



DEBATES OF THE SENATE

1st SESSION



42nd PARLIAMENT



VOLUME 150



NUMBER 244

OFFICIAL REPORT
(HANSARD)

Tuesday, November 6, 2018

The Honourable PATRICIA BOVEY,
Acting Speaker

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THE SENATE

Tuesday, November 6, 2018

The Senate met at 2 p.m., the Hon. Patricia Bovey, Acting Speaker, in the chair.

Prayers.

SENATORS' STATEMENTS

LOUIS RIEL DAY

Hon. Yvonne Boyer: Honourable senators, today I rise in this chamber to celebrate Louis Riel Day, held every year on November 16, across the Metis homeland. On November 16, we remember Louis Riel, what he stood for and whom he stood with.

Louis Riel was a proud Metis leader from St. Boniface, Manitoba, who fought fiercely to protect his people's rights and way of life. His provisional Metis government successfully negotiated the Manitoba Act, bringing the new Metis province into Confederation in 1870. In creating this new province, Canada promised to set aside approximately 1.4 million acres of land for Metis children from the Red River Settlement, as well as four seats in federal Parliament to represent the province. However, the Metis children never received this land, and despite being elected twice, Louis Riel was never able to take his seat in Parliament.

The Red River Metis were effectively pushed westward out of the province they created. As European settlers increasingly encroached on Metis and First Nation lands, Louis Riel stood with other Indigenous leaders to protect their rights. This ultimately led to the 1885 Northwest Resistance for which Louis Riel was found guilty of high treason by a Protestant anglophone jury and sentenced to death by a Canadian judge.

On November 16, 1885, Louis Riel was unjustly executed for standing against the Government of Canada infringing on Metis rights. For years afterwards, Metis in Canada were oppressed. To the Canadian public, to be Metis was for a long time considered to be a traitor to Canada. Many Metis families were forced to hide their identity and practise their cultures, language and traditions in secret for fear of being discovered. It was not until 1992 that Louis Riel was recognized as a founding father of Manitoba. It was not until 1998 that the Government of Canada acknowledged the tragedy of his death.

Finally, it was not until 2004 that a Prime Minister recognized Louis Riel's contribution to the Metis nation and Canada as a whole.

Although Louis Riel's death was unjust, and despite multiple offers by the federal government to consider exonerating him, the Manitoba Metis Federation will not allow it, saying it will not change history. As Metis legal scholar Paul Chartrand says:

The hanging of Louis Riel is a stain on the honour of Canada and I say let the stain remain.

November 16 is not only a time to celebrate Louis Riel's achievements, it's also a time to reflect on the tremendous strength of the Metis people. Despite Canada's treatment of Louis Riel's legacy and the Metis, we are not deterred. Today our culture thrives and grows stronger. Today we carry on Louis Riel's spirit and courage as we enter a new era of Metis-Crown relations. His fight guides us every day as we move forward as the Metis Nation.

Honourable senators, on November 16, we remember Louis Riel. I ask you to take a moment to reflect on his life and legacy.

Thank you. *Meegwetch.*

VISITOR IN THE GALLERY

The Hon. the Acting Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. King Wan. He is the guest of the Honourable Senators Martin and Woo.

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

Hon. Senators: Hear, hear!

VETERANS WEEK

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, this week is Veterans' Week. When we join with Canadians from coast to coast to coast to recognize the sacrifices of the men and women who served, and continue to serve this country, and to remember all those who have made the ultimate sacrifice.

More than 1.5 million Canadians fought during the two world wars, the Korean conflict and in Afghanistan. Ultimately more than 117,000 paid the highest price to protect our freedom.

[*Translation*]

This week, the Minister of Veterans Affairs, the Honourable Seamus O'Regan, will unveil a commemorative plaque in honour of Lieutenant-Colonel Samuel Sharpe, a member of Parliament and soldier who fought in the battles of Vimy Ridge and Passchendaele. As our friend, former senator and Lieutenant-General Roméo Dallaire, told us, Colonel Sharpe was also the first Canadian politician to take his own life as a result of post-traumatic stress disorder. This commemorative plaque will be installed next to the statue of Lieutenant-Colonel George Harold Baker, the only member of Parliament killed in combat during the First World War.

[English]

Colleagues, I hope each of us will take the opportunity on Remembrance Day, on the eleventh hour of the eleventh day of the eleventh month, to pay homage to our Canadian veterans and those who made the ultimate sacrifice.

I would like to close with the words of Lieutenant-Colonel John McCrae of Guelph, Ontario. I believe he was writing a homage to a friend of his who had just died on the battlefield, *In Flanders Fields*. It appears to be particularly pertinent this year on the eve of the one-hundredth anniversary of the armistice of the First World War. I am reminded of the following words in particular:

• (1410)

To you from failing hands we throw

The torch; be yours to hold it high.

This week is not only an opportunity for us to be grateful for the sacrifices made by our veterans, but it is also a time to commit ourselves to building a better world. This is the challenge they left for us, and it is our duty to meet it.

[Translation]

VISITORS IN THE GALLERY

The Hon. the Acting Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Normand Pelletier, Mayor of Dalhousie, New Brunswick, and Gilles Legacy, town manager of the municipality of Dalhousie. They are the guests of the Honourable Senator McIntyre.

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

Hon. Senators: Hear, hear!

DALHOUSIE, NEW BRUNSWICK

Hon. Paul E. McIntyre: Honourable senators, as the Acting Speaker just mentioned, we have Normand Pelletier, Mayor of Dalhousie, with us in the Senate today.

I therefore want to take this opportunity to say a few words about Dalhousie, the most northerly town in New Brunswick. It is located at the mouth of the Restigouche River as it flows into Chaleur Bay at Inch Arran Point. It was Jacques Cartier who gave the bay its name in 1534, inspired by the summer heat waves.

Dalhousie is a culturally rich and diverse community. Its population is made up of three main groups, namely Acadian, Celtic and Mi'kmaq peoples. Dalhousie was named in 1826 after the ninth Earl of Dalhousie, George Ramsay, who was Governor of Upper and Lower Canada at the time.

Dalhousie was incorporated as a town in 1905.

[English]

The Restigouche County Jail and Courthouse buildings, constructed in 1891 and 1924, are historic jewels and its grounds are considered to be the historic centre of the town. The buildings have been part of the legal history of New Brunswick. Most significantly, the last hanging in the province took place at the jail on December 11, 1957.

As a young lawyer in the early 1970s, I vividly recall my first jury trial in the courthouse.

The Bon Ami Lighthouse was constructed on Inch Arran Point in 1870 to guide ships to safety at night. It became recognized as a federal heritage building on September 5, 1991.

Dalhousie's Inch Arran House opened in 1884. It was built at the same time as the Algonquin Hotel in St. Andrews, Château Laurier in Ottawa and Banff Springs Hotel in Alberta. As a result, Dalhousie became recognized as a delightful vacation site and tourist attraction.

Inch Arran House's most distinguished guests included Sir John A. and Lady Agnes Macdonald, Sir Charles Tupper and Lord Stanley. Unfortunately, Inch Arran House has since been demolished.

Today, the town puts on a number of festivals, including the long-running Bon Ami Festival each summer. Many of the activities take place in Inch Arran Park on what was the site of Inch Arran House. The park faces a rock formation in Chaleur Bay called Bon Ami Rocks, named after an early settler, Peter Bonamy.

[Translation]

The town enjoyed an industrial boom with the arrival of the pulp and paper mills, represented by the New Brunswick International Paper Company and other businesses. Sadly, the closures that have taken place in recent years have slowed the town's economic growth. These closures bring new challenges, but they also bring opportunities, such as the possibility to diversify into the culture and tourism industries.

Dalhousie is a picturesque coastal community, from the high peaks of the Appalachian Mountains to the low shores of Chaleur Bay. There is something for everyone, whether you are looking for rest and relaxation or out for adventure.

The town of Dalhousie is an unmissable tourist destination.

[English]

VISITORS IN THE GALLERY

The Hon. the Acting Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Dr. Meghan Azad and Ms. Alexandra Freedman. They are the guests of the Honourable Senator McPhedran.

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

Hon. Senators: Hear, hear!

DIWALI

Hon. Ratna Omidvar: Honourable colleagues, I rise to wish you all a very happy Diwali. Tomorrow night, close to 1.4 million Indo-Canadians will be lighting up their homes to usher in the New Year, but not just in Canada. The Indian diaspora is spread all over the world, and its 31 million members, almost as large as our population, will one way or the other celebrate the victory of good over evil in places as far away as Chile, Indonesia and, of course, in India.

Diwali holds very special memories for me. I remember the preparations that took weeks to get ready for the five full days of celebration: whitewashing the home, preparing the many foods, gathering the gifts, and, of course, going to the town square where the big effigy of the devil, I think, was lit up and it would explode with a gazillion fireworks. It was quite amazing. On Diwali day, I would help my grandfather line the parapets of the home with little oil lamps and we would fill the lamps. After that was done, because he was a merchant, we would traipse down to the city centre. He would give us children crisp rupee notes because, as I hope you all know, Indians, for the largest part, are very practical people, and we like to worship prosperity and wealth.

At night, the whole city was lit up, and there were firecrackers everywhere. From the eyes of a child, it was indeed the most wondrous evening of the year.

Keeping these traditions alive far away from home, on a day that is not a national holiday, at a time of the year when the weather is not exactly friendly, is not simple, but we adapt. We light up our homes with string lights. There are no firecrackers, but instead we go to our children's schools and explain Diwali to other children. And we give loonies and toonies to them instead of crisp rupee notes and so keep age old traditions alive.

Diwali, like many festivals of other religions, is now much more of a cultural event than a religious event. It shares a core message with other religions of the world: goodness shall prevail over evil, light will overshadow darkness, knowledge will conquer evil, and hope will overcome despair.

I hope to bring a little bit of that light, cheer and beauty to you today. Please join me in my office when the chamber rises tonight for some cheer. Thank you very much.

VISITORS IN THE GALLERY

The Hon. the Acting Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Ms. Shawn Redden and Ms. Fay Cameron. 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 HONOURABLE LEO HOUSAKOS

CONGRATULATIONS ON INVESTITURE AS ARCHON OF THE EASTERN ORTHODOX CHURCH

Hon. Donald Neil Plett: Honourable senators, I rise today to pay tribute to one of our colleagues, who, on Sunday, was invested as an Archon, one of the highest distinctions honoured by His All Holiness Ecumenical Patriarch Bartholomew of the Eastern Orthodox Church, the spiritual leader of 300 million Orthodox Christians worldwide. Leo Housakos was honoured by His All Holiness for his outstanding service to the church and as a well-known distinguished and well-respected leader of the Greek Orthodox community at large.

• (1420)

According to the church, those selected to serve as Archons have demonstrated a greater averaging commitment toward the stewardship of time, talent and treasure for the betterment of the church, parish, diocese/metropolis, archdiocese and community as a whole.

It is the sworn oath of the Archon to defend and promote the Orthodox Christian faith and tradition. His special concern and interest is to serve as a bulwark to protect and promote the Sacred See of St. Andrew the Apostle and its mission. An Archon is also concerned with the human race's inalienable rights wherever and whenever they are violated, and the well-being and general welfare of the Christian church.

This honour extended by the Ecumenical Patriarch carries with it grave responsibilities, deep commitments and sincere dedication. Consequently, it is of utmost importance this honour of obligation be bestowed upon individuals of proven Orthodox Christian character who conform faithfully to the teachings of Christ and the doctrines, canons, worship, discipline and encyclicals of the church. I learned more about Greek orthodoxy in the last few days than I ever have before in my life.

Senator Leo Housakos was chosen by the archbishop to have this honour bestowed on him, to recognize Senator Housakos's unwavering support of the church and his leadership with the Hellenic community. This includes his involvement with organizations such as the Hellenic Congress of Quebec, Hellenic Community of Greater Montreal, Laconian Brotherhood and as a founding member of the Hellenic Board of Trade of Metropolitan Montreal, to name a few.

Over the years, Senator Housakos has also given back through his fundraising efforts for various community initiatives including the Giant Steps School and Resource Centre and for Greek trilingual schools in Montreal dedicated to preserving and promoting Hellenic culture.

While Leo is humbled by this honour, I am told he is most proud for his mother. I know both of his parents are very proud of him. Please join me, colleagues, in congratulating our friend Senator Leo Housakos for this outstanding achievement.

[Translation]

ROUTINE PROCEEDINGS

STUDY ON INTERNATIONAL AND NATIONAL HUMAN RIGHTS OBLIGATIONS

FOURTEENTH REPORT OF HUMAN RIGHTS COMMITTEE— GOVERNMENT RESPONSE TABLED

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the government response to the fourteenth report of the Standing Senate Committee on Human Rights, entitled *Promoting Human Rights: Canada's Approach to its Export Sector*, tabled in the Senate on June 7, 2018.

BUDGET IMPLEMENTATION BILL, 2018, NO. 2

NOTICE OF MOTION TO AUTHORIZE CERTAIN COMMITTEES TO STUDY SUBJECT MATTER

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

That, in accordance with rule 10-11(1), the Standing Senate Committee on National Finance be authorized to examine the subject matter of all of Bill C-86, A second Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures, introduced in the House of Commons on October 29, 2018, in advance of the said bill coming before the Senate;

That the Standing Senate Committee on National Finance be authorized to meet for the purposes of its study of the subject matter of Bill C-86 even though the Senate may then be sitting, with the application of rule 12-18(1) being suspended in relation thereto;

That, in addition, and notwithstanding any normal practice:

1. The following committees be separately authorized to examine the subject matter of the following elements contained in Bill C-86 in advance of it coming before the Senate:
 - (a) the Standing Senate Committee on Aboriginal Peoples: those elements contained in Divisions 11, 12 and 19 of Part 4;
 - (b) the Standing Senate Committee on Banking, Trade and Commerce: those elements contained in Divisions 3, 4, 6, 7 and 10 of Part 4;
 - (c) the Standing Senate Committee on Energy, the Environment and Natural Resources: those elements contained in Division 5 of Part 4;

- (d) the Standing Senate Committee on Foreign Affairs and International Trade: those elements contained in Division 13 of Part 4;
- (e) the Standing Senate Committee on Transport and Communications: those elements contained in Divisions 22 and 23 of Part 4;
- (f) the Standing Senate Committee on Legal and Constitutional Affairs: those elements contained in Division 20 of Part 4; and
- (g) the Standing Senate Committee on Social Affairs, Science and Technology: those elements contained in Divisions 8, 15, 16 and 21 of Part 4;

2. That the various committees listed in point one that are authorized to examine the subject matter of particular elements of Bill C-86 be authorized to meet for the purposes of their studies of those elements even though the Senate may then be sitting, with the application of rule 12-18(1) being suspended in relation thereto;
3. That the various committees listed in point one that are authorized to examine the subject matter of particular elements of Bill C-86 submit their final reports to the Senate no later than Tuesday, December 4, 2018;
4. That, as the reports from the various committees authorized to examine the subject matter of particular elements of Bill C-86 are tabled in the Senate, they be placed on the Orders of the Day for consideration at the next sitting; and
5. That the Standing Senate Committee on National Finance be simultaneously authorized to take any reports tabled under point four into consideration during its study of the subject matter of all of Bill C-86.

[English]

FISHERIES AND OCEANS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO DEPOSIT REPORT ON STUDY OF MARITIME SEARCH AND RESCUE ACTIVITIES WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. Fabian Manning: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Fisheries and Oceans be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate, no later than November 29, 2018, its final report on its study on maritime search and rescue activities, including current challenges and opportunities, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Senate.

BUSINESS OF THE SENATE

The Hon. the Acting Speaker: Honourable senators, pursuant to the motion adopted in this chamber Thursday, November 1, 2018, Question Period will take place at 3:30 p.m.

• (1430)

ORDERS OF THE DAY

NATIONAL SECURITY BILL, 2017

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Gold, seconded by the Honourable Senator Moncion, for the second reading of Bill C-59, An Act respecting national security matters.

Hon. André Pratte: Honourable senators, we live in perilous times. Almost every week, terrorism maims and murders dozens of innocent victims across the world. Canada may be one of the most prosperous, peaceful countries on the planet, but, as we know, we are not immune to the evils of such attacks on our society.

Moreover, every hour, if not every minute, hackers on foreign government or private payrolls attempt to infiltrate our networks in order to subjugate our privacy, steal our industrial secrets or influence our democracy.

Complacency in the face of such numerous, rapidly evolving threats would be state-endorsed self-destruction. We must provide our information services with the means of combatting these threats effectively, on equal terms, in collaboration with our allies.

However, we must find the means to accomplish this without sacrificing the values we are defending. Otherwise, what's the point? What's the point of defending our fundamental rights if we allow our security services to trample the Charter? What's the point of promoting the rule of law if we authorize the arbitrary violation of our laws?

Ever since 9/11, the major challenge of Western democracies has been the battle against terrorism, in all its forms, while preserving the fundamental rights of its citizenry. Since the first Anti-terrorism Act was passed in Canada in 2001, Liberal and Conservative governments in Canada have attempted to find a fair balance.

Bill C-51, tabled in the wake of the fatal shooting that ended just a few steps from here, brought about several significant changes to reinforce Canadians' security. However, as often happens in the heat of the moment, the delicate balance between

security and the protection of civil liberties was disrupted. Bill C-59 resets this balance while preserving advances in security made by the 2015 bill.

[Translation]

Bill C-51 enacted the Security of Canada Information Sharing Act. This very important act seeks to encourage and regulate the sharing of information between various federal institutions regarding activities that could undermine the security of Canada.

However, the wording of Bill C-51 posed two problems. The first was that the scope of the information that could be shared under the definition of "activities that undermine the security of Canada" seemed overly broad. The second was that not enough emphasis was placed on protecting Canadians' privacy when information was being shared between federal institutions.

These are the flaws that Bill C-59 seeks to correct by requiring any institution that wants to share information with another to consider how that sharing would affect the privacy of the people concerned.

That said, I am still concerned about protecting activities associated with advocacy. Like the Canadian Bar Association, I am concerned that the proposed definition of "activities that undermine the security of Canada" could include legitimate, peaceful political activities that may be perceived as radical. Quebec's separatist movement comes to mind, as do Indigenous activist groups that could be caught up in this information sharing because of the overly broad definition. There is potential for the kinds of abuses we should seek to avoid.

The committee should take a very careful look at the definition of "activities that undermine the security of Canada."

[English]

Bill C-51 introduced a major change to the mandate of the Canadian Security Intelligence Service, CSIS, authorizing it to act to reduce threats to the security of Canada. This change raised a lot of concern but, given the current complex and unstable environment, it is admittedly necessary.

What was not necessary, however, was opening the door to violations of Charter-protected rights and freedoms. Even though a warrant is required for measures in violation of the Charter, few restrictions are imposed on the types of activities that CSIS can undertake to reduce threats to Canadian security. Furthermore, there is something both absurd and shocking with the idea of asking a court to sanction Charter violations.

In this regard, Bill C-59 makes some useful adjustments. On the one hand, the CSIS Act is amended to guarantee that any action to reduce a threat complies with the Charter. If a threat-reducing measure limits a fundamental right or freedom, CSIS must obtain a warrant, which the court can issue only if it is convinced that the measure complies with the Charter. Things are clearer now than they were before.

Moreover, as amended, the CSIS Act would include an exhaustive list of the allowed measures aimed at reducing the threat to the security of Canada. Also, new prohibitions have been added to forbidden activities, notably torture and detention.

The adjustments are substantial, but the initial intention of the 2015 bill, which authorized CSIS to act to reduce a threat to Canadian security, remains intact.

Allow me to say a word about another CSIS-related matter: the collection and use of data sets. In 2016, the Federal Court rendered an important decision in this regard, finding that CSIS had retained a large amount of so-called related data, contrary to what had been authorized by legislation.

Bill C-59 proposes that a legislative framework be set up for the collection, retention and use of data sets. As described in the bill, this framework is complex and the procedures vary depending on whether the data sets are Canadian, foreign or accessible to the public.

Canadian data sets will receive the most significant protection, as they should, since CSIS will have to obtain authorization from a Federal Court judge prior to retention and use.

Notwithstanding the apparent complexity of the procedures, I appreciate the government's efforts to find this difficult balance between the needs of information services and the protection of citizens' right to privacy.

That said, I share the concerns expressed by others regarding the possibly inadequate protection of data sets that are termed "publicly available." These data sets are not defined in the act, which leaves considerable leeway for interpretation by CSIS. Some experts have proposed amendments to this provision which would alleviate this concern. Undoubtedly, this will be looked at in committee.

[Translation]

Bill C-51 added new terrorism-related offences to the Criminal Code and amended existing measures with the commendable objective of giving our intelligence services new tools to better combat the threat. However, the balance between security and fundamental rights was pushed a little too far to the security side. The balance needed to be restored.

Thus, Bill C-51 made it a criminal offence, and I quote:

... for a person, by communicating statements, to knowingly advocate or promote the commission of terrorism offences in general while knowing that any of those offences will be committed or being reckless as to whether any of those offences may be committed as a result of such communication.

This is confusing, to say the least, honourable senators.

No charges have been laid in Canada under this new section of the Criminal Code. Several analysts say that the current wording could be construed as an infringement of Canadians' freedom of expression and that the section in question is probably unconstitutional.

Thus, the Canadian Bar Association found that the provision, and I quote:

... is overbroad, vague and contrary to the core principle that the criminal law must be certain and definitive.

Those arguments are persuasive. Bill C-59 corrects that situation, not by removing the new offence, but by clarifying it. From now on, the offence will be to:

... [counsel] another person to commit a terrorism offence without identifying a specific terrorism offence.

• (1440)

This is clearer. This is how legislation should be written in order to be enforceable and to avoid missteps. However, is it possible that this wording limits the scope of the terrorist propaganda legislation too much? Other wording is available and was proposed. The matter should be reviewed in committee.

[English]

Honourable senators, as you know, I could talk about many more components of Bill C-59, but unfortunately, or fortunately for you, there is not enough time. Suffice to say that, in general, I'm in favour of creating the national security and intelligence review agency, whose mandate will be much broader than that of the current Security Intelligence Review Committee.

I also support the creation of the position of intelligence commissioner, a retired judge who will play a central role in reviewing the authorizations to collect information awarded to the Communications Security Establishment and to CSIS.

Some consider these new authorizations and review mechanisms too cumbersome, to the point of compromising the activities of our intelligence agencies. These are legitimate concerns.

But our intelligence officers, who would know a bit about this, believe the right balance has been found. As Ms. Tricia Geddes, Assistant Director of CSIS, stated before the Public Safety Committee in the other place:

... it's quite clear that this bill is able to deliver the effective tools and the authorities that we need, in order to be able to conduct our investigations. Ensuring that we have the confidence of Canadians and that we are able to do so in a manner that protects their privacy is very critical to our ability to carry out our mandate. I think the bill has achieved both of those objectives.

Others think that the level of oversight, on the contrary, is inadequate, and that intelligence agencies are being given excessive powers. These are also legitimate concerns. But, in the end, let us not forget that these agencies are accountable to four levels of review: the review agency, the intelligence commissioner, the committee of parliamentarians and the courts. With such protective barricades, Canadians can be confident, in my view, that if abuses are committed someone will intervene and officials will be held accountable.

Honourable senators, as terrorists, subversive groups and even foreign state agents intensify their attacks and plots against us, we have no other choice but to react. We must do so in a clear-sighted, agile and determined manner. We must also do so in a way that respects Canadian values. Acting otherwise would not strengthen but undermine our intelligence services. Indeed, for them to do their job, they need to be trusted by Canadians. They need legitimacy.

Such is the delicate and essential balance that we constantly need to strive for. Such is the balance that, overall, in my view, the bill before us today allows us to reach: to keep Canada safe; to keep Canada just. Thank you.

Hon. Yonah Martin (Deputy Leader of the Opposition): I have a question for Senator Pratte.

Senator Pratte: Yes.

Senator Martin: Senator, while Conservatives can support certain provisions in this legislation, such as clarifying the mandate of the Communications Security Establishment or ensuring that people who are on the no-fly list mistakenly can be more easily removed from that list, we have concerns that other provisions will make Canadians less safe.

For instance, while our Five Eyes allies — the U.S., the U.K., Australia and New Zealand — along with other European allies, are taking measures to strengthen national security, I feel that some of the provisions in this legislation weaken our national security. We call upon this chamber to support initiatives that are in line with our allies, but in this case we seem to be going in the opposite direction. How do you justify lessening the safety of Canadians with some of the provisions in this legislation?

Senator Pratte: Bill C-51, which was brought forward by the previous government, contained a lot of measures aimed at strengthening Canadian security and public safety. However, parts of the bill went too far in the direction of security to the detriment of Canadians' rights; for instance, the provision that allowed CSIS to, in effect, trample the Charter of Rights.

I strongly believe that we need to reach this balance. Bill C-51 pushed us in the direction of better security, but maybe a bit too far. I believe Bill C-59 allows us to reach a better balance. In the end, I trust what intelligence officers are telling us. They told the House of Commons, after having been thoroughly consulted on this issue, that they believe the balance found by Bill C-59 was appropriate and would allow them to do their job, while preserving Canadians' rights.

(On motion of Senator Martin, debate adjourned.)

KINDNESS WEEK BILL

THIRD READING—DEBATE ADJOURNED

Hon. Jim Munson moved third reading of Bill S-244, An Act respecting Kindness Week.

He said: Honourable senators, after hearing Senator Pratte speak on some of the perils of the world, I think what the world needs now is a group hug.

Honourable senators, I rise with gratitude today to speak to the third reading of Bill S-244, An Act respecting Kindness Week. I am grateful to all of the Canadians who have reached out to me in support of the bill. I'm grateful to each senator who has taken time to speak to me about the bill, to ask questions at committee and to speak in this chamber.

I will not echo my second reading speech or committee testimony too much here today, but there are some important points around kindness that I would like to repeat, such as the fact that research on kindness has shown that it can have many physical, mental and social benefits, and that kindness has benefits for everyone being kind or receiving and observing kindness.

There is a Haida Gwaii proverb passed down through the generations that says: "It is impossible to give away kindness because people keep returning it." Think about that: It is impossible to give away kindness because people keep returning it. Our First Nations.

This is how I envision kindness week playing out. When we focus on giving and being kind, we are encouraging others to do the same. Kindness starts with each one of us; we all have an essential role in creating a kinder Canada.

When I listen to the news, it's easy to be filled with pessimism and anxiety about the world. In fact, yesterday I was watching an American newscast, 30 minutes on NBC News. Thank goodness there was a story of a little bear trying to climb up a glacier of ice and making it to the top. It relieved me after 25 minutes of watching what I watched on the news last night.

• (1450)

When I read or hear a story about communities coming together, neighbours helping one another or strangers stepping up to help someone they don't even know, I am inspired. These stories bring a feeling of warmth and comfort. Kindness can change our narrative from fear and hostility to acceptance and appreciation.

Stories like Becca Schofield's legacy of #BeccaToldMeTo — remember that campaign? — started in Moncton, New Brunswick. Becca passed away, but she had a campaign. When people were being kind to each other they'd ask, "Why are you being kind?" The reply was, "Becca told me to." It was a simple thing to do. It started a chain reaction of kindness across this country, in my home province of New Brunswick and spreading as far away as Australia.

Chris Koch from Calgary, who was born without arms or legs, is inspiring kindness in Canadians by hitchhiking across this country. Every time he drives along, he talks about kindness and the good things that someone has done to get him along his way.

Honourable senators, there are communities already participating in Kindness Week like Springhill, Newfoundland, which has been doing it for two years; and here, in Ottawa, which has been doing it for a number of years, as well as the province of Ontario. The list of good stories and good deeds goes on and on. The list will grow even longer when the kindness week act is passed.

Honourable senators, I was deeply moved a few weeks ago when listening to Senator Mary Coyle's speech and personal story. She talked about how kind people were — simple acts of kindness — when she was in recovery. I don't think I'll ever forget that speech. That speech really told it all about what it is to be kind.

I have heard kindness is the answer to bullying because kind kids don't bully. We heard testimony at the Senate Social Affairs Committee last week that when kindness is taught in schools there are fewer incidences of bullying, new friendships are made and there is more inclusion.

In that committee last week, I think you could hear a pin drop for one hour. Talk about a collective creature of kindness that committee was. We were all there, from all groups, and we all had questions. There were great answers to some of the questions from the people who were there giving testimony. I think we walked out of that room feeling pretty good that we were part of something that is new and, hopefully, something that will happen all across this country.

We also heard at committee that bullying is not only in our schools but is also prevalent in about 25 per cent of our workplaces. Kindness week could inspire a shift in culture not only for young people but also for Canadians of all ages and backgrounds.

Kindness week will be a chance for schools, communities, organizations, businesses and workplaces to encourage and promote kindness education, projects and volunteerism. Imagine what the third week of February will look like when Canadians from coast to coast to coast — somebody holding an elevator door open, or letting someone cut in front of you in traffic or someone shovelling a neighbour's driveway just for the purpose of being kind. There will be more thank you's and smiles to strangers. I believe there could be a wave of kindness spreading across our country and, who knows, maybe even further.

The person who walked into my office is a very kind man. We normally see him here in Ottawa every Remembrance Day for the last 20 years. He will be doing it this Remembrance Day. What a time to talk about kindness and gratitude when you look at some of the portraits in our Senate and you think of those, as Senator Day mentioned earlier in a statement, who lost their lives and made the greatest sacrifice for our country. One of those who continue to give himself to our country every day with kindness and on November 11 — by giving a brief sermon — is Rabbi Reuven Bulka. The rabbi, as we would say in the Maritimes, is a

buddy. He's a friend, a kind guy. As many of you know, he is responsible for the idea of kindness week. Last week at committee he said:

Finally, in these turbulent times, having Canada become the first country... to institutionalize kindness on a national scale will be an expression of leadership of global proportions of which we will be eternally proud.

I couldn't agree with him more.

When Bill S-244 receives Royal Assent — I hope that will be soon — Canada will be the first country in the world to have a kindness week in law. Let me tell you, honourable senators, briefly, it does matter; it really does matter. Sometimes people say, "Why these weeks, why these days, why should they matter?" Well, because people matter. We all matter. When I had my own private member's bill on Autism Day, April 2 and this country legally recognizing it — and it took a few years to get that bill through here, but it did pass. Through that, it motivated governments to have chairs of excellence. The Conservative government of the day put a chair of excellence in on autism. There were funding programs and the Canadian autism partnership happened. Schools across the country raised flags and children were being taught your friend beside you just thinks a little differently. He's not you, but don't judge him differently because it's him or her. It multiplies across the country. I think these acts really do matter.

Mark Twain said: "Kindness is the language the deaf can hear and the blind can see." Senators, kindness is a universal language. Kindness can do no harm. It costs nothing to be kind. It only takes awareness and a little bit of time to be nice or helpful and to make a difference in someone's day.

There is a saying that actions speak louder than words. I just saw a note a moment ago that was handed to me. Somebody said somewhere, "Sometimes it is better to be kind than to be right." We do not need an intelligent mind that speaks but a patient heart that listens.

Honourable senators, let's pass this legislation so that kindness can shift from the words in this act be put into action from coast to coast to coast, creating a kinder Canada.

In closing, I would like to quote my friend and colleague Senator Manning. Now, two guys on opposite sides of the fence; two gentlemen who speak various forms of the English language; two guys who have each other's back along the road, whether you're travelling with the Fisheries Committee to Europe or across this great country, sharing what we're doing with ourselves at the Fisheries Committee on our new search and rescue study. Senator Gold is the deputy chair; I'm on steering. We've been working together in a kind, compassionate, intelligent way, putting forth, hopefully two weeks from now, a new study on what should happen for search and rescue in this country. I think it takes that collaboration and working in a kind way to make things work.

Senator Manning shared a saying at committee last week which I thought sums it all up. I think that we can all relate to it. I'll close with this. We all love our mothers, and it came from his mother. He has it on his cards. I'm going to embrace that forever. His mother said:

You may forget somebody's telephone number and address, and you may even forget their name, but you won't forget their kindness.

Thank you very much, honourable senators.

(On motion of Senator Martin, debate adjourned.)

CONSTITUTION ACT, 1867

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

Leave having been given to revert to Other Business, Senate Public Bills, Second Reading, Order No. 1:

On the Order:

Resuming debate on the motion of the Honourable Senator Patterson, seconded by the Honourable Senator Enverga, for the second reading of Bill S-221, An Act to amend the Constitution Act, 1867 (Property qualifications of Senators).

Hon. Yonah Martin (Deputy Leader of the Opposition): May I ask leave of the chamber to adjourn this item in Senator Plett's name?

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

Hon. Senators: Agreed.

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

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

• (1500)

SENATE MODERNIZATION

NINTH REPORT OF SPECIAL COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Frum, seconded by the Honourable Senator Beyak, for the adoption of the ninth report (interim) of the Special Senate Committee on Senate Modernization, entitled *Senate Modernization: Moving Forward (Question Period)*, presented in the Senate on October 25, 2016.

Hon. Yonah Martin (Deputy Leader of the Opposition): I will move adjournment in my name.

[Senator Munson]

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

Hon. Senators: Agreed.

(On motion of Senator Martin, debate adjourned.)

THE SENATE

MOTION TO CALL UPON THE GOVERNMENT TO RECOGNIZE THE GENOCIDE OF THE PONTIC GREEKS AND DESIGNATE MAY 19 AS A DAY OF REMEMBRANCE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Merchant, seconded by the Honourable Senator Housakos:

That the Senate call upon the government of Canada:

- (a) to recognize the genocide of the Pontic Greeks of 1916 to 1923 and to condemn any attempt to deny or distort a historical truth as being anything less than genocide, a crime against humanity; and
- (b) to designate May 19th of every year hereafter throughout Canada as a day of remembrance of the over 353,000 Pontic Greeks who were killed or expelled from their homes.

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

(On motion of Senator Mercer, debate adjourned.)

BUSINESS OF THE SENATE

The Hon. the Acting Speaker: Honourable senators, the Senate has come to the end of its business for the day and, pursuant to the order of the Senate, I declare the sitting suspended until 3:30 p.m. when the sitting will resume for Question Period. The bells will start ringing at 3:25 p.m.

(The sitting of the Senate was suspended.)

• (1530)

(The sitting of the Senate was resumed.)

QUESTION PERIOD

BUSINESS OF THE SENATE

The Hon. the Acting Speaker: Honourable senators, today we have with us for Question Period the Honourable Bill Blair, P.C., M.P., Minister of Border Security and Organized Crime Reduction.

Minister, on behalf of all senators, I welcome you.

Pursuant to the order adopted by the Senate on December 10, 2015, to receive a Minister of the Crown, the Honourable Bill Blair, Minister of Border Security and Organized Crime Reduction, appeared before honourable senators during Question Period.

[Translation]

The Hon. the Acting Speaker: I would ask to please keep the questions and answers on point and relatively brief. This will allow more senators to participate.

[English]

BORDER SECURITY AND ORGANIZED CRIME REDUCTION

ASYLUM SEEKERS

Hon. Larry W. Smith (Leader of the Opposition): Good afternoon, minister, welcome.

My first question concerns the border issues. Your colleague Minister Hussen recently criticized his counterpart in the Province of Ontario, Minister MacLeod, when she stated approximately 40 per cent of shelter occupants in the City of Toronto are refugees. However, the City of Toronto has verified this number based on their data.

Minister, your government often expresses its support for evidence-based decision making. With that in mind, do you agree with the numbers put forward by the City of Toronto that about 40 per cent of shelter occupants are refugees?

The second part is if so, what are you doing to help ease the resulting financial pressure on provincial and municipal services in your home province?

Bill Blair, P.C., C.O.M., M.P., Minister of Border Security and Organized Crime Reduction: Thank you very much, senator, for your question and for the opportunity to provide some clarity around the numbers. I have had the opportunity to work very closely with the City of Toronto, Mayor Tory and senior officials in the City of Toronto as they have dealt with some of the challenges of accommodating newcomers, refugees and asylum seekers, those who cross both regularly and irregularly into the country, very separate groups of individuals. I've also been working closely with Minister MacLeod. I reached out to Minister MacLeod even before her appointment. We talked about this issue, and I've subsequently had a number of conversations with her. We are working as closely as possible with our provincial and municipal partners on this because we recognize the impact that an increase in those seeking asylum in particular — my area of responsibility — has had on the cities of Montreal and Toronto.

With respect to the number of people in the —

The Hon. the Acting Speaker: Minister, might I ask you to stand as you give your replies. It's easier for everybody to hear.

Mr. Blair: Thank you, Your Honour. I apologize. You'll forgive my lack of familiarity.

With respect to the number of people in the shelter system in Toronto, it's actually a system with which I am familiar, having worked in the City of Toronto for nearly 40 years, and I've discussed this at some length with the mayor of the city and some of his senior officials. The number of people that he refers to as being in their system self-identify as refugees. I wouldn't presume to speak for Minister Hussen, but I believe he was talking about those who have come to Toronto as part of the regular migration that come primarily through the province of Quebec and have been placed in Toronto. In fact, we worked closely with the City of Toronto to acquire temporary housing for those numbers. There were, in fact, 464 asylum seekers, about 37 per cent of whom were children, that we arranged temporary housing for in June.

The good news today that I'm able to share is only 35 of those people are still in temporary housing, but there are a number of newcomers who have come into the country through various streams of immigration, which includes those who are emigrating, those who have come as refugees and those seeking asylum, all of those cohorts comprise the number of people that the City of Toronto refers to as being within their shelter system, which is approximately 40 per cent.

Senator Smith: Thank you for the answer. I guess the thought behind the question was it's important to have consistency between governments so that people who are looking at this as average Canadians will view us as being credible. It was not a critical question. It was a factual question so the proper alignment would take place.

Minister, you apologized for saying that the overwhelming majority of asylum seekers who crossed our border had left. You indicated the number of illegal migrants has been reduced, but the RCMP numbers show that more people entered Canada illegally this year than last year.

The government has set a new target to deport 10,000 failed asylum seekers per year. However, CBSA staff said they learned of this plan through the media and don't have enough staff. You've given assurances regarding the timely processing of asylum claims, but the IRB says the wait time is 21 months.

Minister, all of this leaves the impression that the government is not necessarily adequately managing the situation. Could you explain what your plan is to maintain the integrity of our immigration system?

Mr. Blair: Again, senator, I thank you for the question and the opportunity to provide clarity.

You began by speaking about a time when I was actually being interviewed by the press. I was attempting to explain about a cohort of those who had come into the country seeking asylum from an earlier period, prior to 2017, and what had transpired with their removal and the fact that many of their own volition had chosen to leave, but I was imprecise in my language. As soon as I recognized the confusion I caused, I immediately issued a public statement and rose in the other place to clarify my remarks. I'm in complete agreement with you. Canadians deserve

factual information, as accurately as we can present it to them, so they can have a real understanding of exactly what is transpiring. To that end, let me explain.

There have been a number of significant occurrences globally over the past several years but certainly more pronounced in the last two, where we've seen a significant number of people, in fact tens of millions of people who are moving about the country. There is a significant movement of migration of population, many of whom are fleeing persecution and war. Canada is seen as a safe refuge for those fleeing persecution. What we have seen in the last two years, particularly beginning in 2017 in the spring, is a significant flow of irregular migration, which has been one of the challenges we face. It has never reached even 50 per cent of those totals seeking asylum in the country, but it has been a significant increase over previous years, although we saw similar spikes in people seeking refuge in the country through asylum in 2002 and again in 2008, but certainly in 2017 we saw a significant increase.

The government immediately began to take the steps necessary to ensure that the safety and security of the country was being maintained. So additional resources from both the RCMP and CBSA and IRCC were deployed to the Lacolle area to ensure that every individual crossing that border was, first of all, subject to a rigorous security background check by the RCMP. We want to ensure that anyone entering this country, regardless of how they enter, represent no criminal threat or threat to national security. So those individuals are checked. They're subjected to a rigorous security background check by the RCMP. They're also subjected to biometrics, both fingerprint and photograph, so we might have adequate information. There is a process.

Anyone entering this country, regardless of how they enter, who asks for the protection of Canada, is entitled under Canadian law to due process. That due process is the responsibility of the RCMP and CBSA initially, IRCC, and then the IRB, which is an independent tribunal that conducts those hearings. Because of the significant increase in the number of people coming, and what I believe was a prolonged period of time of chronic underfunding and understaffing in some of those important areas — for example, the CBSA had their budgets cut by almost \$400 million in the years leading up to 2017. So it was also necessary to begin to restore their capacity to deal with those individuals.

• (1540)

So we have made significant new investments in both Budgets 2017 and 2018 in CBSA, IRCC and IRB in particular to restore that capacity to deal with those individuals.

There is a backlog. And the backlog has been exacerbated by the large influx of individuals that we saw. I could offer a number of different explanations as to why that number increased, but overwhelmingly the increase we saw that I think causes most concern for Canadians is those who are crossing our border irregularly. And what I mean by that, not at a regular checkpoint or through the airport but up at the end of Roxham Road. And that is an area of concern. We have made significant new investments in IRB. And they're absolutely right. They have a significant backlog when they talk about it. The period of time

to process those individuals is 21 months. But we've added \$74 million into IRB to hire 269 additional arbitrators and administrative staff to become more efficient.

But it's not simply a matter of adding more resources. I'd like to assure you and all Canadians, working very hard at the processes undertaken by IRB to ensure they are as efficient as possible. In addition to IRB's determination there are a number of appeal processes through what they call the RAD and PRRA and other processes through the federal courts which have the effect of prolonging the period of time to final determination. So we are working very hard, senator, to ensure that those systems are fair — and I believe they are fair — but they also need to be fast and they need to be final.

Finally, what we've also found is where there is a determination — and you've referenced this and I want to speak to it — where there is a determination that a person is not eligible for the protection of Canada and they are therefore subject to removal, after all legal processes have been resolved, there's a cohort of individuals who are determined to be not eligible to stay. The responsibility for their removal by statute is under CBSA. CBSA, as you've indicated, has removed approximately 4,600 people so far this year. There are two groups of individuals that they prioritize: Those who are subject to removal as a result of serious criminality and those who are failed claimants under the asylum application system. Those are the priorities for removal. But they also have resource issues, which we're addressing. We've added \$72 million to their budget, and they're now working hard to staff up to become more efficient in the removal of those who should be removed. So we've established a target —

The Hon. the Acting Speaker: Mr. Minister, and colleagues, we have many people wanting to ask questions, so I wonder if we can keep the questions and, with all due respect, minister, our answers tight so we can cover the range of issues that people have on their minds.

[Translation]

CANNABIS—ORGANIZED CRIME

Hon. Claude Carignan: My question is for the minister and has to do with the declarations that have to be made to get a licence to grow cannabis. You have likely heard about last week's episode of "Enquête" on Radio-Canada, where journalists identified various businesses with ties to organized crime and tax havens that have invested or hold a direct or indirect stake in cannabis companies that are currently on the market.

In June, you rejected the amendment adopted here in the Senate that sought to enhance checks and to go even further when it comes to determining the ultimate beneficiaries and getting declarations from businesses that invest in tax havens in order to prevent organized crime from entering through the back door. Clearly the fear we expressed in June 2018 came true over the summer.

My question is simple, minister: Will the government reconsider the amendment and change the method for screening licence applicants in order to give Health Canada and police the authority they need to get rid of people tied to organized crime who are currently licence holders?

[English]

Bill Blair, P.C., C.O.M., M.P., Minister of Border Security and Organized Crime Reduction: Thank you very much, senator. First, the regulations that we did pass in Bill C-45 provide for significant financial transparency for the businesses of the licensed producers and as well all of the senior officials in the company that have any influence over the business decisions of that company, but subject to rigorous background checks by the RCMP to ensure there is no criminality involved. Many of these are publicly traded companies, and individuals and organizations and even criminal organizations can buy stock, but their ability to infiltrate and to exercise criminal influence over these companies is significantly constrained, if not impossible.

I've consulted extensively with both Health Canada and the RCMP to ensure that they have access to all of the information they need to maintain the integrity of this system. I listened very carefully to the reporting of Radio-Canada on the program "Enquête," and they talked about what they perceived as a vulnerability. But I've not yet seen any evidence of any criminal enterprise that has infiltrated a licensed producer, and should I see any evidence of that I am confident that the RCMP and Health Canada would take all the steps necessary to protect Canadians and to maintain the integrity of the supply system for licensed production of cannabis.

I would also tell you from my experience of years of investigating organized crime, organized crime does not like transparency. They do not like to make their business public. They operate in the dark. They are a covert and clandestine criminal enterprise. So the regulations we put in place under Bill C-45 are exactly the types of deterrents that organized crime will avoid at all costs. So I remain confident in the integrity of the licensed production system that we have established with the oversight of both Health Canada and the ongoing rigorous investigations of the RCMP to maintain the integrity of the system.

Some of the investment abilities of offshore accounts and organized crime on how they move their money into other legitimate enterprises, less regulated than the cannabis industry, may require some additional changes to how we monitor financial transactions and beneficial ownership. That's also one of my responsibilities given to me by the Prime Minister, and I will continue to look into ensuring the integrity not only of the cannabis industry but of all Canadian business.

EXPUNGEMENT OF SIMPLE POSSESSION CONVICTIONS

Hon. Joseph A. Day (Leader of the Senate Liberals): Minister, welcome this afternoon. My question relates as well to the issue of Bill C-45 and surrounding issues relating to cannabis. I know that your mandate letter tasks you to "lead the legalization and strict regulation of cannabis across Canada," with the support of your colleagues from the ministries of Health,

Justice, Public Safety and Emergency Preparedness, there's quite a team that has been working on this issue. This chamber worked very hard to bring that legislation through and did so successfully. While the government has announced its plans for a pardon process for those convicted of simple possession, it has not yet introduced legislation or regulations.

The legislation to legalize cannabis was drafted more than 18 months ago, but the legislation for pardons was not ready for the day of legalization, regrettably. Nor does it seem to be ready today. That is my question: When is the government going to introduce legislation for pardons or expungement of records for simple possession? Because the delay is using up a lot of the goodwill that has been developed by the government in relation to this initiative.

Bill Blair, P.C., C.O.M., M.P., Minister of Border Security and Organized Crime Reduction: Thank you very much for the question, senator. I think it's an important issue to Canadians. Frankly, one of my prime motivations when we introduced this legislation is to have the opportunity to stop criminalizing another generation of our own kids. I always thought that was one of the most problematic aspects. We talked about reducing harm. We talked about reducing health harms and social harms, but one of the greatest social harms was the criminal records that so many young Canadians — and all Canadians — had experience with. So we knew that was an important opportunity with the repealing of this legislation. But at the same time, we also recognize that the proper way to change the law is through repealing what existed and replacing it with something more effective, and that's exactly what we set out to do.

• (1550)

Had we acted sooner than the date of repealing of that legislation, we would have had the effect of nullifying the existing law.

You may recall that I made many public statements urging Canadians and making sure they knew that until the law was repealed and replaced, the law remained in effect and should be obeyed. Having reached the day of the law coming into effect, that was really the first opportunity to address those records.

The Minister of Public Safety, who is responsible for administering the pardon and record suspension system, has indicated his commitment to introduce legislation before the end of this calendar year in order to address the appropriate issue of pardons.

As we look into that, there's a complexity that needs to be properly addressed. Most of the records are what we would call summary conviction offences, not indictable offences. The individuals with those records were not fingerprinted at the time of arrest. The records do not reside in a single national database but in fact are scattered across provincially administered and sometimes municipally administered databases across the country. So we are trying to resolve that complexity with this legislation, but we know Canadians are anxious we deal appropriately with this. I know those Canadians who have those records and have carried that burden are hopeful and anxious that we get on with it, and we're proceeding with it as quickly as we can.

MONITORING OF PUBLIC DATA—PRIVACY

Hon. Frances Lankin: My apologies, minister. I was detained, and so I'm hoping that this question hasn't been asked and that it's not redundant.

I'm interested in the work that you have done and the amendments that are being brought forward that set out criteria for a Chief Firearms Officer to consider denying a possession certificate. Specifically, the adding of the language "history of . . . threatening conduct" in 5(2) is welcome. It's added to what's already there with respect to a history of behaviour that includes violence or threatening. Proposed subsection 5(2.1) includes the conduct of a person being examined if the threats or conduct are "communicated by the person to a person by means of Internet or other digital network."

I welcome this, let me be clear, but I'm wondering how effective it will be in actually helping us get to a safer community. How will a police force or Chief Firearms Officer or government monitor this? There are lots of questions in other fields, as you know, about what publicly available information and data means. Again, let me say I support the inclusion of this. I just don't know how you're going to implement it. I don't know how you're going to protect and balance the rights of Canadians to a reasonable expectation of privacy. I'm interested in the interests of ensuring that this legislation is effective in achieving its goals.

Bill Blair, P.C., C.O.M., M.P., Minister of Border Security and Organized Crime Reduction: Thank you very much, senator. It is a concern with which I am fairly familiar. Frankly, in my previous life, we saw the Internet, and particularly social media, become a significant forum for threatening and online criminal behaviour, and so it is a challenge. Quite frankly, it is a challenge for law enforcement to have adequate resources and acting within the legal constraints of privacy to gain access to that information and identify those individuals in order to take timely action to protect others.

As you may be aware, the Prime Minister has asked me to conduct an examination of a number of issues related to firearms, particularly the possibility of a handgun ban and additional measures with respect to assault rifles. In furtherance of that, I've met with a number of stakeholders across the country, including the CFOs. We've talked about the need for them to have access to timely information and intelligence.

But I'm encouraged by the progress that I have seen being made in law enforcement across the country, both by the federal police, the RCMP, but also municipal and provincial police services. The Internet and social media have emerged as very significant sources of criminal intelligence for the police. Many of them are investing significant resources to monitor, where legally allowed, to determine if threats are being made. Although not perfect, they've made tremendous progress. That has now become a very significant source.

I was speaking recently to my successor in Toronto, the chief of police, and we talked about the emergence of both social media and video as the new horizon for evidentiary gathering.

I think we need to make sure that the police have adequate training and funding to keep up with their responsibilities and to ensure that information is shared in a timely way with the Chief Firearms Officers in the provinces and through the RCMP to make sure that effective action can be taken.

I've also been tasked with looking at additional measures the government might take to identify individuals who represent a significant threat to public safety. I think we're all mindful of the tragedies that took place recently in Pittsburgh, Quebec City and in a number of other locales across the continent where individuals have been engaged in virulent, online, hateful and threatening rhetoric. Should the police become aware of that, they need the authority and the ability to take timely action to remove firearms from that situation and render it safe.

ORGANIZED CRIME

Hon. Gwen Boniface: Minister, I want to first welcome you to the Senate. It's a pleasure to have you here.

I'm interested in the part of your portfolio to do with the reduction of organized crime, particularly interested whether we will see a plan to address organized crime.

I know you are concentrating on handguns at the moment, but I'm looking for a broader plan with respect to how resources will be directed and how research may be focused to identify and address challenges going ahead, particularly around organized crime. As you would probably appreciate more than most, the concern in the policing community for some years is that as we've redirected resources to terrorism, efforts to investigate organized crime have fallen. I'm interested in your views and perspective going forward.

Bill Blair, P.C., C.O.M., M.P., Minister of Border Security and Organized Crime Reduction: Thank you very much, senator, for your question and for your warm greeting.

As the senator knows as well as I do, we've seen a significant degradation over the past several years in the ability of the RCMP in particular, but law enforcement generally, to conduct serious organized crime investigations, and quite understandably. A lot of those resources were dedicated to national security and counterterrorism efforts. Those were important, and I acknowledge and understand completely why that would be necessary. But it did significantly impact the ability of law enforcement, the RCMP in particular, to conduct these investigations.

It's also important for the Senate to understand that in Canada not every police service has the capacity to conduct detailed, serious, complex, organized crime investigations. So the RCMP represents a very significant resource to all police services across the country because they are a partner to other police services in that work. If their capacity were diminished, all of law enforcement capacity would be diminished.

I want to assure the senator and all of you that I have been tasked with looking at how we restore that capacity, the ability of the RCMP and their partners to conduct investigations, and how criminal intelligence information is shared and made more effective.

I've been meeting with the people responsible for FINTRAC, for example, because financial transactions, economic crime and money laundering are significant components. Organized crime is motivated entirely by profit, and so we're looking at their money.

A number of regulatory and potentially legislative amendments may be necessary, and I'm consulting on that as well.

I spoke at some length yesterday to the Attorney General in British Columbia, who has tasked a former colleague of Senator Boniface and I with conducting an examination of money laundering in the B.C. casinos and now looking at money laundering within the real estate industry. I've met with Dr. Peter German who conducted that. We've had discussions about things both the federal government and the provinces can do.

Next week the federal-provincial-territorial meetings of the justice ministers will be taking place in St. John's, Newfoundland. I'm fully confident that this will be an important issue of discussion between our government and the provincial and territorial governments from across the country because of the recognition of the importance of improving our ability to respond, deter, detect and prevent organized crime's involvement.

LEGALIZATION OF CANNABIS

Hon. Paul E. McIntyre: Minister, my question for you concerns the legalization of marijuana in my home province of New Brunswick.

• (1600)

New Brunswick police did not have roadside drug detection devices when marijuana was legalized last month and, to the best of my knowledge, still do not have them. The Cannabis NB website had to make changes after Health Canada found it was not in compliance with the Cannabis Act due to its promotion of the use of this drug. As well, New Brunswick has amongst the highest prices in the country for this product, which raises concerns it might not be able to compete with the black market.

Minister, what do you say to the citizens of my province who remain concerned about legalization, particularly its impact on drug impaired driving as New Brunswick youth use marijuana at a higher rate than the national average? What assurances can you give that organized crime will not increase in New Brunswick?

Hon. Bill Blair, P.C., C.O.M., M.P., Minister of Border Security and Organized Crime Reduction: Thank you very much, Senator McIntyre. First of all, I think it's important to acknowledge that prior to the implementation of Bill C-45,

marijuana trafficking and production in New Brunswick was entirely controlled by organized crime, 100 per cent. They were 100 per cent responsible for its production and 100 per cent responsible for its distribution in your community.

I will also tell you impaired driving by drugs has been a crime in Canada since 1925. It has been a problem that the police have always been challenged to deter, detect and prosecute. The reason for that was well known. First of all, in a unanimous resolution, they had come before government in 2008 and urged the government to provide them with resources to train their officers as both drug recognition experts and in standardized field sobriety testing. Unfortunately, that fell on deaf ears.

In 2013, they again came back with a unanimous resolution urging the government to provide them with a ticketing scheme so that they could give kids tickets and seize the drug rather than threaten them with a criminal charge, which no one wanted to lay or prosecute. Again, that did not happen in 2013.

In 2014, they came back and urged the Government of Canada to give them access to technologies for oral fluids testing that were in use in 22 different countries around the world, including Australia and 18 European countries. They said they needed those devices to be more effective in detecting and deterring impaired driving.

With the passage of Bill C-46, we answered "yes" to all of those questions. We provided additional funding of \$161 million to train drug recognition experts. The good news, sir, is 18 months ago, we had about 500 drug recognition experts in Canada. Today we have over 900. We've nearly doubled the capacity of law enforcement to enforce those laws.

I understand it takes time to adopt and train your people in these technologies, but they're now available for law enforcement to use. They can use them to extraordinary effect. For example, in British Columbia, those new devices can be used. If any driver is found to have any amount of cannabis in their system, the police have the authority to suspend the driver, issue a ticket, tow the car, render the situation immediately effective and safe without necessarily having to pursue a criminal charge, although that is still available to them.

I think that's a very positive thing.

I can also tell you the province of New Brunswick did run into some difficulties with the new regulations we had put forward with respect to the quite appropriate limitations on promotion and advertising because it was not and never has been the intention of the government to promote the use of this drug. Our intention is to make it available to those adults who choose to use it, to ensure that they can do it in a lower risk, safer and socially responsible way, but not to promote it. After a quick consultation with the province of New Brunswick, they were quick to come into compliance.

I remain confident that in working with the provinces and territories, some of them have experienced difficulties with maintaining a supply chain, but it is a new industry. We have the regulatory framework to ensure the health and safety of Canadians, both in the production and working with the provinces and territories on its distribution and consumption. In the process of implementation, we're seeing significant progress.

I will share one simple fact with you, sir. In the hundreds and thousands of dollars — now over \$1 million — that has been taken in by New Brunswick in the legal sale of a regulated licensed product, organized crime no longer is making that money. The millions of dollars went into the coffers of New Brunswick and not into the coffers of organized crime.

The Hon. the Acting Speaker: Honourable senators, we have just over six minutes left and many people wanting to ask questions. Senator Dagenais, may I ask you and your subsequent questioners to be brief, please.

Some Hon. Senators: And the answers.

[Translation]

ORAL FLUID DRUG SCREEN DEVICES

Hon. Jean-Guy Dagenais: I will keep my question brief as long as the answer is as well.

Minister, my question is about your duties as the minister responsible for the legalization of cannabis, which are set out in the mandate letter you received from the Prime Minister.

Despite its assurances that it will give the police new tools to detect drug impaired driving, your government has so far approved just one detection tool. This tool is ineffective and costly, and many police forces will not use it.

On CBC's "The Fifth Estate," Dennis Daley, Chief Superintendent of the RCMP, said, and I quote:

[English]

... we don't have a tool right now.

[Translation]

He also added that police officers could make mistakes without the right tools.

Minister Blair, will you admit today that your government acted irresponsibly by legalizing marijuana before giving police officers the tools they need to keep Canadians safe from drug impaired driving? Will you also admit that when you approved this one tool, you were aware of the problems reported here and in the United States? Minister, why didn't your government approve another drug detection tool for our police forces?

[English]

Hon. Bill Blair, P.C., C.O.M., M.P., Minister of Border Security and Organized Crime Reduction: First of all, the RCMP have made it very clear they currently have all the tools

required in order to keep our roadways safe. I have great confidence in them. I can also tell you the first device has been approved and the length of time it takes to approve subsequent devices is reflective of the rigour we bring to ensuring they meet the high standards that were set by the Canadian Society of Forensic Sciences Drugs and Driving Committee.

CANNABIS—ORGANIZED CRIME

Hon. Serge Joyal: Mr. Minister, in relation to Bill C-45, I heard your answer to our colleague Senator Carignan and I don't think it would satisfy the Canadian viewers who saw two things on TV last week. The first is they saw RCMP officer Yves Goupil, to put a name on the RCMP, who is responsible for conducting the investigation of organized crime in the production of cannabis. And Goupil stated very clearly he doesn't have the resources and the capacity to investigate the ultimate beneficiary that hides behind the tax haven or organized crime. That's the first thing they heard and they saw on TV.

The second thing they saw on TV, Mr. Minister, were the names of three members of the Rizzuto family. I don't know if you know that family. I see you nodding. There were three different members of the Rizzuto family with the percentage of shares they own of an anonymous trust who owns a company that has a licence. Canadians have seen that on their screens. How can we as senators, and you as a representative of the government, come to us and say everything is fine, it is business as usual and organized crime has been pushed aside.

The objective of the government was not to push organized crime aside. The objective of the government, as you stated in front of our committee, was to eliminate organized crime from the production of cannabis. Now we see the Rizzuto family being involved in the production of cannabis. Again, what will you do to make sure the rules of Health Canada and the rules under your guidance will be strengthened to be sure we will know who hides behind those anonymous trusts that own shares of companies with licences to produce cannabis?

Some Hon. Senators: Hear, hear.

Hon. Bill Blair, P.C., C.O.M., M.P., Minister of Border Security and Organized Crime Reduction: Senator, first of all, we were very clear the elimination of organized crime was not going to happen overnight. It is a process. It is also important to recognize we left in place all of the legislative tools and investigative authorities that the RCMP and the police previously had to conduct their investigations in organized crime. All of those tools are still available to them. Those criminal offences for illegal production and illegal distribution are still in place. And we have instead put an alternative choice in the marketplace so the easiest money organized crime ever made just got a heck of a lot harder. I acknowledged in an earlier response we saw a terrible diminishment of the RCMP's ability to conduct serious organized crime investigations. We are putting money and resources back into that capacity so they can do the important job we need them to do.

Finally, you talk about the investment of blind trust. We need to need to be very clear. There is no way that organized crime can invest and take over a licensed producer under the new federal regulations as articulated under Bill C-45.

• (1610)

I believe, senator, subject to clarification, that what you may be talking about is their involvement in other types of grows that existed under the ACMPR regulations, something well outside of Bill C-45. We recognize the importance and have had many conversations with law enforcement about the criminal vulnerability of that licensing regime. It is something that we are absolutely committed to fix.

BORDER SECURITY

Hon. Ratna Omidvar: Thank you, minister, for being with us today. Since Senator Smith asked the question about asylum seekers, I want to share with you Senator Pratte and I visited Roxham Road in Lacolle, Quebec. We were very reassured by what we saw—due process, law, fingerprints, biometrics, questioning and processing. I want to commend our CBSA and RCMP officers for the work they're doing. I hope you can pass that on to them.

My question comes back to Bill C-45 and Bill C-46. Both bills disproportionately and unintentionally impact permanent residents because of the new lower threshold on serious criminality. We talked about this. This chamber passed amendments on both those bills. The House of Commons rejected those amendments but gave us assurances the matter would be dealt with.

I'm making a proposal to you. For instance, the CBSA officers could first be educated about the impact of serious criminality on permanent residents. Second, you could direct your CBSA officers to look at first-time offenders so they are not automatically deemed inadmissible.

What is your response to these practical proposals? What is your government doing to fulfill the promise that was made to me and us in this chamber?

Hon. Bill Blair, P.C., C.O.M., M.P., Minister of Border Security and Organized Crime Reduction: Thank you very much, senator, for your advocacy on this issue and your comments. I will certainly pass them on about the officials we have at Roxham Road.

Senator, when the amendment was first proposed to us, quite frankly, the concern we had was we did not want to diminish serious criminality. Impaired driving is a serious criminal act. We didn't want to diminish that. I believe it's more appropriately dealt with under the discretion of the immigration minister and his officials. I know that's an issue they're very attuned to.

We have had a number of discussions about that impact, but it was not appropriate, in my humble opinion, to make significant substantive changes to criminal legislation with respect to what constitutes serious criminality as determined by the length of

sentences of the maximum penalty to diminish what I think is the public's concern and abhorrence of certain types of crimes by reducing the sentence for those offences.

BUSINESS OF THE SENATE

The Hon. the Acting Speaker: Honourable senators, the time for Question Period has expired. I'm sure you will want to join me in thanking Minister Blair for joining us today. Thank you, minister.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

The Hon. the Acting Speaker: Honourable senators, pursuant to the order adopted on October 31, 2018, I leave the Chair for the Senate to resolve itself into a Committee of the Whole to consider the subject matter of Bill C-76, An Act to amend the Canada Elections Act and other Acts and to make certain consequential amendments.

ELECTIONS MODERNIZATION BILL

BILL TO AMEND—CONSIDERATION IN COMMITTEE OF THE WHOLE

On the Order:

The Senate in Committee of the Whole in order to receive the Chief Electoral Officer, the Commissioner of Canada Elections and officials from their offices respecting the subject matter of Bill C-76, An Act to amend the Canada Elections Act and other Acts and to make certain consequential amendments.

(The Senate was accordingly adjourned during pleasure and put into Committee of the Whole, the Honourable Judith G. Seidman in the chair.)

The Chair: Honourable senators, rule 12-32(3) outlines procedures in a Committee of the Whole. In particular, under paragraphs (a), (b) and (d), "senators wishing to speak shall address the chair", "senators need not stand or be in their assigned place to speak" and senators have ten minutes to speak - including questions and answers.

Honourable senators, the Committee of the Whole is meeting pursuant to an order adopted by the Senate on October 31.

The committee will hear from Stéphane Perrault, Chief Electoral Officer, Elections Canada and Mr. Yves Côté, Q.C., Commissioner of Canada Elections; and the witnesses will be accompanied by Anne Lawson, Deputy Chief Electoral Officer, Regulatory Affairs and Marc Chénier, General Counsel.

I would now ask the witnesses to enter.

(Pursuant to the Order of the Senate, Stéphane Perrault, Yves Côté, Anne Lawson and Marc Chénier were escorted to seats in the Senate chamber.)

The Chair: I thank you for being with us today.

Honourable senators and witnesses, I note that we only have two hours for this Committee of the Whole and there will be a great deal of interest from senators, so I encourage senators to be brief in their questions and witnesses to be as succinct as possible. This will allow as many senators as possible to participate.

I would now invite the witnesses to make their introductory remarks.

[Translation]

Stéphane Perrault, Chief Electoral Officer of Canada, Elections Canada: Honourable senators, it is a privilege for me to be here today to talk about Bill C-76, which makes sweeping reforms to the Canada Elections Act.

I would note that many of the changes in Bill C-76 were proposed by Elections Canada following the last general election. Topping the list is a series of changes to give Elections Canada greater leeway to adapt and modernize functions at polling places while maintaining procedures crucial to preserving the integrity of the vote.

The next election is coming up too soon for me to take full advantage of the leeway this bill would provide, but I firmly believe the changes will benefit Canadians in the long term.

Another crucial aspect of this modernization concerns compliance mechanisms, which will be augmented with a regime of administrative monetary penalties and a provision giving the commissioner the authority to compel individuals to testify with all the necessary safeguards. I think these improvements are vital to the act.

The bill will also make the voting process more accessible with a number of measures for voters with disabilities. For example, political parties and candidates that are eligible for reimbursement will now receive an additional amount if they provide election communications in accessible formats.

• (1620)

The bill also includes some measures to address emerging concerns about foreign influence, misinformation, and cyber threats to the election process. For example, the bill would considerably tighten the rules applicable to third parties. There will be a limit on all third-party partisan expenses, not just election advertising, and restrictions on their financing. The bill would also strengthen the provisions prohibiting third parties

from using foreign funds and colluding with other organizations to circumvent the rules, in addition to prohibiting the sale of advertising space to foreign entities.

Bill C-76 would make another important change by requiring social media platforms to create and publish a registry of election and partisan advertising. This is in response to growing concerns about the use of social media to spread misinformation or to conduct targeted manipulative campaigns.

The last important provision that I would like to speak about is the one that would establish, commencing on June 30 of a fixed-date election year, a pre-writ period during which there would be spending limits for political parties and third parties. I am pleased to see that the prescribed pre-writ period is short, which should lessen the limits on freedom of expression and also reduce any advantage that the party in power could have.

[English]

While I believe that Bill C-76 is, overall, a very significant improvement to the Canada Elections Act, it is also my role to draw your attention to the weaker aspects of the bill. Along with the Privacy Commissioner, I have recommended strengthening the proposals in this bill that relate to the protection of personal information held by political parties. In my view, parties should be subject to minimum standards through legislation and proper oversight by the Privacy Commissioner. While it may be late in the electoral cycle to impose any major changes on political parties in this area, it is something that I would invite Parliament to address in the longer term. In the meantime, parties have a responsibility to adopt robust privacy policies that protect the personal information of Canadians.

Bill C-76 also creates a new offence of computer interference. This responds to concerns arising from other jurisdictions where hacking of systems has undermined the electoral process. While I support this addition, I note that the provision would require proof that the offender had the intention to not only interfere with the systems, but also to affect the results of an election. I am concerned that requiring such proof will greatly restrict the application of the new offence. Recent history suggests that interference may be designed with the intent to sow distrust and confusion, potentially undermining voters' confidence in the process or willingness to vote, not necessarily to affect the result of the election. The intent to interfere with a computer system used in relation to the election should be sufficient to constitute an offence.

Despite some weaknesses, Bill C-76 remains, overall, an essential piece of legislation, and I hope to see it become law soon. Because of where we are in the electoral cycle, time is of the essence as we need to prepare for the next general election. The bill would require changes to 20 of our IT systems. It also requires us to amend training material and guidebooks for poll workers, as well as the manuals provided to political entities on political financing requirements. These changes are very significant. In particular, there are considerable risks in introducing last-minute changes to complex IT systems if there is not enough time to test them thoroughly.

For these reasons, we have had to begin work this fall in preparation for the implementation of the bill, understanding that its content may still evolve or that it may not pass. Our current plan is for final integrated testing of all our IT systems, including any system changes required by the bill, in January 2019. This means that any system changes must be made prior to that. This would then allow us to run a field simulation in March in some 10 electoral districts across the country and leave time for any necessary adjustments. I urge you to keep these dates in mind as you study this important bill.

[Translation]

Madam Chair, that concludes my introductory remarks.

Yves Côté, Commissioner of Canada Elections: I am very pleased and honoured to be here with you today to talk about a bill that is of great interest to us, Bill C-76.

This bill contains several measures that I have recommended many times in the past to improve the enforcement of the Canada Elections Act.

I would like to focus on three of those measures that are of particular interest to me. The first is the power to ask a court, under certain circumstances, to issue an order to compel a witness to answer our questions as part of an investigation. The second is the removal of the requirement for prior approval to lay charges, and the third is the implementation of an administrative monetary penalty system that will allow for sanctions to be quickly imposed for certain regulatory offences. If these measures are adopted, they will bring about profound, positive changes in the enforcement process. We are very pleased with these amendments.

[English]

The bill also contains other provisions of particular interest to my office. I would be happy to expand on those, if there is an interest for me to do so, later in the proceedings of this committee.

Senators who are members of the Standing Senate Committee on Legal and Constitutional Affairs will remember that I appeared before them in April of 2017 to discuss, among other things, some shortcomings surrounding the regulation of third parties, some of which had been particularly active during the last general election.

Bill C-76 has several provisions aimed at addressing these concerns. In particular, I would highlight the proposed ban that would prohibit third parties from using foreign funds to finance their partisan and electoral activities. I also note the proposal to regulate surveys, advertising and partisan activities carried out by third parties both during the pre-writ period and during the electoral period itself.

In my view, these changes will contribute to greater transparency to contain the threat that may be posed by foreign influence and to promote a level playing field.

[Translation]

We believe that Bill C-76 is an excellent bill, but that does not mean that it is perfect. I have two quick comments to make in that regard. First, I fully support Mr. Perrault's comments to the effect that the unauthorized use of a computer constitutes an offence under the new provision.

[English]

The other aspect of Bill C-76 that concerns me relates to certain proposed amendments to section 91 of the act, which prohibits someone from making false statements about candidates for the purpose of influencing the outcome of an election. The new version of paragraph (1)(b) seems to me to be unnecessarily restrictive in that it is limited to certain types of very specific false statements concerning, for example, the citizenship or the place of birth of a candidate. This means that a whole range of false statements that are currently captured by section 91 as it now reads would no longer be covered. More specifically, false allegations surrounding an act or conduct that clearly violates accepted community standards without constituting a criminal offence would henceforth be excluded from the scope of the new section 91. The courts have ruled that those kinds of allegations, which can be among the most serious and the most injurious, are currently prohibited under section 91. As these types of false statements appear to be resorted to more and more, as you very well know, in various electoral contests, this proposed amendment seems to be a step in the wrong direction.

[Translation]

In closing, the bill makes improvements that will put us in a better position to deal with some of the new threats we are facing, threats that we have witnessed during recent elections and referendums in countries with systems similar to ours. However, no magic formulas or perfect solutions exist or can ever exist.

• (1630)

[English]

For our part at the commissioner's office, we are committed to using all the tools at our disposal to enforce the legislation and to protect the integrity of our electoral process. We will continue to work closely with, in particular, Elections Canada, intelligence and security agencies and social media platforms to achieve this goal.

[Translation]

We have been preparing for the next general election for some time now. Bill C-76 contains provisions that will make our work easier. I will close by saying that from our perspective, it is important that the bill comes into force as soon as possible so that we can incorporate its content into our preparations at the earliest opportunity.

Thank you for your attention, and I welcome your questions.

[English]

The Chair: Mr. Perrault and Mr. Côté, thank you very much for your presentations. We will move to questions now.

Honourable senators and witnesses, please try to keep your questions and answers as concise as possible. We have 24 people currently on the question list and we'd like to try to ensure that as many of them have the opportunity to ask their questions.

Senator Frum: Mr. Perrault, as you know, Bill C-76 will bring changes to the criteria for non-resident Canadian citizens to be registered as electors. Previously, non-resident Canadians had to be non-resident for five years or less and had to confirm an intention to return to Canada to qualify to vote.

My question is: How many non-resident Canadians will now be eligible to vote under the new provisions of Bill C-76?

Mr. Perrault: Thank you, senator. We don't have a precise estimate of the number of Canadians living abroad. We've estimated that the number who may be able to vote or willing to vote at the next election under the new provision may rise from 11,000 at the last election to roughly some 30,000 at the next election if these provisions are enacted. This is based on estimates. This is something that we will have to see in practice.

Senator Frum: So the number of 2 million that you gave to the committee in the other place, what did that refer to?

Mr. Perrault: That's a rough estimate of the number of Canadians living abroad, not necessarily those who would want to participate in the election.

Senator Frum: You think somewhere between 14,000 and 30,000 of them would want to vote?

Mr. Perrault: This is an estimate that was based on the number when there was a period of roughly a year or — I think 14 months — when the five-year limitation was struck down by a court, and before it was reversed on appeal. It's based on the rate of registration.

We've also looked at American expat voting patterns and a ratio of voting of Americans living abroad versus in the United States, and that tends to confirm our estimates.

Senator Frum: How will you verify that non-resident Canadian electors previously resided in Canada?

Mr. Perrault: In many cases, these would be electors already in the register and we would rely on that address. If they are not in the register — once they're in the international register they are no longer allowed to move that address until they return to Canada. They're stuck in that place.

But for those who register, it would be, in accordance with the proposed legislation, based on a declaration of the voter.

Senator Frum: So the declaration is something that they make voluntarily about their previous place of residence?

Mr. Perrault: Correct.

Senator Frum: And do you have any ability to confirm the veracity of such a declaration?

Mr. Perrault: We ask for documentation to prove their identity and we verify that they have documentation to establish their citizenship because they're contacting us from abroad. But in terms of their prior residence, if they're not in the register, it's their declaration.

Now, there are offences in the act for seeking a ballot when you're not entitled to, so if you're seeking to obtain a ballot for an electoral district where you are not an elector, that would constitute an offence and we would, of course, reinforce that.

Senator Frum: What would prompt you to make an investigation into such an offence?

Mr. Perrault: The commissioner is the one who decides to make an investigation. Basically, there has to be some indication or a reference made to the commissioner based on a complaint in most cases.

Senator Frum: Do you intend to advertise to potential electors resident outside of Canada that they now have the right to vote and, if so, how will you do that?

Mr. Perrault: It's difficult to reach out to people across the world except, essentially, through social media. That's probably the best way, as well as through our website. Beyond that, our efforts will be somewhat limited because of the nature of the diffuse population.

Senator Frum: But do you have a communications plan in place?

Mr. Perrault: If the bill passes, we will have one for the next election, yes.

Senator Frum: Mr. Côté, Bill C-76, as you mentioned, creates new reporting obligations for registered third parties and new spending limits. Must you be based in Canada to be a registered third party for the purposes of Canadian elections?

Mr. Côté: I'm sorry, senator, I missed the first part.

Senator Frum: Must be you based in Canada in order to be registered as a third party for election purposes?

Mr. Côté: The obligation to register arises once you have incurred expenses up to the amount of \$500. Once you've done that, you have a duty to register.

Senator Frum: If a third party organization was created, let's say, in mainland China to influence eligible Canadian electors in China, would that be legal?

Mr. Côté: My understanding is that a foreign third party is not allowed to expend or incur expenses and, therefore, if they are not allowed to incur expenses, they wouldn't have to register.

Senator Frum: So a third party in China speaking to Canadian electors in China would be illegal?

Mr. Côté: I would think so.

Senator Frum: Okay. And let's say a group of non-resident Canadians living in New York held a rally under the banner, "Say no to Trans Mountain," they held the rally at Madison Square Garden and used American funds to pay for the event, which is targeted to non-resident Canadians in the U.S. Would any of that activity fall within the undue foreign influence provisions of Bill C-76?

Mr. Côté: Senator Frum, did you say the event would be organized by Canadian citizens?

Senator Frum: Correct, Canadian citizens living in the U.S.

Mr. Côté: I would think that Canadian citizens would have the right to do that.

Senator Frum: Canadian citizens living in the U.S. have the right to organize an event in the U.S. using U.S. money?

Mr. Côté: They would not have the right to use foreign funds to do that.

Senator Frum: But if they're Canadians who are residents of the U.S., their money is American. They live in America. Let me put it this way: they would have to use Canadian monies to have the event in New York for Canadians?

Mr. Perrault: Canadians' own funds, whether they reside in Canada or abroad, would be their own money. They are entitled to use their own money. What they can't use under Bill C-76 is foreign funds.

Senator Frum: Let's say this is a Canadian who has been resident in New York for 50 years. Their income is from their employer in New York and they are paid in U.S. funds and they have U.S. bank accounts, but they're a Canadian citizen.

Mr. Côté: My view would be, given that they are using income they have earned themselves, that becomes part of their own money. What the bill is trying to prevent is people who have no attachment to Canada using their funds to organize these kinds of events.

Senator Frum: To be clear, that is not foreign influence? Expatriate Canadians, whether in the U.S., China or Russia, organizing events or partisan or third-party activities, because they are Canadian citizens, that is not foreign influence even if they are a resident of a foreign country?

Mr. Perrault: With their own money?

Senator Frum: Their own money in the currency of the country they're living in.

Mr. Perrault: Yes, but if they received money from a foreign person, money that was given to them for the purposes of arranging the event that you are describing, then there would be a

problem. But to the extent that these are funds they have earned themselves, those are their own funds and I don't think the bill is trying to limit their ability to do that.

Senator Frum: And if they're not a registered third party and they spend their own funds abroad, and let's say they spend over the spending limit — or is there a spending limit? If I'm an expatriate Canadian billionaire and I want to put on a rally and pay for it myself, is that undue foreign influence?

Mr. Perrault: Is there foreign influence?

Senator Frum: Is that activity captured anywhere in Bill C-76? Is there anything illegal about what I've described — a Canadian sponsoring an event for Canadians in a foreign country using their foreign currency that they've earned in their own name? Is there anything illegal about that activity?

• (1640)

Mr. Perrault: Many Canadians earn money through investments, for example retirement funds. That may include foreign funds as well because your retirement fund includes stocks in American stock markets. A Canadian in Canada using revenues from their pension in American stocks would be allowed, using his or her own money, to promote —

Senator Frum: But once you're over \$500 of spending, you should be a registered third party.

Mr. Perrault: Correct.

Senator Frum: Except that now I'm in the United States and I'm doing this. Do you have any ability to monitor or sanction me because I now fall within the reporting requirements if I'm spending more than \$500 of my own money for election purposes? What jurisdiction do you have to monitor my activities and ensure I'm in compliance with the law, because I've heard now they're not breaking the law by being activists in a foreign country.

Mr. Côté: If you are outside the country and you committed an offence under the act, we would have jurisdiction to conduct an investigation and come to some conclusions. We might decide to proceed with certain enforcement measures which could go up to laying charges. However, to the extent that the individual was outside the country, it might be difficult to force that individual to face Canadian justice. So practical enforcement would become a real difficulty.

Senator Frum: What I'm getting at, and I'll end here —

The Chair: Honourable senator, excuse me, but your time is up.

Senator Omidvar: Thank you both for being with us today. I'm not quite sure who to pose this question to, so I'll pose it to both of you and you can take your pick.

I want to pursue the line of questioning started by Senator Frum on expatriate voting. Can you share with us what expression of attachment to Canada will be used to determine eligibility beyond simply having a Canadian passport and proof of last place of residence? I'll give you an example. Sweden and Austria both use a formal renewable declaration in their system and this helps them build their international register of voters. Can you share with me what your proposal is to build this international register of voters? I'll get to my other questions later.

Mr. Perrault: The International Register of Electors currently exists and has existed for decades under the Canada Elections Act. However, in order to be part of the register, there are a number of requirements. Under the current law international voters — that is, voters who are Canadian citizens living abroad — must have resided in Canada at some point in their life, must be abroad for no more than five years, and must have the intent to return.

Bill C-76 would eliminate two of those requirements. Essentially, it would allow people who have resided in Canada and who are Canadian citizens but are living abroad to be or remain on the international register. We would require proof of identification, and as part of that requirement, we would require proof of citizenship in the form of a passport, which is renewable, or a birth certificate or a citizen card.

Senator Omidvar: So there is a paper process.

Mr. Perrault: There is a paper process.

Senator Omidvar: They would have to fill out —

Mr. Perrault: In order to become part of the register, yes. Once they are part of the register, we would update their whereabouts simply to make sure we can reach them in terms of sending kits for an electoral event. Their right to remain in the international register would not be time limited.

Senator Omidvar: How would this impact first-generation Canadians living abroad?

Mr. Perrault: I should mention that this is not a recommendation that came from Elections Canada. This matter is currently before the Supreme Court of Canada, challenging the current rule. Under the proposal here, Canadians would have to have resided in Canada at some point in their lifetime. If Canadians were born abroad and never in their lifetime resided in Canada, they would not be entitled to register in the International Register of Electors.

Senator Omidvar: How do you define “resided in Canada?” Is there a period? You can come for a holiday. Do you try to parse that out?

Mr. Perrault: We understand that to be ordinary residence. This is not travelling time or flying through Toronto Pearson International Airport. This is actually making Canada your home for a period. It does not have to be any length of period, but it has to be your residence.

[Translation]

Senator Dawson: Thank you for your answers. These are answers to questions I was asked last week and couldn't answer, so thank you for being here. I think it's important that you're here to answer questions as representatives of your organizations, because time is of the essence. It is vital that we shorten the time between the introduction of the bill and its passage, because its content needs to be implemented in time for the next election. This seems quite urgent to me.

There are a few issues that were raised last week but weren't covered in your remarks today.

[English]

How are we making voting easier for both Canadians with disabilities and Canadians of Indigenous communities that don't have a traditional address? And what about the identification of voters by third parties?

Finally, since I want to leave time for other senators to ask questions, how much fraud have you heard about in the past? How many times did these people supposedly do this and how many complaints have you had during the last few elections?

Mr. Perrault: In terms of voter impersonation, which I suppose is what you're referring to, there are very rare cases. There was one case in the last election where a person claimed to have impersonated someone else. These matters are referred to the commissioner. I'm not aware of the overall numbers. The commissioner may be in a better position to speak to that. We're not aware of any organized activity in terms of voter fraud, double voting or impersonation. There are rare instances of double votes, but these are treated by the commissioner.

You raised the question of accessibility. There are quite a range of measures in Bill C-76 to assist voters who have a disability. Let me mention a few.

There's an obligation in the bill for Elections Canada to develop assistive technology for voters with disabilities to help them vote independently. Of course, if this is technology to be used in the voting process, before it's used in a live election, it will require the approval of the committees of the House of Commons and the Senate.

The rules on level access in the act right now will be replaced by rules to make all polling places accessible, which is a much more fulsome obligation.

There are measures in the bill to allow voters and candidates with disabilities to use their personal funds or funds from their campaigns to pay for assistance in their election. These are just the first things that come to mind, but there's a whole range of measures. This is a bill that, in many ways, tries to make the vote more inclusive.

You also mentioned the problem of Indigenous voters who do not necessarily have a traditional residential address. This is a problem. Right now it's difficult for them to prove their address. They don't have documentary proof of address. We rely mainly on either vouching or a letter of attestation by a band leader to

allow them to prove their address. That is a problem, from my point of view, because it does not allow them to vote independently. Autonomy is a very important aspect of voting. Voting is an expression of equality and it's an expression of autonomy. If you, as a voter, have to rely on somebody else to attest to your ability to vote, you are depriving the electorate of the dignity of voting independently.

The bill would allow those electors to use the voter information card with another piece of ID — a health card or another document — to prove not only who they are but also where they reside. That would help them to vote and to vote independently.

[Translation]

Senator Dawson: If I understand correctly, Mr. Côté, this bill gives you the authority to lay charges. Whether it's a case of fraud in another country or in Canada, you have the authority to lay charges more quickly and efficiently than in the past. Is that the objective of your new authority?

Mr. Côté: Senator, I may have two or three things to say about that. The investigative tools that Bill C-76 would provide, if passed as is, would enable us to obtain a court order, in certain particularly difficult situations, to compel someone to testify who might otherwise be hesitant or refuse to testify. This would enable us to take action more quickly in the more difficult investigations.

• (1650)

Another important point that I also mentioned in my opening statement is that, going forward, Bill C-76 would give the commissioner the authority to lay charges, instead of having to submit proposed charges to the Director of Public Prosecutions, who then decides whether charges should be laid.

That said, we must keep in mind that laying charges against individuals who are living out of the country is always very complicated. It can be difficult to collect evidence if, for example, the person of interest is living in St. Petersburg, or if the individual is a citizen of another country and is not coming to Canada. We must understand that our ability to charge these individuals and bring them before Canadian courts becomes extremely limited.

Senator Dawson: Thank you.

Senator Carignan: I have some questions for you that follow on the questions my colleagues asked about voters abroad. First, I understand that Canadians living abroad who have lived in Canada can be electors and ask to be added to the voting list to exercise their right to vote.

Do you know how many Canadians are living in other countries?

Mr. Perrault: We estimate — and it is a very rough estimate — that there are around 1 to 2 million voters, but that is not an accurate figure. I wouldn't rely on that.

Senator Carignan: We are passing legislation that will give voters in another country — potentially two million voters who do not live in Canada — the right to vote. I would remind you that the four Maritime provinces combined account for maybe 1.3 million people.

This bill would allow two million people outside Canada to exercise the right to vote. However, as the Chief Electoral Officer just said, if they make illegal contributions or if they gather together, we will not have the means to control that, and it will be rather hard to verify whether these voters are making donations with their own money or whether they are electors in good standing. That is what you're telling us, and we are talking about roughly two million people. Is that right?

Mr. Perrault: Allow me to make one distinction about contribution rules. At this time, Canadians can make contributions regardless of where they live. Individuals with permanent resident status can also contribute. Bill C-76 would not change that. This bill does not address contributions by Canadians living abroad. That is not actually an issue at the moment.

For voting, it's different. Under the current law, only voters residing abroad for less than five years can vote. During the last election, there were 11,000 such voters, but we believe that number could be as high as 30,000 voters in the next election.

We know that, in the United States, the turnout rate of voters who are American citizens residing abroad is 0.04 per cent. That is not the proportion of eligible voters, but the percentage of those who vote. That is a fact. With respect to the other issue, we would have to look at evidence about what that actually means in Canada.

Senator Carignan: You are talking about people who reside in Canada or have resided in Canada. You answered Senator Omidvar's question by saying that these individuals must have resided in Canada at some point. How long must they have resided in Canada? I have a cousin in the United States who was born in Canada. Her parents lived here for a month before leaving Canada. She is a Canadian citizen and has a Canadian passport, but she resided in Canada for only a month. Does she have the right to vote?

Mr. Perrault: Under the current legislation, anyone who is a Canadian citizen who has resided in Canada can vote, regardless of the residency period, if they have been residing abroad for less than five years.

The issue of the residency period in Canada is not addressed in the bill. There are currently no requirements in Canada's elections laws with respect to a minimum length of time, and no such provision is being added with Bill C-76.

Senator Carignan: How will you verify someone's claim when they say they resided in Canada for a month? How will you check that?

Mr. Perrault: A declaration of elector would be required. As I said, there are offences set out in the act covering cases where people request ballots they are not entitled to. If there are complaints, there could be an investigation. I am not saying that

it's easy, but I don't think there is systematic identity theft and double voting in Canada by people who try to vote but aren't entitled to do so. We are seeing well-documented accessibility issues, and in the past there have been problems with vote suppression. These are the main issues we are concerned about.

Of course, we'll have to make sure that only eligible voters can vote, but the existing system and Bill C-76 do not specify a required amount of time.

Senator Carignan: How will you determine which riding people should vote in if they remember having lived in Canada, or their parents told them that they were born in Canada and lived there for a year, but don't remember the name of the street or the city?

Mr. Perrault: In that case, the person would not be able to register to vote.

Senator Carignan: Therefore, they must remember the street name.

Mr. Perrault: They must be able to provide an address in Canada where they lived at some point in their life.

Senator Carignan: If they do not have the specific address of where they lived for a month, they will not be able to vote.

Mr. Perrault: They will have to give us an address.

Senator Carignan: All right. How will you update the register in the case of voters who have died? When a voter in Canada is deceased, updating the list is fairly easy, but how can you ensure that voters residing abroad are removed from the list when they die?

Mr. Perrault: Voters living in another country provide us with a postal address of where they live or where they receive their mail. This makes it possible to communicate with them and send them the special ballot. We write to these people from time to time to ask them to confirm that they still reside at the address provided. If they cannot confirm that, we remove them from the register. People move and people die. However, if we have no indication from the person to prove that they continue to reside at the address on file, we must remove them from the register.

Senator Carignan: Is it the CEO who periodically sends out letters? How often?

Mr. Perrault: We haven't yet established that exactly, but for each electoral cycle there will be at least one letter mailed out for each individual who has previously been registered in the International Register of Electors.

Senator Carignan: Thank you.

[English]

Senator Lankin: Thank you for joining us here today.

I have three different questions, a couple of them related to the issue of voter suppression and/or malicious activity intended to affect election results, and the other with respect to education of the populace around elections, accessibility and a range of things.

I have to admit I'm still wading through this bill and comparing it to the old bill. I haven't got the old bill front of me, just the new one.

You made a reference, Mr. Côté, to section 61, which amends sections 91 and 92. This is publishing false statements to affect election results. I missed the actual example you gave in your presentation of what's in the current legislation that we would lose with replacing it with this language. Could you repeat that for us, please?

Mr. Côté: I will try, senator, to clarify what I said. The current section 91 prohibits the making of false statements that are made in relation to the personal character or conduct of a candidate. The new section 91 prohibits the making of false statements about a very limited number of topics, which are citizenship, place of birth, education, professional qualifications or membership in a group or association. Those are the five or six kinds of false statements that would now be prohibited if section 91 is adopted in its current form.

• (1700)

In addition, the new section 91 would also prohibit the making of false statements alleging that somebody has committed an offence, has been found guilty of an offence or is under investigation for the commission of an offence.

Those are the two categories, broadly speaking, of offences or false statements that would now be covered. What I was trying to say in my opening remarks is this leaves out some very hurtful or injurious statements that somebody can make about somebody else — for example, the fact they are racist or anti-gay or things of that sort — but because they are not part of the six categories I mentioned and they don't relate to an offence, then that kind of statement would not be regulated or prohibited by the new section 91 from now on. That's what I was trying to say.

Senator Lankin: That's the danger of a prescribed list and it being seen as exclusive as opposed to an inclusive statement.

Do you know the rationale behind removing the character or conduct clause? For example, that could be clause (c) under here. We could put that back in.

Mr. Côté: I think a number of the comments that were made were that the words in current section 91, which again, are false statements of fact in relation to the personal character or conduct, were extremely broad. I can tell you that in the last electoral campaign, we got complaints about people who thought that section 91 applied to the kinds of statements that had been made in a wrong way. We were of the view they did not because the courts have interpreted the current section 91 by saying it had to be things that were very serious and that really attacked the reputation of someone in a serious way, not some exaggeration or saying things that, although they are false, are not really bad, if you will.

Senator Lankin: You would see it as positive if the Senate were to consider how to reintroduce that concept but perhaps looking to some of the language or the jurisprudence that has developed around it?

Mr. Côté: From our point of view, it would probably be useful. I will insist on the point that Mr. Perrault and I made earlier today, and that is that from our point of view, the passage of this bill in a timely way is an overriding factor. This could be an issue that could be addressed when we make recommendations, for example, for amendments to the legislation at a later point.

Senator Lankin: Secondly, we have seen the emergence in some previous elections of what I would call more voter suppression activity. There are already offences that exist. Is there anything in this bill that enhances — there's a lot to enhance voter accessibility. I appreciate and support that. Is there anything that enhances the ability to stop, prosecute, whatever, voter suppression activities?

Mr. Côté: The main point I would make is the fact our powers of investigation are now broadened in a way that is very significant from our point of view. I referred earlier to the power to compel, where we can go to a judge and make the case there are reasonable grounds to believe an offence has been committed and that somebody who doesn't want to talk to us has information. Hearing that, the judge could decide to issue an order to force that person to sit down and talk to us.

Maybe, senator, I could add this as a very important point from our point of view. You probably recall the robocalls affair going back to 2011. We issued a report four or five years ago about our extensive investigation on that. In that report, the statement is made very clearly that there were a number of people, in our view, who knew things about what had happened and simply refused to talk to us. In fact, the judge who tried the individual who was accused and subsequently convicted did say that obviously there was at least one other person involved. We could never get the information required to make a case against that person. This power to compel would certainly be of great help if something similar were to happen in connection with any future electoral events.

Senator Lankin: My last question might be to Mr. Perrault, but I will let you decide. I'm interested in the area of voter education and the role of Elections Canada. Do you see a role? There has been debate about that in past years. Does this bill do anything to help us clarify what role Elections Canada can play in reaching out and informing citizens of their rights under this legislation?

Mr. Perrault: Thank you. I would say the first and most important role of Elections Canada is informing voters about the voting process — where, when, how to register and vote — and that is the key defence against voter suppression. We need to be out there as a credible source of information about the voting process. That's our number one priority.

Over the years we've also played a role in educating youth about the importance of electoral democracy. That is still something under our current mandate we can do.

Since 2014, there's been a variation in the language of the legislation that suggests we cannot do any voter education apart from factual information to adult voters. We have to focus on pre-voters. It is not a major impediment to what we do, but it is an awkward situation where we feel that when we're speaking to a group of people, often young Canadians — some in a classroom may be 18 years of age, others may be 17 — we have to be careful to watch the language, that we're not using promotional language about the voting process. I do not think that's a healthy way to look at the role of Elections Canada. I think it is simply the removal of any hindrance that has been put on us by virtue of the previous legislation.

Our focus, especially during an election, is about factual information and the electoral process.

Senator Lankin: This bill doesn't remove that restriction.

Mr. Perrault: It does remove the restriction. I'm saying the impact is more symbolic than real in many cases.

Senator Lankin: Thank you very much.

Senator Batters: Mr. Perrault, the return to allowing voter information cards as an acceptable form of identification is a highly problematic part of this bill. The error rate for those voter information cards, as admitted by the Chief Electoral Officer prior to the last election, is unacceptably high.

Prior to the last election, our Senate Legal Committee studied the Fair Elections Act in detail. At that committee, I questioned the then-Chief Electoral Officer Marc Mayrand about these voter info cards. I said:

... you also indicated to that committee. . . .

— talking about the PROC committee —

... that there was up to a 10 per cent error rate on those cards. I personally have experienced that. Several years after my husband and I moved into our current home, we received five different voter identification cards in the mail. I believe there was one for him, one for me, one for me with my maiden name, and one for each of the previous owners of the house who hadn't lived there for several years. That is one example.

I then went on to say:

I am just asking for your confirmation. You testified before PROC that there are 23 million voters in Canada. Up to a 10 per cent error rate would be 2.3 million errors on voter information cards.

Mr. Mayrand said:

I think I testified also that after revisions and targeted revision, that rate of accuracy goes to 93 per cent. You are right; it is still 7 per cent.

And I said:

Out of millions of people, yes.

Mr. Mayrand said a 7 per cent error rate after substantial revisions in what was then 23 million voters amounts to 1.6 million people who would receive error-riddled voter information cards. Given that huge error rate, how can voter information cards properly be considered an appropriately rigorous form of identification proving address?

Mr. Perrault: There are a few points to comment on. We were working to improve the accuracy of the voter information card. We do not have any comparable data to the accuracy of other documents. I can imagine, however, that people who move for whom we don't have a timely change of address in the register will also have incorrect address information in other documents. In other words, this is not a problem unique to the voter information card.

• (1710)

I would also point out that under the proposed legislation no elector would be allowed to vote using only a voter information card. They would need another piece of identification to prove that they are who they say they are. That's the second point, and it should not be forgotten. Never does this law allow the VIC to be used alone.

The third point is that not all provinces require proof of address. Ontario and Quebec do not. The major provinces do not require proof of address when voting. Provinces that do require proof of address when voting all allow the use of the voter information card with another piece of ID to prove the address. The only exception is the territories that tend to align with the federal, but all the provinces allow that. I regularly speak to my colleagues provincially, and we are not aware of issues of voter impersonation because of that. That's been ongoing for many years.

We do know from Stats Canada that at the last election, 172,000 people had problems proving their address in order to vote. So this is a solution to that well-known and well-documented problem.

Senator Batters: Mr. Perrault, you were the acting Chief Electoral Officer for about 18 months, from December 2016 until this spring. You applied for the permanent job early in that process, but apparently a different candidate was selected for the process in early April 2018. You were asked about that at the May 22 House of Commons PROC committee where MP Blake Richards asked you:

Were you then informed at some point that another candidate had been chosen for the process?

You responded that you were so informed by the Privy Council Office, and you said one month later you were advised that you got the job.

In the meantime, while you were still acting CEO on April 24, 2018, you said this at the PROC committee regarding the timeline for Bill C-76:

When I appeared last February, I indicated that the window of opportunity to implement major changes in time for the next election was rapidly closing. That was not a new

message. Both Monsieur Mayrand and I had previously indicated that legislative changes should be enacted by April 2018.

Obviously that hasn't happened. The bill is here now.

Then you were appointed as the permanent Chief Electoral Officer after that. When you appeared in front of PROC on May 22, 2018, to confirm your appointment, you said this:

... what we are doing, which is somewhat unusual, is that we will start preparation towards implementation, anticipating its passage and adjusting as required ...

Mr. Perrault, I'm not sure if you're aware of this, but it was because of our Senate Legal Committee that substantial changes were made to Bill C-23, the Fair Elections Act. As such, do you think it's appropriate to implement a bill when it's at an early stage of the parliamentary process and before it has been properly debated and studied?

Mr. Perrault: I'll try to be as clear as I can on that.

My role is not to tell parliamentarians not to change or pass a bill or pass it now rather than tomorrow. My role is to facilitate and support the parliamentary process.

At the same time, I have a responsibility to make sure that elections are run in a responsible, smooth and trustworthy fashion. I've been informing Parliament of what this means in terms of the constraints on testing the IT system in particular, but also changes to the manuals for poll workers and information for political parties.

This is what I tried to do today as well.

As I've indicated, we are not implementing Bill C-76 as we speak. We are doing preparatory work so that we are ready to implement the bill if and when it becomes law. If this house was to decide to make changes, we will, of course, make any necessary adjustment. What I did say, however, is when you're considering making changes, keep in mind the timelines that I've outlined.

In order to make sure that the elections run properly, we need to make all of the IT system changes before January so we have enough time to test, to do simulations, to make corrections. Based on that factual information, it's up to this house and to Parliament to decide whether and in what form to pass the legislation.

Senator Batters: Yes. And, of course, we only recently received this bill, just a few weeks ago.

Prior to your appointment as the permanent Chief Electoral Officer, Mr. Perrault, did anyone from the Government of Canada or the Privy Council ask you about or did you discuss with them how you would deal with implementing the major changes contained in this bill; and if you did, when did you decide to start implementing that early? If you did decide to start implementing early at that point, why didn't you talk about that at that April 24 PROC meeting where that issue was discussed?

Mr. Perrault: Madam Chair, if I am not mistaken, some 10 days before I was called by the Privy Council Office to be potentially nominated — it's the house that appoints the Chief Electoral Officer — I had appeared before a parliamentary committee. I was very clear and firm in the urgency of bringing forward that legislation. So it was prior to my appointment that I made it very clear that we needed to have legislation at the earliest possibility.

I then indicated if we were to have legislation and it's not passed in the spring, I would have to begin preparation work towards the implementation — so not implementing. I've been very transparent on that before a parliamentary committee. This is not something that was ever discussed, to be clear, with government in the process or prior to my appointment.

Senator Batters: Thank you.

Senator Woo: I have two questions. The first is to seek clarification from Mr. Perrault. I think it was an aside in your response to Senator Omidvar on the issue of Canadians living abroad having the right to vote and the five-year limit under the previous Elections Act.

You said something to the effect of how this was not Elections Canada's recommendation. I wonder if you could elaborate on that. Were you saying that this is not something you have any ownership of or you had recommended something different?

Mr. Perrault: Historically, I think it was in 2005, Mr. Kingsley had recommended to reconsider the five-year rules for Charter reasons. That's the last time Elections Canada spoke to that issue.

In the meantime, a case was brought before the court, the *Frank* case, and is currently before the court. In the circumstances, I would refrain from commenting on the merits of that.

As a matter of fact, it has been the government's initiative to remove the five-year rule. What I'm saying is we estimate the number of expat voters to rise from 11,000 to some 30,000, recognizing that this may not be an exact science at this point. We feel confident that we're capable of implementing the bill should it become law.

Senator Woo: The last time Elections Canada had a view on this time limit was that it was unnecessary. That's my reading of your clarification.

Mr. Perrault: That was Mr. Kingsley's recommendation in 2005, yes.

Senator Woo: Thank you very much.

My second question has to do with media outlets that were owned in part or in whole by foreigners who express a view on a Canadian election. This would include both media sources that are published in Canada as well as media sources published outside of Canada, but all of which have some measure, perhaps even large measure, of foreign ownership.

Now, just to be clear, these would be media outlets that are easily available in Canada, accessible by Canadians, all of which have some degree, perhaps a large degree, of foreign ownership. How would they be captured, if at all, by Bill C-76?

Mr. Perrault: This is an interesting question and a good question. I don't think there is a clear answer to that question in the sense that the provisions of the bill prevent foreigners from incurring expenses to do partisan advertising or partisan activities, so to directly promote a candidate. At the same time, our legislation has always recognized explicitly in the context of the rules on advertising that an editorial or an opinion piece by a journalist is not caught by the prohibitions of the act on advertising.

I would expect that to the extent we are dealing with journalistic expression and freedom of expression, we probably would consider that to be also excluded, but this is something we need to consider.

Senator Woo: Yes, but there is still the distinction between an op-ed by a media outlet that is wholly owned by a Canadian and an op-ed by a publication or other outlet that is partly or substantially owned by a foreign interest.

Mr. Perrault: Yes. As I said, I think the bill is not black and white on that particular point.

Senator Woo: Okay. Thank you very much.

• (1720)

Senator Mercer: I would like to thank the Chief Electoral Officer and the Commissioner of Canada Elections and officials for being here. In my previous life I had the privilege of working closely with the Chief Electoral Officer Jean-Pierre Kingsley and I was on the committee of political parties that advised the Chief Electoral Officer. It was a pleasure to work with him and there was good co-operation and exchange of ideas.

I have one question today. Bill C-76 contains a requirement for political parties to have a privacy policy for the protection of personal information. During the debate of Bill C-50 in the Senate, a bill that I sponsored, there were privacy concerns about the collection and publication of attendees at fundraising events. Now we see that the Privacy Commissioner of Canada, Daniel Therrien, has concerns about Bill C-76. He noted:

The federal government's response to public concern about how personal information is being used in the political process — Bill C-76 — adds nothing of substance in terms of privacy protection. It's time to act to better protect the rights of Canadians.

Others have noted that this is a first step in the development of privacy policy when it comes to voter data and its use for political parties. Could you comment on what you see is missing from this bill in those terms? What concerns do you have that Canada may be seriously falling behind internationally recognized standards when it comes to privacy, especially with respect to voter data?

Mr. Perrault: As I said in my opening remarks, I do believe that there should be in legislation minimal standards applicable to parties. One can debate what those standards should be and whether they should be identical to the standards applicable to other entities, but there should be minimum standards. This is not what Bill C-76 proposes, and there should be some oversight mechanisms. Again, I find that the bill is lacking in this regard.

What I did say is that we're getting awfully close to the election. It is incumbent on parties — notwithstanding these disappointments with Bill C-76 — to have the ability to adopt robust privacy policies. We will see from their behaviour and how they can reassure Canadians about how they treat their personal information whether more needs to be done. I do believe, in the long-term, that Canada will need to catch up with other jurisdictions and adopt minimal standards as an oversight for political parties.

Senator Mercer: Thank you.

[Translation]

Senator Boisvenu: To both of our witnesses, welcome. I would like to confirm a response you gave to Senator Batters regarding the voter information card and the second document. You said that, in order to vote in a federal election, voters must have two documents, namely the card and a personal document that proves their identity. Does the second document need to have a photo of the voter?

Mr. Perrault: No, the second document doesn't necessarily need to have a photo. It varies from one jurisdiction to the next, but the primary document used by voters is their driver's licence, for those who drive. That piece of ID includes not only a photo but also, in most cases, a civic address. However, I wouldn't say that applies in every case. For one million Canadians, the document doesn't necessarily include a civic address if they live in regions where addresses aren't commonly used.

Senator Boisvenu: It should be mandatory for the second document to include a photo of the voter.

Mr. Perrault: No. The voter has to present a document that shows their name, but not necessarily their photo. They need either a document with a photo, name and address, or two documents with their name on one and their name and address on the other, but not necessarily a photo. Six provinces have that same rule and require proof of address. In the other provinces, such as Quebec and Ontario, proof of address is not required.

Senator Boisvenu: The fact remains that where no photo is required, there is always a possibility that these two documents could be used fraudulently, if there is no physical evidence that the person present is the person identified in the documents.

Mr. Perrault: I would caution against creating a system that limits voter turnout based on possibilities.

Senator Boisvenu: That was not my question. What I'm saying is that two documents could be used fraudulently, because neither has a photo to confirm that the person who shows up at the polling station is the voter they say they are. I'm just saying it could happen.

I have some more questions. With respect to advertising, you talked about expenses as a criterion. Nowadays, people can use electronic media and social media, such as Facebook and Twitter, to reach thousands of people and influence them without incurring any real expense. Should we be modernizing the wording of this bill so that "expense" is not the only criterion and the number of people reached by ads, even those that incur no expense, is also a consideration?

Mr. Perrault: You hit on what I believe is a very important point. Traditionally, since the 1960s, a fair election process in Canada meant one that was carried out on a level playing field from a financial point of view. The challenge was to ensure financial fairness, particularly in the age of mass media, which was expensive.

I wouldn't go so far as to say that that is no longer a concern. I think that the regulations that are in place to ensure a fair financial balance are completely justified. However, as you pointed out, and rightly so, there is much more to a fair election process than financial fairness. Maybe Canadians want to ensure that the way advertising is done and the way they are targeted by ads is fair and in keeping with the rules of fair play.

What we're seeing with Bill C-76 is the beginning of regulations that go beyond the financial aspect to ensure greater transparency. Take social media, for example. A registry could be created of all the advertising that was done, even ads that didn't cost much. We are talking about advertising purchased on social media. There is some openness toward that.

There are also rules about impersonation, with the English term being perhaps easier to understand than the French term of "*usurpation de qualité*." Rules are applied to people who claim to be a party, a candidate or Elections Canada and who are not. There are a number of improvements with respect to communications, not for their financial aspect, but for other aspects, and I think that is excellent.

Senator Boisvenu: With regard to expense returns under clause 349.91, what will happen if a third party incurs expenses without being registered? Will your investigation happen in real time or after the election period?

Mr. Perrault: The system is based on the obligation to report. If there is no report and we receive complaints, or we notice certain activities, the matter will be referred to the commissioner. This could occur during the pre-election period or after the election period, depending on what we learn about the activities of an entity.

Senator Boisvenu: Let me give you a scenario and you tell me how it would be handled. Let's say an organization receives \$500,000 annually in donations from Canadians in various ways. During the electoral period, that money covers administrative activities. We get to 2019 and the entity receives an additional \$500,000 from donors. However, it takes the \$500,000 that was previously used for administrative activities and now allocates it to advertising or the election campaign. The donations will later be used for administrative purposes. Is this type of substitution becoming illegal?

Mr. Perrault: The act contains anti-avoidance measures. An entity that receives donations to carry out election activities covered under the legislation must report these donations.

That said, we are not necessarily aware of all entities that receive donations. Unless there's a complaint, we will not know. Similarly, a third party that incurs \$10,000 or more in expenses in relation to surveys, as described in legislation, would have to report such spending. It is not easy for us to know who conducts surveys and on what scale across the country unless we receive a complaint. Those are the kinds of cases where we intervene. First of all, if we receive a complaint, we ask the entity to confirm the situation. If the entity needs to register, we inform the entity of its obligations. If that hasn't been done, it would be up to the commissioner to investigate and take action.

• (1730)

Senator Boisvenu: Lastly, with respect to certain organizations that receive various donations from outside Canada, how will you monitor how those donations are used in so-called political activities?

Mr. Perrault: Money is fungible, obviously. People know that. The bill states, however, that the money used must come from Canada. Basically, money from outside Canada can't be used. The entity must report the origin of the money. If there are any attempts at concealment, investigations and complaints will enable us to determine whether a cover-up has indeed taken place.

Coming back to what Mr. Côté said, what's important is that the law will give us much more powerful tools, first of all, in terms of anti-avoidance rules, but also in terms of investigative powers and administrative penalties that can be imposed when violations do occur.

Senator Dupuis: Thank you for being here today, gentlemen. My first question is for you, Mr. Côté. Earlier, you talked about the false statements mentioned in section 91. You indicated that, unlike the current act, the new version of paragraph 91(1)(b) could limit the ability to prosecute individuals who make false statements. This paragraph refers to a group or association of a candidate or prospective candidate, which means that the false statements must be about specific individuals with specific duties, namely candidates or party leaders in an election period.

The media reported today that, as a result of complaints, Facebook blocked some accounts created outside the United States that were posting false information in an attempt to mislead Americans voting in today's mid-term elections. That information did not necessarily pertain to a candidate or party leader; rather, it had to do with the location of polling stations.

A number of organizations, including the Communications Security Establishment, have examined this issue in order to assess the risk of intense foreign interference seeking to mislead parties or voters. The interference may not necessarily target one person in particular, such as a candidate or someone listed in section 91.

Mr. Côté: Senator Dupuis, you're absolutely right to interpret the new section 91 that way. The false statements have to be about the individuals or groups listed.

That said, there are other provisions in the act that can be used in cases similar to the one you described. For example, the bill contains a provision stating that it is an offence to impede people from exercising their right to vote or to influence a person's vote by any pretence or contrivance. Should a statement that was posted or broadcast constitute a form of interference, a pretence or a contrivance, we would have the power to investigate and determine how the conduct you spoke of might be punished.

I feel it's important to reiterate that, when this type of activity is carried on outside the country, there are additional obstacles to enforcing the law.

Senator Dupuis: If, in the next election, this type of interference from outside Canada should occur, it would, in practice, be extremely difficult to conduct thorough investigations and get convictions.

Mr. Côté: When it comes to securing a conviction, you're right. As far as false statements made on social media are concerned, a few years ago, we entered into talks with the main social media platforms, Facebook and Twitter, so we could develop relationships with them to help us reach them when we feel that violations are occurring on their platforms. That scenario played out during the 2015 election. I can say that in 2015, Facebook in particular was diligent and cooperated fully with us. In some cases, it quickly eliminated or deleted this type of thing.

For the past few months, we've been having conversations with these platforms again with the express intention of getting the best collaboration possible from these organizations.

The last thing I would like to mention, and it is a bit technical, is that in terms of enforcing criminal law, we can sometimes rely on mutual assistance agreements signed with certain countries. These are existing procedures that are complex and extremely lengthy. We have signed this type of agreement with certain countries only. A certain category of country has never shown any interest in collaborating with us on this type of thing.

Senator Dupuis: You anticipated my next question, so thank you for your answer.

Mr. Perrault, I understand that what is most important to you is getting this bill passed as quickly as possible. There seems to be an increasing concern about the use of personal information by political parties. When you say that there's no oversight of how political parties use personal information, can you tell us what kind of oversight mechanism we could envision, either in a future bill or in an amendment to Bill C-76?

Mr. Perrault: The Privacy Commissioner oversees the entities that are subject to the Personal Information Protection and Electronic Documents Act, entities in the private sector too, of course, and government entities that are subject to the Privacy Act. This is his area of expertise, and he thinks he would be the

right person to oversee the political parties if they were subject to privacy standards. I fully support this recommendation and think it would be appropriate.

Make no mistake, I have no problem with the idea of amending the bill, but given where we are in the electoral cycle, it could be difficult to consider right now. This isn't something that is going away, and we need to consider it. I think that Canadians have a right to know what information parties have on them and a right to amend or withdraw their information if they don't want a particular party, or any party, to have it. Canadians should be able to assert this right.

Senator Dupuis: We share that concern.

Mr. Perrault, you mentioned new provisions to improve accessibility. I want to insist on this fundamental right for people with disabilities, because we tend to forget about it. I have a very specific question in that regard. We have been told that Bill C-76 will improve accessibility for people with disabilities. Are we talking about physical or mental disabilities?

I am going to give a specific example. I know someone who is very old, in relative terms. She is older than 90 but younger than 100. This person is fully lucid and wants to exercise her right to vote. That is her right as a citizen. How will she be able to vote in 2019 if Bill C-76 is passed?

• (1740)

Mr. Perrault: These individuals can vote thanks to a number of options, including mail-in ballots and, in some cases, voting from home. Those tools already exist. Bill C-76 adds a number of mechanisms for issuing, in some cases, transfer certificates to allow voting at another polling station that is more appropriate.

The bill also expands the definition of disability to include physical and mental disabilities. I want to point this out, because it is rather innovative. The bill proposes to provide additional reimbursements to political parties and candidates who make their election materials accessible. This is very important. It is one thing to be able to go and vote, but it is quite another to be properly informed and be part of the election campaign, to feel included. We have an advisory committee on issues pertinent to people with disabilities. That is very important to those individuals. To them, some things are more important than others. First of all, to be able to vote as independently as possible, but also to feel—

The Chair: I'm sorry, Senator Dupuis, but your time has expired.

Senator Dagenais: Thank you, Mr. Perrault. I have two questions. After breaking his electoral promise to change Canada's voting system, Prime Minister Trudeau came up with what was referred to as a "modernization," which mainly affects electoral spending. One of the major issues these days is monitoring and regulating the spending of lobby groups that can be funded by foreign money and can seriously influence the vote without being subject to the election campaign spending rules that political parties have to comply with. What real means does

Bill C-76 give you to intervene before election day, or are you limited to finding the facts once the election results are in? How can you do this monitoring in all 338 ridings across Canada?

Mr. Perrault: I will try to answer your question, which is very broad. The bill introduces an in-depth reform of the third-party regime. We talked a lot about foreign funding. That is one aspect. There are measures to tighten up the pertinent rules. However, the bill does two things that go well beyond that. First, it takes a regime that was focused only on third-party advertising expenses during the election period. That was the only regulated expense. In the past and under the current act, third parties can spend freely as long as it is not on election advertising, as defined by the act. The first thing that Bill C-76 does is to expand the regulations to all partisan activities, which could include surveys, canvassing and a host of other activities that third parties are doing more and more of. There are third parties that have broadened their activities well beyond advertising.

Second, the bill provides for a regime that regulates third-party spending before the election. Advertising is not the only regulated expense for third parties, as it is for political parties; rather, all partisan spending that occurs before the election, during the pre-election period, is regulated. That means that the regulatory environment is much stricter for third parties than it is for political parties and candidates during the pre-election period.

Senator Dagenais: My final question is very short. Considering these changes, if the Prime Minister were to call an election in the spring, instead of complying with the Canada Elections Act, would you be ready?

Mr. Perrault: That is a very good question. Let me begin by saying that our job has always been to be ready to hold an election. If the writ were to be dropped today, the election would be held in accordance with the existing act. Preparing to hold an election actually means preparing for several possible elections: one governed by the existing system or one governed by a system amended by Bill C-76.

I mentioned that we wanted to run a simulation in a non-urban area. We did that for the last general election, but it had never been done before. I think it's very useful. We are planning to run the simulation in March so we can be ready by April. That's not because we're speculating about spring elections; it's because our job is to be ready. By April, we will be ready to run an election that includes elements of Bill C-76.

Bill C-76 gives the Chief Electoral Officer latitude in several respects. Depending on when the election is called, and for future elections, we may use that discretion in different ways, but that doesn't prevent us from implementing the bill.

Senator Dagenais: So, if I have understood correctly, you will be ready in April.

Mr. Perrault: We will be ready in April. If an election were held in April, it would take place. We will have to see. The Canada Elections Act states that, following Royal Assent, the Chief Electoral Officer may declare that he is or is not ready within six months, and I would exercise that provision diligently knowing that when parliamentarians change the rules of an election, they expect that the next election will be held according to the new rules.

Senator Dagenais: Thank you very much, Mr. Perrault.

[English]

Senator Wallin: I have a question. You've been talking about this legislation. I'm not an expert on the existing bill or this bill. That's why we're going through this conversation. It's 2018. The digital presence, social media, is a fact of our lives, and it didn't just start yesterday.

If an election is called today, tomorrow or next October and this bill has not passed, does that mean you will not be formally monitoring or responding to activity on social media or even mainstream media?

Mr. Perrault: Not at all. In the last election, we did monitor the activity on social media. I think it's very important. It allows us to react. One of our main responsibilities, as I said, is to make sure electors have correct information. Whether it's through this information or simply errors people make in pushing out information, our role is to correct that information.

Senator Wallin: And what do you do? Do you forward that to police operations?

Mr. Perrault: We do a number of things. First of all, we push out correct information. Second, we establish for the next election, which we did not have before, a repository of all our public communications. If somebody receives information that looks like it's coming from Elections Canada but is not sure, whether it is the media or a citizen, they can check on the website. Any public communication will be in our repository.

Senator Wallin: I'm talking about social media. I'll ask specifically about this one case because it relates not just in the digital age but in terms of the so-called exemption for journalistic expression. There was a recent case, as I'm sure you're aware, and it was the Alberta Court of Appeal defamation case won by Arthur Kent, a former journalist and Conservative candidate against Don Martin. A comment was made about a person who was seeking to be elected, which has now been declared by a court as defamation.

Mr. Perrault: Yes.

Senator Wallin: That information stays on the website and on the public record indefinitely for four years. It has been declared a defamation. It has been ruled such by a court. What can you do about that?

Mr. Perrault: That's an important point. I think we need to clarify that Elections Canada will not be monitoring truth on the Internet. There are many things being said on social media that are not accurate. There are criminal and civil remedies. That is

not the responsibility of Elections Canada. If there's an offence to the Canada Elections Act, the commissioner has a role to play and he spoke about that. If it's information that's inaccurate about the voting process, however, we have a clear responsibility to intervene quickly. That's why we will be monitoring very closely what is being said on social media.

Senator Wallin: I'm happy to hear stories like that from both of you, which were declared defamation, and other stories you referenced that accuse somebody of being racist or homophobic or whatever it is, with the intention of affecting the results of an election, obviously. If they're trying to disseminate false information about a candidate, what role do you have?

Mr. Côté: Senator, I would go back to what I said to Senator Dupuis a moment ago. I'm not familiar with the particular facts of the *Kent* case you have referred to. But under the legislation as it reads now, the false statements made about him attacked his reputation or his person, then a charge could be laid under section 91 for having made a false statement with a view to affecting the results of the election assuming this was the case. That could be done.

• (1750)

Under the new section 91, as is currently contained in Bill C-76, it would depend very much on whether or not it fell within the general categories of false statements that would be caught by the new section.

Senator Wallin: I guess I don't understand the distinction. What is the world under the new legislation? What would it allow you to do that you can't do now?

Mr. Côté: The new section 91 describes the kind of false statements that would now be caught as being of two different kinds. The first is somebody made a false statement about a candidate, a leader of a party or a senior person associated with a party to the effect that they had committed a crime or they were under investigation for having committed a crime. That's the first one.

The second one is a false statement made with respect to one of the three categories of people I described that had to do with very specific matters, and that is citizenship, professional qualifications, membership in associations or groups and country of birth and so on. That's what would be caught by the new section 91.

As I said a few minutes ago, a statement, for example, that said that so-and-so was homophobic or racist would not be caught under section 91 as we have it now in Bill C-76.

Senator Wallin: I appreciate the explanation on the definitional differences. I'm just asking whether your powers change to initiate. Would this have to be brought to your attention? Does somebody else have to initiate action? You intend to establish a social media department. Does that mean you will now be initiating action, regardless of the new and old definitions, that you will be able to initiate this in a more aggressive way?

Mr. Côté: One, we are essentially a complaint-based organization, much like any police force which exists in Canada. At the same time, the commissioner has the power to initiate, on its own motion, an investigation. Presumably if we saw something in the newspaper or somewhere that was quite clearly caught by the new section 91, we could do that. But more fundamentally, I don't think that our office has the resources to monitor social media writ large because, as you very well know, so many things are published and there are so many different kinds of platforms that it would simply not be possible for us to say to you or to the Canadian population that this is a role we will play. It's simply beyond our capacity to do.

Senator Wallin: Was it ever possible for you, given just traditional media fora?

Mr. Côté: No, not even that, because there are so many newspapers, magazines, reviews, radio programs and television. It's simply not possible for us and will not be possible.

Senator Wallin: We all know it's overwhelming; there are a bazillion tweets a minute. You can't react. What is the person's response to that? You're a candidate in the middle of an election campaign and somebody has said things about you that are false or untrue or in your opinion differ from the person who has written the editorial. What are your options?

Mr. Côté: Well, it very much depends on the particular facts of any given situation. As I mentioned a moment ago, if it had to do with a post on a Facebook page that was brought to our attention, if we thought there was a violation or likely violation of the act, we could intervene with Facebook and ask them to simply pull it down. That would be the first thing we would try to do, whether with Facebook or any other social platform.

Senator Wallin: Do you have powers to compel that? Even in this particular case, there was actually a court ruling. It was not even taken down from historic posts or the history posted online from the traditional media.

Mr. Côté: We do not have the power to go to court sites and ask them to clean up whatever it is. It is beyond our capacity.

Senator Dyck: My question is probably for Mr. Perrault, and it has to do with voting on First Nation reserves.

Bill C-76 reinstates the voter information card and the system of vouching. I want to know whether or not this will remove the barriers for First Nation members living on reserves to vote. One of the biggest barriers is the fact that on many if not most reserves there are no street addresses.

For example, I'm a member of the George Gordon First Nation in Saskatchewan. I don't live on the reserve. But if I did live on the reserve, my address would be a post office box number in Punniy, Saskatchewan, which is close to the Gordon reserve. So I don't have a street address.

Let's say I do get a voter information card. Presumably that also does not have a street address because I don't have a street address. So I need another piece of identification. What other piece of identification will work? Does that have to have a street address? In answer to Senator Dagenais, you said it doesn't

necessarily have to have a photo, but at one point I believe you said the second piece of identification should be able to verify your address.

Mr. Perrault: Yes. This is a complex issue. It conflates two different problems, but there is an answer. I'll try not to be technical.

When the requirement to prove address at the polls to vote was enacted in 2007, it was quickly realized that Indigenous communities and reserves are a problem. Over 1 million Canadians do not have a civic address or do not have documents that use civic addresses. So that was quickly realized.

The bill was then introduced to say that for those electors for whom we've already located in a polling division, through targeted revision, through historic voting, if you have a piece of documentation that has address information, be it postal or civic, that matches what we have in the register and on the list of electors, then you are entitled to vote.

The additional difficulty is that many people, including people on reserve, do not even have that additional piece of documentation. If they don't have that, they now must rely on a band leader. So they're dependent on somebody else to write a letter of attestation. That's this element. It's not only an obstacle to voting, but for me, it's an obstacle to voting with dignity and independently. The voter information card will resolve that issue.

If we have you in the register, we have you within a polling location. We have geo-located you. We will send you a VIC at your postal information. That VIC, based on the combination of this bill and prior legislation, will suffice to allow a voter in your situation to vote with another piece of ID.

Senator Dyck: You said you will send them a VIC?

Mr. Perrault: I'm sorry, that is terminology I should not use. It's the voter information card. My apologies.

Senator Dyck: So we don't need a street address. You will get this card in the mail.

My second question is this: I just found out by calling some of my relatives on the reserve that the Saskatchewan driver's licence now will list your address as, say, house number 100, George Gordon Reserve. Would that be acceptable as an address?

Mr. Perrault: It would. That is acceptable. It allows us to locate you within a geo-location and a polling division. That is not a problem. If you have a driver's licence, then that would work.

Senator Smith: This is either for Mr. Perrault or Mr. Côté. I'd like to return to the topic of foreign funding.

As I'm sure you know, we've heard reports of how money from foreign sources received by registered third parties in Canada may have circumvented the Canada Elections Act and influenced the outcome of the 2015 federal election.

• (1800)

One organization was very open about its plan to target 29 Conservative-held ridings, and the organization indirectly received almost \$800,000 in American funds from a New York-based group.

My question is — and I'm not sure whether you have the authority to do this — how does Bill C-76 prevent a foreign donor from making a large donation to a Canadian organization, calling it funding for administrative costs when, in fact, the organization and the foreign donor both know the funding is for influencing Canadian voters? What measures would be taken to address such an activity?

Mr. Perrault: The proposed legislation would clearly prohibit that conduct both directly and indirectly. It has a rule that bans this type of behaviour. It also has an anti-avoidance rule, which was added at my request when I appeared before committee. I was concerned that organization A in the U.S. would funnel money to organization B in Canada, which would then use that money by pushing it to organization C. That's been added to make sure that the funding rules cannot be circumvented.

In terms of the amounts, there are no caps on contributions to third parties in Bill C-76, nor are there in the current legislation.

Senator Smith: How does timing affect that from the pre-writ period? If the money was received either six months before the election or if it's past that six-month period, what is the measurement that people can manoeuvre or manipulate in such a case?

Mr. Perrault: Thank you for raising that point. It's an important one.

In the law as it stands today, contributions received more than six months prior to the election are reported as the entity's own money. In this way they can circumvent the current rules by soliciting funds in advance of the election, calling it their money and using it for election purposes.

This is something my predecessor recommended doing away with, and Bill C-76 has done away with that rule. Now, all contributions going back to the last general election will have to be put into a separate bank account to fund not only the election advertising activities but also all the partisan activities.

Senator Smith: Your associate said your job is complaint-based. How do you initiate actions for foreign funding? Practically, you are tied in with police forces, et cetera, but who initiates that type of activity? Who is tracking it? Is there anyone tracking it within your group or is it within the police forces? How do you track foreign funding?

Mr. Côté: Under the bill as it is now, if it is implemented, I don't think there would be anyone that would be doing the kind of tracking you're referring to. That said, audits would be done by Elections Canada once the third parties have filed their returns, and if they find something that looks suspicious to them, they could refer the matter to us and we could decide to launch an investigation. That's one way.

The other way is, of course, that people could make a complaint saying, "I see that this third party seems to be using foreign funds in a manner that is contrary to the legislation," and depending on the information that they give us we could decide to act in response to something like that.

Senator Smith: So being practical, do you think there is a realistic opportunity for you folks to have any impact on the influence of foreign funding coming in? I'm not sure I get any sense from your answers that you can have an impact to be preventive before the result or injury occurs. Do you think you have that opportunity?

Mr. Côté: On the enforcement side, as I mentioned a moment ago, we are essentially a complaint-driven organization that reacts to information that is brought to it and then takes steps as appropriate. That's one thing.

The other thing is that third parties will know that Bill C-76 is drastically changing the rules of the game. The fines will be quite significant if they are caught violating the provisions of the act. It seems to me that many people will see there is a risk that they could get caught if a complaint is filed, and if they get caught, then there will be a hefty price to pay. So that, in and of itself, should send a strong signal to people who are inclined to violate the act to be very careful about what they do.

I would add to that the fact that we now have these additional investigative tools which we could use to vigorous effect if something fishy has been going on with a given third party. You go to a judge and get the judge to issue an order forcing people to open up to you and answer all of your questions under oath and/or answer in writing any questions that you put to them.

That is quite a powerful weapon with which to go into this and to find the reality of what transpired.

In addition, we will continue to be able to use the search warrant provisions of the Criminal Code that allow for production orders to be issued, forcing a third party to give us any and all information they have on a given situation.

I think the rules on third parties are going to be quite different. The sanctions will be more severe, and the police and the investigators will have additional powers to find the truth and go after people who decide to violate the legislation.

Senator Smith: But my question is: Can you be proactive? You said you're basically just a complaints operation. If you're waiting for complaints, I'm not sure you will be able to be proactive and solve any of these issues. I wonder what your comment would be.

Mr. Côté: We are a complaint-based organization. We have a staff about 45 people in total, so we simply do not have the resources to do the kind of work that you would hope, perhaps, we were doing.

Senator Smith: Thank you very much.

Senator Dasko: Thank you for being here today. I have a couple of questions.

First of all, on the vouching provisions, I have a question to Mr. Perrault. Is there only one circumstance where someone could vouch for more than one person? Is that in care facilities? I just want to clarify the vouching possibilities.

Mr. Perrault: Yes, that's correct. Vouching is only allowed for one person except in situations of care facilities for seniors or people with disabilities. Then the person working in the care facility is entitled to vouch for more than one person if that person resides in the electoral district or neighbouring district. There are some constraints around that in the bill, but it is a loosening of the rules to deal with an unfortunate situation that we saw in the past where persons who were in care facilities could not be vouched for because the nurse could only vouch for one person.

Senator Dasko: Thank you.

Mr. Perrault, I see nothing in this bill that promotes the candidacy of women in politics. I'm not a lawyer, but when I look at this bill, I see various possibilities to reward or penalize political parties for activities they may undertake. However, there is nothing in here that would have any impact on the candidacy of women in that respect with regard to nominating female candidates for political office.

Now, do you agree with me that this would be a good vehicle to do that and to take these kinds of actions? This elections modernization act looks pretty good with regard to the opportunities here to do that.

Only 26 per cent of the House of Commons is female. These kinds of ideas have been around for some time now, and I'd like your view as to the suitability of this legislation for promoting that goal.

Mr. Perrault: That's a policy decision for Parliament to make. I would be happy to do my part in administering the act and any measures there would be.

There is one measure in this bill. I don't think it's a game changer, but there is a provision to facilitate the use of funds for child care expenses which, I should add, is not a female expense. It is not only women who have child care expenses, but it remains the case that many women have that as a challenge.

I think it's useful. I don't think this is necessarily a game changer.

If Parliament wished to expand on incentives for women to participate as candidates, then I would be happy to administer that.

Senator Dasko: Do you think the bill is an appropriate tool to do something like this?

Mr. Perrault: I think this is fundamentally a policy decision for Parliament.

• (1810)

Senator Dasko: Following up on what you said earlier, you suggested there may be amendments at a later point to this bill. Do you have a commitment from the government to come forward with amendments to this bill in the future?

Mr. Perrault: I have made recommendations to the other place. I made some suggestions here. This is the vehicle I have to make recommendations, essentially.

Senator Dasko: You have no firm commitment you may come back or is that part of what you normally do?

Mr. Perrault: No. That's part of the normal process.

Senator Dasko: My last question follows up on the question Senator Lankin asked you about the public education mandate.

Are you able and will you encourage people to vote? Is that part of your mandate as you see it as opposed to just providing information to Canadians about where to vote, and so on?

Mr. Perrault: I think the terms of the mandate will be fairly general and not constraining under this bill.

Our approach traditionally and my approach during the election period would be to leave it to the parties to get out the vote and to play a more neutral role in terms of informing electors.

Where we play a more active role in promoting participation has been traditionally with youth. We've just issued a completely new set of tools for teachers to do civic education for pre-voters. I think we have a role to play there and we are collaborating with provinces. In terms of the election itself, however, as we get closer to the election period we provide factual information on the process.

Senator Dasko: Thank you.

Senator Tkachuk: I wanted to follow up on Senator Smith's questions on third-party advertising and fundraising. I wasn't clear about your answer.

Since the last election, if there is a third-party organization out there that is going to participate in the election, do they have to keep track of all their fundraising activities? Will they all be made public if they participate in the next election?

Mr. Perrault: All their fundraising for the purpose of the participation will have to be disclosed going back to the last election. That's my understanding of the rules being proposed here.

Senator Tkachuk: How would you know? If they're using American, Chinese or foreign money to administer their organization and they're putting all their Canadian money in that separate bank account you're talking about, how would you know what's what? If they're going to get into the business of elections, then they should get into the business of elections — that is, report all the funds they receive in a public manner.

Mr. Perrault: At some point there is the matter of trying to strike a right balance from a Charter point of view and the freedom of expression and association of groups. I think this is what the bill attempts to do. I requested an anti-avoidance rule — and it was added in parliamentary committee — to avoid the situation you mentioned, namely, where a group deliberately says, “You cannot give me money for my campaigning activities but if you give money to pay the rent, that will free up more money.” That would be an attempt to evade the rules and would be caught by the anti-avoidance rule.

It’s always a matter of evidence. We do not live in a police state. There are risks. We live in a free and open society and there are risks we need to be prepared to tolerate in order to preserve that free and open society. It’s always a matter of trying to find the right balance.

Senator Tkachuk: I understand there are risks. I’m a strong believer of freedom of speech, but this is a whole separate area here. They can receive all the money they want and they can use foreign money and talk about any issue they want at any time, 12 months a year — good for them — if they’re an environmental group, or a Conservative think tank, or whatever they want to be. However, once they get into the business of elections, it’s a totally different ball game. It’s no longer a question of freedom of speech in the sense that if they want to be free to speak, they should report where they get their money from. There shouldn’t be any conversation about whether it was a separate bank account, or that bank account, because there’s always doubt.

I don’t know why your office would not have strenuously asked for that kind of amendment to be made.

Mr. Perrault: We have made a number of recommendations for amendments and we’ve seen them in the bill. At some point, though, there is a balance between freedom of association and freedom of expression. The thresholds in the bill are quite low. Only \$500 to register and be subject to fairly stringent reporting requirements is a low standard. It does not take extensive expenditures for someone to get caught in the regulatory web of the third-party regime.

Senator Tkachuk: Thank you.

The Chair: Excuse me. We have four minutes in this section.

Senator Dalphond: I have four questions. I’ll start with one and stop there.

[Translation]

The most important right in any democracy is the right to vote. This right is protected by the Canadian Charter of Rights and Freedoms, and I am very surprised that voter turnout among soldiers, those who fight for freedom, just like the ones we see depicted in the First World War paintings in this chamber, is currently under 40 per cent.

Are there any amendments in Bill C-76 to change that situation to ensure that voter turnout is higher among our soldiers?

Mr. Perrault: I don’t know if I can promise a higher turnout. However, I can tell you that the system proposed by Bill C-76 offers greater flexibility to military members, to the men and women serving in the Canadian Army, and lets them choose between different ways of voting.

At present, members of the military must vote according to the Special Voting Rules. In principle, they cannot vote at the neighbourhood school in their community. They have to fill out an application as part of a more complex process, which is the Special Voting Rules process. It has some advantages in certain circumstances, but is nevertheless a more complex process.

Under Bill C-76, military members will be able to choose, just like Canadians, if they want to vote at their neighbourhood school, at the returning office or according to the Special Voting Rules. A wider range of voting mechanisms will be provided to military members.

Senator Dalphond: Where will their votes be counted?

Mr. Perrault: That depends on what mechanism is chosen. For example, if they decide to vote with the local residents — like here in the National Capital Region, where soldiers live in different neighbourhoods — their vote will be counted as a regular vote.

However, if they vote under the special voting rules for the military, the mechanism currently being used is that of the military vote count. In that case, the vote counts for the residence corresponding to the statement of ordinary residence, which is a statement of residence the soldier must make and can update so that his or her vote can be counted in that riding.

Senator Dalphond: We also heard about non-residents and the concern that many Canadians who no longer have real ties to the country would exercise their right to vote. Can you explain what the procedure is when Canadians living abroad want to exercise their right to vote?

Mr. Perrault: Canadians will have to register with the International Register of Electors, which can be done online. We then need to send them a kit by mail, which, unfortunately, is sometimes a long process. Once the information required has been received, we send the kit by mail, and it must then be returned to Ottawa or Gatineau to be counted by 6 p.m. on election day. We know that some people become discouraged. There are inherent delays when people live in major capitals.

[English]

The Chair: Honourable senators, the committee has been sitting for two hours. In conformity with the order of the Senate of October 31, I am obliged to interrupt proceedings so that the committee can report to the Senate.

I know that you will join me in thanking the witnesses.

Hon. Senators: Hear, hear!

The Chair: Honourable senators, is it agreed that I report to the Senate that the witnesses have been heard?

Hon. Senators: Agreed.

• (1820)

The Hon. the Acting Speaker: Honourable senators, the sitting of the Senate is resumed.

REPORT OF THE COMMITTEE OF THE WHOLE

Hon. Judith G. Seidman: Honourable senators, the Committee of the Whole, authorized by the Senate to consider the subject matter of Bill C-76, An Act to amend the Canada Elections Act and other Acts and to make certain consequential amendments, reports that it has heard from the said witnesses.

(At 6:22 p.m., the Senate was continued until tomorrow at 2 p.m.)

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