a criminal trial, someone who was probably innocent. He had an explanation for the circumstances, but the judge chose not to believe him because, as the judge explained, "When I asked the questions that I put to him, he wouldn't look me in the eye."

In the man's culture, blocking one's gaze with an authority figure was a sign of respect, so he looked down when he provided his answers. His show of respect got him convicted.

But here's the overall truth of the matter: None of us, including judges, despite what we might think, are very good at distinguishing truth from untruth.

A good friend of mine, an outstanding criminal defence lawyer in Nova Scotia and subsequently a very fine judge, used to say cynically but with a grain of truth that most cases were decided on a balance of perjury; that is, whose lies were better.

Over 30 years ago, I attended a conference in Victoria, B.C., for judges across Western Canada. One of the organizers of the conference was Judge Arnot, as he then was. It was a fabulous conference on a wide variety of topics. One of them was the question of identifying truth from untruth as part of a judge's tool kit. We did simulations. It turns out that none of us were very good at identifying sophisticated lying from truth-telling. We did our best, as judges tend to do, but we are all human, and on this topic, mistakes are easily made. Research shows that almost no one is consistently good at distinguishing truth from untruth. It's not surprising, therefore, that we can assume that a substantial number of people residing in our jails today were, sadly, wrongly convicted because, with the best faith in the world, the decision maker got it wrong.

The number of wrongfully convicted, for all these reasons, is surely vastly higher than the 30 or so people who have had their convictions successfully reviewed over the last few decades in Canada.

This bill, even with its imperfections, will facilitate the opportunity for many more people to have their claims of having been wrongfully convicted reviewed in a more timely way with a truly independent decision maker using a somewhat less rigorous test for review.

I turn next to my own personal association with this issue of wrongful convictions. Senator Arnot spoke kindly about my involvement in David Milgaard's case. I had not intended to discuss it in detail, but I will share a bit.

I was appointed as Deputy Attorney General of Saskatchewan in August of 1992. By that time, Mr. Milgaard's conviction had been set aside by the Supreme Court of Canada, and the decision had been taken by the prosecutors of Saskatchewan not to retry Mr. Milgaard. This left Mr. Milgaard in a state of suspended animation — in limbo if you like — whereby his conviction had been set aside, but his name had not been cleared.

In fact, in interviews, the Minister of Justice at the time — a good man — stated publicly that, in his personal opinion, he thought David Milgaard was guilty.

I started work on August 9, 1992. On my very first day on the job, I received a phone call from a highly respected lawyer who, if I may say, was a member of the so-called "union of lawyers for the wrongfully convicted." I had had a small background role in Nova Scotia in the 1980s, assisting the lawyers working to exonerate Donald Marshall Jr., and I believe the lawyer's awareness of this motivated her call.

She called and urged me to take a serious new look at Mr. Milgaard's case. Shortly after that, Joyce Milgaard, through lawyers Hirsch Walsh and David Asper, advanced claims of wrongdoing in David Milgaard's case directly to me — 69 allegations in all.

I reviewed those claims of wrongdoing and, after a sleepless night — the only completely sleepless night I have ever had in my life — I informed the Minister of Justice that I would be initiating a review to examine these claims of wrongdoing.

Let me emphasize the word "informed." This was the first of two what I would call honourable decisions that I made with respect to Mr. Milgaard's case. It was critical that I not be taking advice from a minister on this question but making the decisions as the permanent head of the justice department.

This is so, particularly, because one of the allegations advanced by Mrs. Milgaard was wrongdoing by the Premier of Saskatchewan in his former role as Attorney General during the time when Mr. Milgaard was prosecuted for Gail Miller's murder.

To the credit of the justice minister and the premier, no one ever tried to influence me or interfere with that decision. The premier himself submitted to police interviews regarding a fairly incredulous allegation against him.

I retained the then Deputy Attorney General of Alberta and a senior and well-respected Crown prosecutor from Alberta to conduct the review. The review lasted 14 months and involved 14 full-time police officers. They reviewed all 69 allegations of misconduct in relation to Mr. Milgaard's case.

I read all of the initial material related to the case and the 250-page review report. On balance, nothing identified in the review moved the needle very much regarding the guilt or innocence of David Milgaard.

Now I come to the second important decision I made in relation to the matter. In my capacity as Deputy Attorney General, I had decision-making authority with respect to the physical evidence related to David's trial. Indeed, it was still in, if I may call it, "our possession." This was, in particular, Gail Miller's clothing, which was believed to contain a small amount of very much degraded physical evidence, most likely the ejaculate secreted by the person who raped and killed her. We were now 25 years away from the time of the murder, and the general belief was in the very high likelihood — estimated at over 80% — that the physical evidence was too badly degraded to produce any positive DNA results. I was advised strongly not to have the material tested and perhaps to just throw it away.

I resisted those arguments. In conjunction with the lawyers for Mr. Milgaard, I authorized the material to be tested in a highly reputable third-party laboratory. It turns out there was plenty of material to produce a positive DNA test — thankfully — a DNA result that pointed unequivocally at Larry Fisher. Absent the ability to have that material tested for the perpetrators, Larry Fisher would never have been convicted of Gail Miller's murder, justice would not have been done for her and David Milgaard would have been left under a cloud, in a state of legal suspended animation, for the rest of his life. He would never have been fairly compensated or as fairly as it is possible to do so in these tragic circumstances. And, more to the point today, he never would have been able to make the contribution to justice in this country that is captured in the substance of Bill C-40.

I made the right decision in that case. Senator Arnot has kindly suggested that it was honourable and perhaps heroic. I don't think of it that way. I made the right decision, and it made possible the righting of a grievous wrong. It was my job.

I want to turn now, and nearly last, to the true heroes of this story. To do so, I will take the liberty for the first and only time here in this place of quoting myself. These are the remarks I made at the beginning of the consideration of this bill by the Standing Senate Committee on Legal and Constitutional Affairs:

> For years, before coming to this place, I taught a law school course in legal ethics. Each day I tried to share with students the story about a lawyer. My favourite occasion was to talk about lawyers who had toiled, and often in anonymity — and often for no pay —
>
> — on behalf of clients seeking to overturn wrongful convictions. They are, in my opinion, heroes. I'm thinking of lawyers such as Clayton Ruby, Archie Kaiser, Felix Cacchione, Steven Aronson, Anne Derrick and others who worked on behalf of Donald Marshall Jr. on his case.
>
> Closer to home, in Saskatchewan with respect to David Milgaard, I'm reminded of Hersh Wolch — no longer with us — and David Asper, who wrote his experience representing Mr. Milgaard in a book entitled *In Search of the Ethical Lawyer*, which offers essays on the practice of law and ethics.
>
> More significantly and more relevant to our discussion today, a number of those people wrongly convicted by our justice system, but particularly Mr. Milgaard and Mr. Marshall, despite having sacrificed so much of their life to wrongful convictions, set aside bitterness, I am sure, and committed their lives to making the justice system better for others.
>
> Mr. Milgaard spoke once at our law school at the University of Saskatchewan some years ago to a jam-packed audience of students and lawyers, describing his experience and his commitment. He received the largest, loudest and longest standing ovation I have ever heard or seen at a Canadian law school — a small token of gratitude for his immense contribution. In that one hour, I believe Mr. Milgaard inspired more students to pursue justice with integrity than I did in 30 years of teaching. His legacy, along with the work of those remarkable lawyers, reminds us of the deep responsibility we carry as we examine this bill and its impact on our justice system.

• (1540)

I'm near the end now. During the Legal and Constitutional Affairs Committee meetings on the bill, we heard two sets of testimony that I want to observe upon. One was the evidence of James Lockyer, who was referred to a bit earlier, the dean of lawyers for the wrongfully convicted and a long-standing legal hero in the pursuit of justice for so many of the most vulnerable in our society. Mr. Lockyer, who has supported and urged the establishment of an independent commission for over 20 years, acknowledged that the bill could be better, but we are at a moment in time when we should pass the bill in its unamended form as soon as possible. I take that message seriously to heart, and I hope you will too.

We heard from a panel of three people who have been wrongfully convicted and who had their convictions set aside: Guy Paul Morin, Clarence Woodhouse and Brian Anderson. Their testimony was incredibly moving. Many in attendance, including senators — maybe even the chair — were moved to tears hearing their accounts.

There are a few moments in this place that a person will remember for a lifetime. One of them was Senator Adler's maiden speech recently. Another was that morning in our committee.

This bill and its informal title honour Joyce and David Milgaard. It is right and just that it does. But I want you to think about a number of others, unknown to you and unknown to me, who have lost large portions of their lives to wrongful convictions. We don't know who they are. We will never know who they are, and we will not be able to ever address the injustice that they have suffered. But passing this bill honours their anonymous voices, even if it only enables us to address tomorrow's wrongfully convicted.

As Martin Luther King said — and I think it applies here — the long arc of history bends toward justice. This bill helps bend that arc in our country for the sake of justice for tomorrow's David Milgaards and Donald Marshall Juniors. Colleagues, we are on the cusp of a great day for justice in this country, and I'm honoured to be a small part of it. I hope you are too. Thank you.

Some Hon. Senators: Hear, hear.

(On motion of Senator Martin, debate adjourned.)

CITIZENSHIP ACT

BILL TO AMEND—MOTION TO AUTHORIZE SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE TO STUDY SUBJECT MATTER—MOTION IN AMENDMENT ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Gold, P.C., seconded by the Honourable Senator LaBoucane-Benson:
>
> That, in accordance with rule 10-11(1), the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine the subject matter of Bill C-71, An Act to amend the Citizenship Act (2024), introduced in the House of Commons on May 23, 2024, in advance of the said bill coming before the Senate; and
>
> That the committee submit its final report to the Senate no later than December 10, 2024.

Hon. Patti LaBoucane-Benson (Legislative Deputy to the Government Representative in the Senate): Honourable senators, following consultations that have taken place, I'd like to move an amendment to this motion to give the committee additional time to allow for further meeting slots to complete the pre-study on Bill C-71.

Therefore, honourable senators, in amendment, I move:

> That the motion be not now adopted, but that it be amended by replacing the words "December 10, 2024" by the words "December 12, 2024".

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

Hon. Senators: Agreed.

(Motion in amendment of the Honourable Senator LaBoucane-Benson agreed to.)

BILL TO AMEND—SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE AUTHORIZED TO STUDY SUBJECT MATTER

On the Order:

> Resuming debate on the motion, as amended, of the Honourable Senator Gold, P.C., seconded by the Honourable Senator LaBoucane-Benson:
>
> That, in accordance with rule 10-11(1), the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine the subject matter of Bill C-71, An Act to amend the Citizenship Act (2024), introduced in the House of Commons on May 23, 2024, in advance of the said bill coming before the Senate; and
>
> That the committee submit its final report to the Senate no later than December 12, 2024.

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, I rise today to speak to Government Motion No. 201, which seeks authorization for the Social Affairs, Science and Technology Committee to pre-study Bill C-71, An Act to Amend the Citizenship Act (2024).

Colleagues, when Senator Gold gave notice of the motion last week, I got a sense of déjà vu. Here we are again. The Trudeau government trying to get the Senate out of the way as quickly as possible.

For Motion No. 201, there are two contexts to consider: the legal and the political. First, the legal context began in December 2023 when the Ontario Superior Court ordered the federal government to amend the Citizenship Act in the case of the "lost Canadians." It initially gave the Trudeau government six months — until June 20, 2024 — to pass legislation. On May 23, 2024, less than a month before the first extension, the government finally put forward Bill C-71, An Act to Amend the Citizenship Act. Unable to meet the June 20 deadline, the court agreed to give an extension to August and then to December 19, 2024.

But how did we get to the current political context today? While the current deadline imposed by the Ontario Superior Court is December 19, 2024 — just a few days down the road — the government had since last December to pass a bill in the House of Commons, a year ago.

A responsible government would have followed the court-ordered deadline and put a bill forward as quickly as possible. It already had the blueprint with the study on Bill S-245 by the House's Standing Committee on Citizenship and Immigration. So why did it not propose Bill C-71 sooner?

The answer, colleagues, is quite simple. While this government has just lately decided to say it is focused on Canadians, the Trudeau government has never been more focused on its survival. Last spring, all the efforts of the government were made towards maintaining a deal with the NDP, keeping it alive, by

prioritizing the passage of Bill C-50, Bill C-58 and Bill C-64 through Parliament, but not the court-mandated legislation on lost Canadians.

If this government had instead prioritized Bill C-71 and not Bill C-64, we probably would be wrapping up our study on Bill C-71, while Bill C-64 would most likely still be in the House of Commons. We wouldn't be in this self-imposed predicament by the Trudeau government's own ambition to stay in power.

• (1550)

As you all know, colleagues, the House of Commons has been in a gridlock for close to two months. No legislation has moved, and until either the government gives the requested documents unredacted or a political party is willing to support the government in ending the gridlock, Bill C-71 will not leave the House. As things stand today, it is highly doubtful the bill will move before we rise for Christmas.

Colleagues, why would we need a pre-study motion when the probability is so low for Bill C-71 to move before the deadline?

That's how I got a sense of déjà vu that brought me back to spring 2022. At that time, Senator Gold presented Motion No. 41 and Motion No. 42 to pre-study Bill C-13 and Bill C-11 respectively.

Pre-studies are typically used for such things as budget implementation bills to solicit amendments prior to passage in the House of Commons or to answer a deadline imposed by the Supreme Court of Canada. Both bills met none of those requirements. The pre-study was used for one reason only, and that, colleagues, was to get the Senate out of the way for political expediency.

Today, with Motion No. 201 to pre-study Bill C-71, Senator Gold is again using the legitimate tool of a pre-study but for the wrong reason. While it is to meet a court-imposed deadline, the government waited less than a month before the deadline to propose a pre-study motion. If the pre-study motion had been presented in September, it would have been easier to see it as a sign of good faith by a responsible government.

Instead, we received the notice of motion at the last minute, and, to me, it is not the sign of a responsible government. It is the sign of a government wanting to put aside the Senate to get its bill through.

With Motion No. 201 in front of us, do we have any indication when we will receive Bill C-71 or if any amendments will be adopted? No, we do not, colleagues. All we know is the government gave two notices of motion for closure on Bill C-71 in the House of Commons, where it would deem the bill adopted as it is — no committee studies and no third reading, but straight to the Senate.

Last week, at the eleventh hour again, the Leader of the Government set the table to ram Bill C-71 through the Senate and bypass sober second thought by misusing the tool of a pre-study.

When done right, a pre-study can add to the debate and have a positive impact. In this case, it is used as a tool for expediency due to pure incompetence by the Trudeau government, which prioritized their claim to power over governance.

Instead of pushing back on the Trudeau government's ineptitude, it is disappointing but not surprising that the independent Senate wants to go along. When the Senate accepts the government's request like Motion No. 201, it allows the government to face less accountability for the bills it introduces. While a court deadline can be justified for a pre-study, it should not be used to put the Senate between a rock and a hard place, as Motion No. 201 tends to do.

For us senators in the Conservative caucus, when we see the government abuse the tools at its disposal, we cannot stay silent.

Too often, we have seen the threshold lowered for important tools like a pre-study and time allocation. We raised our concerns two years ago when the government used a pre-study for Bill C-11 and Bill C-13 when there was no need for it.

We raised our concerns when the government used time allocation last April to impose changes to our Rules.

And today, we raise our concerns again because there is no need for a pre-study of Bill C-71.

But sadly, this is what Justin Trudeau thinks of the Senate, where sober second thought is becoming more and more of an afterthought. A bill like Bill C-71 — amending our laws on how a person obtains Canadian citizenship — should receive the benefit of a sober second look by our chamber. It looks terrible on our institution to use the pre-study in this fashion for a bill dealing with Canadian citizenship to be expedited without careful consideration. What is our purpose if it is not to bring a sober second look to a bill that amends our citizenship?

While we don't support a pre-study motion, we realize it will most likely be adopted. The closure motion in the House means that Bill C-71 would not receive consideration at committee or at third reading. In the instance of the closure motion being adopted, we would be the only chamber to study the impact and consequences of Bill C-71.

Therefore, already expecting that this will pass, we hope that our Social Affairs, Science and Technology Committee will seize the opportunity to do a thorough pre-study.

I thank the Deputy Leader of the Government for presenting an amendment that, at least, gives the committee possibly a day more or maybe two days more.

Especially if the Ontario Superior Court grants an extension, the urgency of the passage of the bill would not hinder their study. The committee and our chamber could therefore have the necessary time to do our constitutional duty of sober second thought.

To conclude, colleagues, the Trudeau government created this mess themselves by prioritizing their political survival over governance. With Motion No. 201, it is looking to bypass sober second thought to expedite the bill as soon as it gets here, whenever that is. That's why we hope the pre-study will be meaningful and in-depth. Because believe me, colleagues, if the Ontario Superior Court grants another extension, the government will again be back at the last minute — mark my words — pleading with us to pass the bill without delay, thanks to the pre-study already done.

In this Parliament, the Trudeau government has used pre-study motions to get the Senate out of the way, and we simply cannot agree to that. We cannot support Motion No. 201, and we will be voting against it.

Thank you, colleagues.

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

(Motion as amended agreed to, on division.)

• (1600)

[*Translation*]

HEALTH OF ANIMALS ACT

BILL TO AMEND—FOURTEENTH REPORT OF AGRICULTURE AND FORESTRY COMMITTEE—VOTE DEFERRED

On the Order:

> Resuming debate on the motion of the Honourable Senator Black, seconded by the Honourable Senator Downe, for the adoption of the fourteenth report of the Standing Senate Committee on Agriculture and Forestry (*Bill C-275, An Act to amend the Health of Animals Act (biosecurity on farms), with an amendment and observations*), presented in the Senate on October 29, 2024.

The Hon. the Speaker: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: Is there agreement on the length of the bell?

Pursuant to rule 9-10(2), the vote is deferred to 5:30 p.m. the next day the Senate sits, with the bells to ring at 5:15 p.m.

[*English*]

FINANCIAL PROTECTION FOR FRESH FRUIT AND VEGETABLE FARMERS BILL

BILL TO AMEND—SIXTEENTH REPORT OF BANKING, COMMERCE AND THE ECONOMY COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Wallin, seconded by the Honourable Senator Dagenais, for the adoption of the sixteenth report of the Standing Senate Committee on Banking, Commerce and the Economy (*Bill C-280, An Act to amend the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act (deemed trust — perishable fruits and vegetables), with amendments*), presented in the Senate on November 5, 2024.

Hon. Brent Cotter: Honourable senators, I am the critic on Bill C-280. At third reading, I would get the opportunity to speak for 45 minutes. Given that the debate on this bill is focused, in my view, on the report that has come back from the Standing Senate Committee on Banking, Commerce and the Economy, if you will indulge me for 20 minutes today, I promise not to speak at third reading. That seems like a fair trade. When Her Honour interrupts me and blows the whistle on me after 15 minutes, I'm asking for your indulgence for a few minutes more.

The bill and the committee-adopted amendment have been well explored in speeches in this chamber. I want to focus and limit my remarks to, roughly, four points.

I want to begin, colleagues, by offering my impression with respect to the debate so far. My impression is that, over the last short while and with a few exceptions, including, of course, Question Period, our chamber has — if I can paraphrase that observation of Martin Luther King, Jr. — seen the long arc of our history bend toward civility. This was true even when I testified as the first witness regarding this bill at the Banking Committee. I'm not sure where the House sponsor was or where Senator MacDonald was. I thought I was among friends, but it was something of a shooting gallery, and I was the target. Given the long arc of history bending toward civility, it was, at least, friendly fire.

That said, I thought the debate on this report last week was a setback to that arc. We have a remarkable privilege in this chamber, where we can speak and are rarely accountable except to ourselves. If it is not a great power, it is an unusual and special one, and it comes with an obligation of licence toward self-restraint, not licence in its own language. There are hard rules of decorum here, I know, but I'm more focused on how one wants to be in this place. I have laid down a test for myself, at least, and for the remarks that follow. Let's see how I do.

I want to start with two stories. The first I will call "Dan Hartney's Sailboat." I have a lifelong friend who became a veterinarian and moved out to Vancouver. He didn't have much money but was very keen to take up sailing, so he acquired a sailboat. When I saw him there, I asked, "How could you possibly afford a sailboat?" Senator Loffreda knows what's coming. He said to me, "The Royal Bank is now the proud owner of one more sailboat." The reason he said that — an insight, really — is that, of course, he didn't have the money. He borrowed it from the Royal Bank, and they took what was then called a chattel mortgage on the sailboat. But the Royal Bank, in legal terms, was the proud owner of one more sailboat. I would like you to hold that thought for a moment.

I would now like to turn to trying to identify a simple example not directly related to the world of perishable fruit and vegetables, but which sets the stage a bit for talking about the workings of the bill in the context of bankruptcy and insolvency. I have chosen to sketch out an example using my grandfather's business from decades ago — not his business as a moderately successful plumbing and heating businessperson, but his business through the Depression: a small candy-making store in Kamsack, Saskatchewan.

The plumbing business was difficult in the years during the Depression, but he had fortunately learned from a friend how to make handmade chocolates. He took a chance and established a small ice cream and chocolate business in Kamsack, called the Kandy Kitchen. He had little or no money to get that started, so he needed the following: He needed the bank to provide money for the building and working capital as well as to buy a specially equipped bicycle to take the ice cream business to baseball parks for tournaments and to fairs. He needed Ms. Gorski to supply rich cream from the farm and the chocolate and nuts guy to provide the inventory. He also needed the Assiniboine River, which flows near Kamsack, to supply the ice. In February, he would go out and actually cut large chunks of ice out of the river, bury them in layers of straw and use them as the freezing component for making homemade ice cream. Amazingly, the ice lasted until August.

He also needed a couple of staff — Judy Kalmakoff and Ruth David — to serve the customers, and he knew that he would have to make payments of income tax remittances. If there had been pensions, he would have had to make pension remittances to a pension fund.

He had modest success with the Kandy Kitchen. Plumbers are versatile — we know that. But I want you to imagine the business failing. When a business fails, there is not nearly enough money or assets to satisfy everyone, so we have to sort out who gets what and how much. How do we do that? The answer is, in part, market power moderated by, where relevant, priorities set out in federal bankruptcy and insolvency laws. The latter are intended to apply good public policy reasons to support some creditors over others and to sand off the sometimes harsh outcomes of market forces.

Not surprisingly, the bank, through its market power, gets first dibs. Through its leverage, it acquired a mortgage on the building and equipment. In a certain way, like Dan Hartney's sailboat, the bank owned them. There was probably also some form of — as Senator Moncion reminded me — floating charge on the inventory and perhaps the cash that descended on the assets at the first sense that the bank was not going to be paid its overdue payments.

In most cases, this consumes the whole of the assets, left to pay too many bills, and the Ms. Gorskis, Judy Kalmakoffs and Ruth Davids of the world are left vastly underpaid or not paid at all. We have raised up some of those creditors somewhat. The Wage Earner Protection Program Act steps in for employees, to a certain degree, and there is a so-called super priority for things like income tax remittances. We also recently put in place security for the recovery of pension plan remittances. However, for the most part, the Ms. Gorskis of the world, the suppliers of the input for my grandfather's business, are left out. This brings us to this bill and, in this context, the Ms. Gorskis of the world — that is, perishable fruit and vegetable suppliers.

I do want to emphasize that — and this should take some of the sting out of some of the arguments advanced earlier — even for the folks who have been bumped up, including this group, nothing beats the commercial lenders if they were there first. Here is why: The Supreme Court of Canada made this clear recently with respect to the best of these raised-up folks. For unpaid income tax remittances, if the income tax people — the Canada Revenue Agency statutory trust — gets there ahead of the security interest of the lender, and the trust asset in this statutory trust can be traced, the Canada Revenue Agency wins. But if it comes along later, after the security interests of the bank — in the case itself TD Bank — there is no asset to be deemed to be held in trust and the commercial lender's security interest wins. The sailboat really does belong to the bank.

• (1610)

My point here is that the debate we heard last week, if I may call it this, was a red herring. Most of the time the bank will have been there first and will win, so the economy will not collapse. Whether we like it or not, this trust will only very occasionally vault fruit and vegetable producers ahead of the bank. It is only marginally a bankers-versus-farmers debate.

Let me turn next to the reasons why I support the bill and why I have some sympathy for Senator Varone's amendment. My main interest with respect to supporting this bill is the way in which it tries to raise up what I will call "little people" in the fight for compensation in bankruptcies and insolvencies. As I said at second reading, the main losers in the distribution of bankruptcy proceeds are the little creditors. This bill, while imperfect, somewhat assists those little creditors in the fruit and vegetable sector. This is a good thing for many reasons articulated here and also at committee.

This is a good thing for the agricultural sector and for many who rely on these producers — the people who supply them with inputs, the employees and so on — because when the producers go under they suffer as well, and some of them also go under. As I said, I do like Senator Varone's amendment, focusing as it does on the main sources of perishable fruits and vegetables: the producers. It is a modest improvement to the bill, but I think only a modest one.

Second, I think what this bill does with respect to a constructive engagement with the U.S. is an important point, though the bill is small in that regard. Earlier this year, I went with Senator Robinson and a small number of members of Parliament to Washington to engage with members of the House of Representatives and senior agricultural administrators in the U.S. government. I was invited along mainly to be able to speak about Bill C-280. In that dialogue, I can tell you with assurance that the congresspeople with whom we met and the senior agricultural administrators welcomed the prospect of Bill C-280 with enthusiasm. While there were no guarantees provided, they indicated a likelihood — I think it's fair to say — that after Canada's adoption of Bill C-280 in the form that they saw that access to the Perishable Agricultural Commodities Act, or PACA, system for Canadian producers would be reinstated. I would say it is a likelihood.

Some are correct that the Canadian and American systems are not perfectly aligned. That said, it is a call for the Americans to make as to whether the alignment is adequate to meet their interests. It should be kept in mind, as we have heard, that proportionally American producers selling into Canada represent a significantly larger community than Canadians selling into the U.S. My sense is that the motivation is strong for the Americans to provide that reciprocity.

Senator Varone's well-intentioned amendment may or may not complicate this question of U.S. reciprocity. You have all probably seen the correspondence suggesting this possibility, which I would say may or may not materialize if we were dealing with a bill that has been amended. On balance, I think the adoption of the bill without amendment has a very good chance of attracting U.S. reciprocity. The bill as amended has a somewhat lesser chance. Finally, on this point, the present environment where we can engage constructively with the U.S. on trade matters in ways that are mutually beneficial to both countries would make a very positive statement.

My third point is that we need to be open and honest about problems with the bill — or at least its limitations. These are not specifically related to the amendment adopted by the committee. I have two points to make here. The first is the effectiveness of the trust attaching. This is in part due to the workings of commercial law, to which I alluded earlier, but it is also a function of — at least in some circumstances — the trust that is created by the bill not being in legal language tight enough to attach at the absolute earliest possible moment and thereby improving its prospects of becoming an effective trust in competition with other claims against the assets of a debtor. I have already spoken about that.

More serious, in my view, is the problem of identifying and tracing trust property. This is a trust, after all, and you have to identify the property that is subject to the trust. As I mentioned at second reading — and this is confirmed by what the Federal Court said in the 2018 decision regarding the Toronto-Dominion Bank and the Canada Revenue Agency about statutory trust for income tax purposes — this bill leaves intact the rules regarding the need to trace trust property.

The reason for that is that the legislation leaves in place the rules of provincial jurisdictions regarding property and civil rights, and that means how trusts operate and how they are interpreted. The preservation of provincial jurisdiction regarding trust law is explicit in this bill. The bill could have included provisions whereby, for the purposes of bankruptcy and insolvency, the rules regarding tracing could be set aside. The constitutional principle of paramountcy of federal legislation would give precedence to the federal bankruptcy rules. This might have been tempting for the original sponsor of the bill, but it introduces a new layer of complexity where Ottawa treads upon and overrules provincial laws. That's an awkward federal-provincial initiative, and it was not pursued in this case.

Hon. René Cormier (The Hon. the Acting Speaker): Senator Cotter, I'm sorry to interrupt, but your time has expired. Are you asking for more time?

Senator Cotter: I am asking for more time, yes.

The Hon. the Acting Speaker: Are we agreed, honourable senators?

Hon. Senators: Agreed.

Senator Cotter: Furthermore, it would create another complication, because it still remains absolutely necessary to identify the property that is the trust property and to follow it through. As a matter of reality, perishable fruits and vegetables are sure to be commingled with other suppliers and the money generated also commingled, so it will still be an outstanding question: What's the property that the trust is supposed to attach to? If you cannot answer that question, the trust fails. To be completely honest, after reading the Supreme Court decision I'm less hopeful than I was about the ability of the deemed trust to be fully effective.

I used a cheesy metaphor that I think I have time to repeat: There were two fellows in a rowboat going down a stream. Suddenly, they realized that they were going to go over a waterfall. One of the fellows says to the other, "Throw out the anchor." The second fellow says, "But the anchor is not tied on to the boat." The first one says, "Throw it out anyway, it might do some good." This is not quite as troubling as the two fellows in the rowboat, but I think we should have reservations about whether we will be entirely successful. That said, it seems worth the candle.

Weighing all of these, firstly, too broad a coverage by the trust is a point made by Senator Varone. I think I have a small preference for Senator Varone's amendment in that regard. Practical problems with the workability of the trust: I think that's true, but it would have required significant reworking of the bill, and there is some potential for the bill to succeed. Increased risk

that an amended bill would fail to align with the U.S. position — it's a small increased risk, not a great one, but I'm not sure it is worth taking. The bill was supported in the other place, as has already been noted, in its original form. This argument is often used when it suits the position of the arguer. For me it is a consistently serious point, though not always determinative. In this case, I take it seriously.

Support for the ag sector — we consistently undervalue the agricultural and agri-food sector as a critical pillar of our economy noted in the project and report that was led by Senator Harder with appreciation, from my point of view. That's the case now and going into the future. More and better recognition of its role would benefit us all. This bill is a small signal of our commitment to many of the people who produce our food, and it would be truly unfortunate if we lost the opportunity to send that signal.

• (1620)

My last point here, a risk that amendments would sink the bill. All I can say is that this has been explored by you. It seems likely, and I would prefer a less than perfect bill to no bill at all.

My position is, even though Senator Varone's amendment will make the bill a little better, on balance, an amended bill will compromise some good that this bill will achieve. I support its adoption in its original unamended form, and consequently, with respect for those who take a contrary view, I will be voting to defeat the committee's report. Thank you very much.

Hon. Tony Loffreda: Thank you for your speech. I do agree that in the case where the bank directly owns the asset, it is a little different. But when you calculate the prior claims — and the reciprocity argument is a stronger argument than the economic argument — the economy will not collapse.

But when calculating prior claims, the banker always takes the worst-case scenario, not the best-case scenario. If there is a possibility the bank will not collect, that prior claim will be deducted from the possible assets. Would you not agree that higher risk, there is a possibility of a higher return?

Senator Cotter: When I read the decision of the Supreme Court in the TD trust case, it became clear that banks and financial institutions that take security interests early in time when the business is getting under way — which is typical, and maybe revive them — are immune from even the trust for income tax remittances that comes along later. This trust will nearly always come along later.

The Hon. the Acting Speaker: Thank you, senator. Your time has expired. Senator Martin.

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I rise to speak to the report of the Standing Senate Committee on Banking, Commerce and the Economy on Bill C-280, An Act to amend the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act (deemed trust – perishable fruits and vegetables).

As has been explained in earlier speeches, the purpose of Bill C-280, is two-fold: First of all, it would establish a deemed trust for perishable agricultural commodities in Canada, prioritizing payments to produce suppliers in cases of buyer insolvency. This protection would ensure that farmers, distributors and all suppliers in the perishable goods supply chain would have a secured, reliable mechanism to recover unpaid funds.

Secondly, Bill C-280 would help to restore Canada's preferred trading partner status by re-establishing reciprocity with the United States under the U.S. Perishable Agricultural Commodities Act, known as PACA.

Canada had reciprocity under PACA for over 70 years before losing it in 2014 due to the absence of a reciprocal payment protection system for U.S. exporters to Canada. This lack of reciprocity has made Canadian produce exporters vulnerable in one of their largest markets, requiring costly double-bond requirements and creating an uneven playing field that threatens Canada's agricultural economy.

This is important to understand. For Canadian producers, achieving reciprocity with PACA is not a minor regulatory adjustment; it is an economic imperative. Of Canadian produce exports, 85% goes to the United States, making it essential for Canada to provide a trust mechanism that mirrors PACA's protections. Without this alignment, Canadian suppliers cannot confidently trade across borders, and our produce sector remains at a disadvantage in an increasingly competitive global market.

However, amendments made at committee have raised concerns that they critically impair Canada's ability to secure our much-needed preferred trading partner status by narrowing the definition of "supplier" to "farmers or dealers," and stipulating that assets are deemed to be held in trust as a secured creditor rather than just deemed to be held in trust.

Last week, we heard two very different positions on the impact of the amendments that were made at committee. On the one hand, Senators MacDonald, Deacon, Black, Plett and Cotter today argued the amendments would remove Canada's ability to achieve reciprocity under PACA. On the other hand, Senator Varone argued that the unamended bill would do nothing to protect farmers and — even with his amendments — more work would still be required to, "carry farmers across the finish line of reciprocity."

Honourable senators, I am an educator by training, not an expert on bankruptcy. However, I am a member of our Banking Committee and was present for the consideration of this legislation.

At committee, we heard from the best witnesses we could find who were experts on this issue. And as the experts, I believe their testimony should carry significant weight and inform our decision on whether we support the amendments in the report before us or not.

Following Senator Varone's speech last week, I took some time to review his comments and noted a number of arguments that he had made in support of his amendments. I would like to consider each of these arguments in light of the evidence and testimony provided by the experts who appeared at the Banking Committee.

Senator Varone began his speech by referring to the original text of Bill C-280 as "inadequately articulated," and expressed concern that its provisions were unclear and imprecise. He argued that this lack of clarity could lead to implementation challenges, particularly in insolvency proceedings and necessitated adjustments to ensure the legislation was workable.

However, Massimo Bergamini, Executive Director of the Fruit and Vegetable Growers of Canada, told us the following at committee:

> Fruit and Vegetable Growers of Canada has advocated for the financial protection found in Bill C-280 for almost 40 years. The fruit and vegetable sector deals with perishable products and short sales windows. The simple reality is that current insolvency laws offer no protection to growers who can't reclaim goods that quickly lose value. Bill C-280 would fill this gap.

Mr. Bergamini is an expert representing the fruit and vegetable industry across the country which currently supports over 185,000 jobs. He believes that the bill directly aligns with the unique realities of the fresh produce industry, and there were other witnesses who also concurred.

Senator Varone's second concern was that the bill, as drafted, would disrupt existing creditor hierarchies in bankruptcy proceedings. He argued that prioritizing fresh produce sellers through a deemed trust might unfairly elevate them above other creditors, such as secured lenders or employees, potentially destabilizing the broader insolvency framework.

However, Ron Lemaire, President of the Canadian Produce Marketing Association did not agree. In a letter submitted to the committee, he wrote:

> . . . a deemed trust is the only means by which the Government of Canada can provide effective financial protection to growers and other fresh produce sellers in Canada.
>
> It does not disrupt creditor hierarchies but ensures fairness in payments owed to suppliers.

• (1630)

Mr. Lemaire was clear that Senator Varone's concern was unfounded. A deemed trust is a targeted solution designed to address payment inequities without disrupting the broader creditor hierarchy.

Senator Varone's third argument was that prioritizing fresh produce sellers may lead to increased borrowing costs and reduced credit availability for small businesses. This claim was disputed by witnesses as well. Fred Webber, past president of the Fruit and Vegetable Dispute Resolution Corporation, told the committee:

> This bill would open the door to reinstating financial protection for Canadian growers under the United States Perishable Agricultural Commodities Act. PACA has been a proven system for over 30 years, ensuring financial stability for suppliers without disrupting credit markets.

Richard Lee, Executive Director of the Ontario Greenhouse Vegetable Growers, said, "The current wording of this bill will ensure the reciprocity is restored with the United States" — without introducing undue financial risk or administrative burdens to Canadian businesses.

Furthermore, evidence from the U.S. experience under PACA suggests that such mechanisms have not led to widespread credit issues or systemic financial disruptions. Protecting the sellers of fresh produce enhances economic stability by reducing the likelihood of cascading bankruptcies in the agricultural sector, which supports food security and local economies.

The simple truth is that small businesses in the fresh produce supply chain face greater harm from unpaid debts than from hypothetical credit constraints. This bill mitigates risks for these businesses, which are critical to the economy.

Senator Varone also suggested that his amendments were necessary to ensure a more equitable balance between the interests of fresh produce suppliers and other stakeholders in the insolvency process. He suggested that the original bill overly favoured one group at the expense of a fair and transparent system for all creditors.

Yet, there was no testimony at committee that confirmed this concern and suggested that the amendments were necessary. Rather, the prevailing testimony and evidence overwhelmingly favoured the unamended bill as a fair and necessary solution for the unique vulnerabilities of the fresh produce industry.

Rather than creating inequities, Bill C-280 resolves existing ones. The sector's unique challenges, including perishability and long payment terms, necessitate additional protection. Other industries, such as grain producers, already have their own tailored financial safeguards, and Bill C-280's deemed trust simply ensures that fresh produce sellers receive the payments owed to them, which is fairness, not preferential treatment.

Finally, according to Senator Varone, the original text of the bill deviated significantly from Canadian insolvency principles and norms, which aim to balance interests rather than heavily favour specific groups. He argued that his amendments sought to align the legislation more closely with established practices and legal frameworks.

Ron Lemaire, President of the Canadian Produce Marketing Association, disagreed. He said that the bankruptcy protection mechanism in this bill would create ". . . a critical fit-for-purpose tool for an industry that is unique and currently unprotected."

On this point, it is important to note that Canadian insolvency law already recognizes sector-specific priorities, such as super-priorities for agricultural producers. A Library of Parliament study notes that section 81.2 of the Bankruptcy and Insolvency Act:

> . . . establishes a special right for farmers, fishers and aquaculturists who deliver their farm and fisheries products to a purchaser for use in the purchaser's business. Where the purchaser subsequently becomes bankrupt or is placed in receivership and such products are delivered within 15 days prior to the purchaser's bankruptcy or receivership, the farmer, fisher or aquaculturist can file a claim for any unpaid amount in respect of those products within 30 days after the bankruptcy or receivership. This claim is secured by a charge on all the inventory held by the purchaser; it takes priority over all other rights or charges against that inventory, except an unpaid supplier's right of repossession.

Bill C-280 is not a novel initiative; it aligns with the existing provision available to agricultural producers by addressing the distinct needs of fresh produce suppliers. The bill recognizes that while this existing provision benefits much of the agriculture sector, it does not help fruit and vegetable growers because of the short shelf life of their produce.

Contrary to Senator Varone's concerns, Bill C-280 does not undermine the fairness of the system; it strengthens it. The experts we heard at committee disagreed with Senator Varone's concerns and believed that his amendments were harmful to the industry, not helpful, and threatened the likelihood of achieving reciprocity with the United States.

Limiting the term "supplier" to just "farmers or dealers" excludes vital participants in the produce supply chain, such as packers, wholesalers and resellers. This exclusion runs directly counter to PACA's inclusive approach, which protects the entire value chain. The U.S. authorities have made it clear that full reciprocity requires protections comparable to those in PACA, which cover all perishable goods suppliers, not just primary producers or dealers. Thus, the amendment endangers Canada's opportunity to restore PACA reciprocity.

Additionally, changing the bill's wording to classify suppliers' claims as "held in trust as a secured creditor" rather than simply as a "deemed trust," effectively reduces suppliers' priority status. Under this amendment, Canadian suppliers would compete with other secured creditors for repayment.

Colleagues, I have more to say, but I know I am reaching my limit. What I want to simply say — and you've heard many of these arguments — is that I urge you to reject the committee's report, restore Bill C-280 to its original, unamended form and bring reciprocity back to our Canadian producers.

Thank you.

Some Hon. Senators: Hear, hear.

Hon. Marc Gold (Government Representative in the Senate): Will the senator take a question?

The Hon. the Speaker: The time has expired. Senator Martin, are you asking for more time to answer a question?

Senator Martin: Yes, in order to answer this question.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Gold: Thank you, colleagues.

As I recently stated in this chamber, the government takes a position on all bills that would change federal legislation, including private members' bills. As the Government Representative, I'm in the habit of sharing those views with you here in the chamber. Indeed, I recently spoke, as you know, to Bill C-275, on which the vote was deferred, but it was discussed today, in order to express the government's view that we should not adopt amendments on that bill. I'll be voting that position when we return next week.

Today, we're speaking about Bill C-280. The government's position is also that the bill should be adopted without amendment.

Senator Martin, we heard from colleagues in debate and from witnesses at committee that the deemed trust must remain extended to the entire supply chain to protect growers, given that payment disruptions could indirectly result in economic losses for growers. Could you elaborate a little bit more on why that is a concern that has led you also to oppose the amendments?

Senator Martin: As I said in my speech, in order to receive reciprocity under PACA, which we did have for 70 years — there is protection across the supply chain in that act. For American producers to have that protection, as we would want our Canadian producers to have, we need to ensure that the entire chain is protected. It's a very vulnerable sector, as I and others have explained. They are perishable goods, so these protections are very important and necessary.

• (1640)

Senator Plett: Hear, hear.

Senator Clement: I move the adjournment of the debate.

The Hon. the Speaker: It is moved by the Honourable Senator Clement, seconded by the Honourable Senator Petitclerc, that further debate be adjourned until the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: I see two senators rising. Is there an agreement on the length of the bell? One hour? The vote will take place at 5:40 p.m. Call in the senators.

• (1740)

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Boehm	Loffreda
Boniface	MacAdam
Boudreau	Massicotte
Boyer	McBean
Busson	McNair
Cardozo	Moncion
Clement	Pate
Cormier	Petitclerc
Cotter	Petten
Dasko	Ravalia
Deacon (*Ontario*)	Saint-Germain
Duncan	Senior
Francis	Simons
Gold	Varone
Harder	Wells (*Alberta*)
Kingston	White
LaBoucane-Benson	Youance—34

NAYS
THE HONOURABLE SENATORS

Al Zaibak	Osler
Batters	Patterson
Burey	Plett
Carignan	Robinson
Housakos	Ross
MacDonald	Seidman
Martin	Verner
McCallum	Wallin—17
McPhedran	

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

[*Translation*]

ADJOURNMENT

MOTION ADOPTED

Leave having been given to revert to Government Business, Motions, Order No. 203:

Hon. Patti LaBoucane-Benson (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of November 27, 2024, moved:

> That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, December 3, 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.)

[*English*]

DEPARTMENT OF FOREIGN AFFAIRS, TRADE AND DEVELOPMENT ACT

BILL TO AMEND—FIFTEENTH REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Boehm, seconded by the Honourable Senator Moodie, for the adoption of the fifteenth report of the

Standing Senate Committee on Foreign Affairs and International Trade (*Bill C-282, An Act to amend the Department of Foreign Affairs, Trade and Development Act (supply management), with an amendment and observations*), presented in the Senate on November 7, 2024.

Hon. Mohamed-Iqbal Ravalia: Honourable senators, I rise today as a member of the Standing Senate Committee on Foreign Affairs and International Trade to speak to the fifteenth report on Bill C-282, An Act to amend the Department of Foreign Affairs, Trade and Development Act (supply management).

I would like to extend my sincere thanks to Senator Boehm, the chair of our committee, for his steady and thoughtful leadership throughout the review process. Navigating the complexities of trade policy, particularly as it intersects with supply management, is no small feat.

I would also like to thank our colleague Senator Gerba for her advocacy as the sponsor of this bill.

I recognize that supply management is a cornerstone of Canada's agricultural policy, which ensures stability for our dairy, poultry and egg farmers by regulating production, controlling imports and maintaining fair prices for consumers. For provinces like my own, where agricultural production may not match the scale of other regions, supply management plays a vital role. It supports rural communities, secures the livelihoods of small farmers and guarantees access to high-quality, locally produced products for Canadians. As our colleagues have thoroughly discussed, this is particularly important.

That said, colleagues, as the committee has aptly noted, Bill C-282 is not about supply management. Rather, it addresses how Canada approaches trade negotiations on the international stage. This distinction is critical.

While supply management protects our domestic agricultural sectors, this bill seeks to amend the Department of Foreign Affairs, Trade and Development Act. This distinction is highlighted in Senator Deacon's observation, which clarifies that this is fundamentally a trade bill, not a direct endorsement or critique of supply management. This bill is not about revisiting or redefining Canada's long-standing commitment to supply management. Instead, it restricts Canada's ability to negotiate on the international stage.

• (1750)

The amendment introduced by Senator Harder is particularly critical considering the current global political climate. Trade negotiations are inherently complex and require a level of flexibility to adapt to unforeseen challenges and shifting priorities. As we have seen in recent years — and perhaps more so in recent days — trade can quickly become a political tool, with significant economic consequences for nations that lack the agility to respond effectively. Uncertain global trade dynamics, including the potential for new tariffs or protectionist measures by key trading partners, underline the importance of preserving Canada's ability to negotiate effectively. As we have heard in committee, trade agreements are not static; they are dynamic instruments that must reflect both domestic priorities and global realities.

The amendment ensures that Canada is not unduly constrained by rigid rules that could inadvertently undermine our ability to protect broader national interests. By allowing exceptions for existing agreements, renegotiations and ongoing trade discussions, the amendment provides a necessary safeguard. This flexibility ensures that our negotiators can respond to new and emerging threats, whether it's tariffs, global supply chain disruptions or evolving international trade norms, while still upholding the principles of supply management.

For Canada, maintaining credibility as a reliable trading partner is paramount. Sudden or inflexible changes to our commitments could erode trust with our allies and trading partners, particularly in critical markets like the United States, Europe, Mexico, the U.K. and Asia. At the same time, we must defend the protections that sustain our domestic industries, such as supply management, which is fundamental to the stability of Canadian agriculture.

This amendment strikes a delicate balance. It acknowledges the importance of supply management while ensuring that Canada has the diplomatic and strategic tools necessary to navigate an increasingly unpredictable global trade environment.

Honourable senators, in times of uncertainty, preserving our capacity to negotiate freely and responsibly is not just prudent; it is essential to safeguarding Canada's economic and strategic interests on the world stage. Given the long arc of trade complexity, my hope is it will bend toward logic and common sense.

Thank you, colleagues, for your dedication to this important issue and for your continued efforts to maintain a strong and balanced legislative framework for Canada.

Thank you. *Meegwetch*.

(On motion of Senator Martin, debate adjourned.)

DEPARTMENT FOR WOMEN AND GENDER EQUALITY ACT

BILL TO AMEND—SECOND READING—DEBATE

On the Order:

Resuming debate on the motion of the Honourable Senator McCallum, seconded by the Honourable Senator Mégie, for the second reading of Bill S-218, An Act to amend the Department for Women and Gender Equality Act.

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, I'm rising on debate on Bill S-218.

Clearly, again, we have seen, as evidenced here tonight, that people do not want to move good legislation through the way it should be moved through. The government asks us to do things for it and then doesn't support us, so I would suggest that we go home for the weekend and see if the government can get their act together and bring us some legislation next week.

Maybe next week, people will adhere to the agreements that were made earlier this week so that we can move legislation forward next week.

I would say we all go home and we contemplate that and come back next week. With that in mind, Your Honour, I move:

That the Senate do now adjourn.

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

Hon. Senators: Agreed.

(Motion agreed to.)

(*At 5:56 p.m., pursuant to the order adopted by the Senate earlier this day, the Senate adjourned until Tuesday, December 3, 2024, at 2 p.m.*)

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