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The Honourable GEORGE J. FUREY,  
Speaker

## CONTENTS

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

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## THE SENATE

Friday, June 14, 2019

The Senate met at 9 a.m., the Speaker in the chair.

Prayers.

### TRIBUTES TO DEPARTING PAGES

**The Hon. the Speaker:** Honourable senators, we continue paying tributes to our pages.

Today we pay tribute to Anna Broaders, who is extremely proud to represent Paradise, Newfoundland and Labrador as a Senate page. She will enter her final year at the University of Ottawa in Economics and Political Science this fall. The Senate Page Program has been a remarkable and transformative undergraduate experience. She cannot thank everyone in the Senate enough for the positive impact they have left on her. We thank you, Anna.

**Hon. Senators:** Hear, hear!

**The Hon. the Speaker:** Jamey Irwin represents Mississauga, Ontario. She just completed her bachelor's degree in International Development and Globalization at the University of Ottawa, and will be continuing her studies there in a Master of Arts in Public and International Affairs. Jamey feels incredibly privileged to have served as Chief Page this year and would like to sincerely thank everyone at the Senate for making her time as a page an unforgettable experience. We thank you, Jamey.

**Hon. Senators:** Hear, hear!

### SENATORS' STATEMENTS

#### NATIONAL SICKLE CELL AWARENESS DAY

**Hon. Jane Cordy:** Honourable senators, I rise to recognize World Sickle Cell Day, which takes place on June 19, and which was established by the United Nations General Assembly in 2008. For the second year we here in Canada recognize National Sickle Cell Awareness Day on the same day, June 19.

I have spoken many times in this place about sickle cell disease and the effects it has on those living with it and the effect it has on families.

Honourable senators, effective awareness worldwide continues to be crucial in order to eradicate sickle cell disease. Various government organizations, health funding agencies and non-government organizations work to aid those with sickle cell. They also promote testing and national strategies in order to support patients and their families. But still, honourable senators, sickle cell is one of the most common genetic diseases in the world.

Sickle cell disease is caused by an abnormal form of hemoglobin — the molecules and red blood cells which carry oxygen throughout the body. With sickle cell disease, the red

blood cells become deformed and the abnormal hemoglobin is not able to work properly. Normal red blood cells are doughnut-shaped and move easily through the body's blood vessels, delivering oxygen to the organs. In patients with sickle cell disorder, the red cells become stiff and sickle-celled.

With sickle cell, the deformed cell does not flow easily through the blood vessels. This reduces the oxygen getting through the body to the organs, resulting in clogged blood vessels and low blood cell count.

The starvation of oxygen to the body's systems most commonly manifests itself as severe pain, especially in the bones, but it can also cause damage to shoulder and hip joints or chest pain from acute chest syndrome. Those with sickle cell are born with it and spend a lifetime managing the disease.

Honourable senators, I encourage you to seek out sickle cell organizations in your provinces and territories and to engage with patients and their families about the struggles they face daily.

There are many events happening to mark National Sickle Cell Day. Here in Ottawa, there will be a proclamation by the mayor. In Toronto, both City Hall and the CN Tower will be lit up in red and white.

I would like to thank Lanre Tunji-Ajayi, a former president of the Canadian Sickle Cell Disease Association of Canada and now President of the Ontario Sickle Cell Association, who works tirelessly to promote awareness of sickle cell disease and to promote access to health care for those with the disease.

I would also like to recognize Rugi Jalloh, President of the Nova Scotia Sickle Cell Disease Association; and Biba Tinga, President of the Sickle Cell Disease Association of Canada.

Honourable senators, I have met incredible Canadians in the sickle cell community, some who have the disease and many who are passionate advocates and making a difference for those with sickle cell.

I am very happy to support this incredible sickle cell community and to help to advocate with them. I ask you to join me in celebrating, on June 19, all the strides made toward awareness and, yes, the eradication of sickle cell disease. Thank you.

#### WORLD OCEANS DAY

**Hon. Mary Coyle:** Honourable senators, I rise today to celebrate World Oceans Day, which takes place on June 8 every year.

This past Saturday, I celebrated a magnificent World Oceans Day. I spent most of the day holding the tender hand of my 2-year-old grandchild, Violetta.

In the morning, she and I had a great time marvelling at starfish wriggling between her fingers, gazing in wonderment at a rare blue lobster and learning from the displays on alternatives to plastic at the World Oceans Day open house at St. Francis Xavier University.

That afternoon, Violetta and I continued our celebration by walking barefoot in the sand on Mahoney's Beach, and dipping our toes in the crystal-clear waters of St. George's Bay as we marvelled at the seabirds cavorting overhead.

How fortunate we are to be able to celebrate in this way?

World Oceans Day was officially recognized by the UN General Assembly in 2008, but the concept was originally proposed by Canada's International Centre for Ocean Development and the Ocean Institute of Canada at the Earth Summit in 1992.

Oceans cover 70 per cent of our planet. They are the earth's lungs, providing 70 per cent of the oxygen we breathe. They are a major source of food and medicines and are a critical part of the biosphere.

In Nova Scotia, we prize our oceans for many reasons — lobster, economic, health, recreation, well-being and cultural inspiration.

As bucolic as our World Oceans Day was on Saturday, there is now a pall hanging over our bonny, bonny shores.

Heeding the warnings and evidence of sea levels rising and the warming of the oceans, Halifax joined Vancouver earlier this year as the second Canadian city to declare a climate emergency.

There is evidence of accelerating coastline erosion and flooding, adjacent to the Mi'kmaq communities along the Bras d'Or Lake — Cape Breton's inland sea.

• (0910)

Like Halifax city councillors, young Nova Scotian students from Amherst to Lunenburg are joining their peers in Canada and in 150 countries in Fridays for Futures marches inspired by Swedish student Greta Thunberg who famously told world leaders at the Davos World Economic Forum earlier this year that "Our house is on fire." The sign of a school striker, Katie Hutten of Halifax, said, "The greatest threat to our planet is the belief that someone else will save it."

Colleagues, let's listen to these young people before it's too late. Our beautiful and bountiful oceans are precious and essential natural assets. As we approach our summer break, I would like to invite you all to come visit Nova Scotia, "Canada's Ocean Playground," and dip your toes in our pristine waters. Thank you, *welalioq*.

## TORONTO RAPTORS

### CONGRATULATIONS ON NBA CHAMPIONSHIP

**Hon. Victor Oh:** Honourable senators, I rise today to celebrate and to congratulate our new NBA champion team the Toronto Raptors!

**Hon. Senators:** Hear, hear!

**Senator Oh:** The only people who missed the game last night were the hard-working senators in the Senate Chamber until midnight. Raptors made history. We won, we won, we won! This is the first time in NBA history a non-American team won the championship. It didn't come easy. After 24 basketball seasons, the Raptors took the NBA title with an up-and-down, back-and-forth Game 6, eventually ending in a 114-110 victory.

That speaks volumes of who we are as a nation. We The North! Canada from coast to coast to coast was turned into Jurassic Park last night. Sport brings us closer together. As a senator from Ontario, I'm extremely proud. Go Raptors go! Thank you.

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[Translation]

## ROUTINE PROCEEDINGS

### LEGAL AND CONSTITUTIONAL AFFAIRS

#### COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

**Hon. Pierre-Hugues Boisvenu:** Honourable senators, with leave of the Senate and notwithstanding rule 5-5(a), I move:

That, for the purposes of its consideration of Bill C-93, An Act to provide no-cost, expedited record suspensions for simple possession of cannabis, the Standing Senate Committee on Legal and Constitutional Affairs be authorized to meet on Monday, June 17, 2019:

- (a) even though the Senate may then be sitting, with the application of rule 12-18(1) being suspended in relation thereto; and
- (b) even though the Senate may be then be adjourned for more than a day but less than a week, notwithstanding rule 12-18(2).

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

**Hon. Senators:** Agreed.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

[English]

## UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES BILL

### TIME ALLOCATION—NOTICE OF MOTION

**Hon. Murray Sinclair:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

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

1. if the Senate has not completed proceedings on Bill C-262 by 3 p.m. on June 19, 2019, the Speaker interrupt any proceedings then before the Senate to dispose of the bill without further debate, amendment or adjournment, provided that if the bill is on the Orders of the Day for third reading, but third reading has not yet been moved, a motion for third reading be deemed to have been moved and seconded;
2. if a vote is underway at the time provided for in point 1, the terms of that point take effect immediately after the vote and any consequential business;
3. if a standing vote on Bill C-262 had been deferred so that it would normally occur after the time provided in point 1, the vote be instead dealt with at the time provided for in point 1, as if it were deferred to that time, and then be governed by the other terms of this order;
4. if a standing vote on Bill C-262 is requested after the Speaker is required to interrupt proceedings under the terms of this order, the vote not be deferred and the bells to call in the senators ring only once and for 15 minutes, without the further ringing of the bells in relation to any subsequent standing votes requested during that sitting in relation to the bill;
5. if the Senate does not sit on June 19, 2019, the provisions of point 1 and other provisions of this order govern proceedings on Bill C-262 at the next sitting of the Senate as if that day were the day specified in this order;
6. on the day the Senate must dispose of Bill C-262 under this order, no motion to adjourn the Senate be received, and the provisions of the Rules and any previous order relating to the time of automatic

adjournment and the suspension of the sitting at 6 p.m. be suspended until all questions necessary to dispose of the bill have been dealt with; and

7. for greater certainty, nothing in this order prevent proceedings on Bill C-262 from concluding before the date provided for in this order.

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## ORDERS OF THE DAY

### BILL RESPECTING FIRST NATIONS, INUIT AND MÉTIS CHILDREN, YOUTH AND FAMILIES

#### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator LaBoucane-Benson, seconded by the Honourable Senator Simons, for the third reading of Bill C-92, An Act respecting First Nations, Inuit and Métis children, youth and families, as amended.

**Hon. Marilou McPhedran:** Honourable senators, I rise today in my ongoing attempts to be an ally, to stand in solidarity with Senator McCallum and the Assembly of Manitoba Chiefs and speak with great concern on Bill C-92.

[Translation]

In Manitoba, First Nations children taken into custody by Child and Family Services are going through a humanitarian crisis, as former Minister of Indigenous Services Jane Philpott said.

[English]

Manitoba's child welfare system remains deeply rooted in colonialism. Bill C-92 was not developed with or by First Nations people. Moreover, the Assembly of Manitoba Chiefs, or AMC, has advised that Bill C-92 will likely result in a reversal of the progress already made in the province by First Nations people.

The Assembly of Manitoba Chiefs highlighted that Bill C-92 contains a number of problematic provisions that have the potential to severely impact negatively on First Nations children in Manitoba.

A particular concern for the AMC is that the key challenges experienced in Manitoba are not adequately addressed in Bill C-92. These concerns include the gross overrepresentation of First Nations children in care, the historically problematic dynamics between First Nations in Manitoba and the provincial government and the ongoing antagonistic approach to provincial reform of the child welfare system in Manitoba.

Continuing or furthering colonial child welfare policies will have detrimental generational effects on First Nations children in Manitoba. As a Manitoban, this is a reality of which I am aware.

• (0920)

In Manitoba, there are approximately 11,000 children in care; 90 per cent of these 11,000 children are of Indigenous origin.

In January of this year, a First Nations woman had her two-day-old baby removed from her arms while she sat in a hospital bed. The baby was removed by child-care workers who were escorted into the hospital by police officers. In a written statement, the mother said:

I am sad this occurs so frequently. It has been traumatic to witness the lack of empathy and compassion shown during the apprehension of my child, and even during my first court appearance. I am thankful if my baby and I have brought some awareness to the situation that is happening here in Manitoba.

May I suggest, colleagues, that this is an astonishingly generous way to respond to the apprehension of your newborn child, to be able to see this as something that is an entrenched pattern, and to hope that, by speaking out, that even though it happened to you, you are trying to raise awareness about the extent of this problem?

This is not a stand-alone incident. On average, it has been reported that newborns are seized in Manitoba almost once a day. As a response to the horrific reality of the current state of the child welfare system in Manitoba for First Nations children, in December 2017, First Nations in Manitoba, through the Assembly of Manitoba Chiefs, signed a memorandum of understanding on child welfare with Canada and then Minister of Indigenous Services Jane Philpott.

As part of the MOU, the agreed-upon work plan was to develop a framework whereby full jurisdiction over child and family matters was to be restored to First Nations within five years. I note the difference between full jurisdiction and coordination agreements in the bill, which only recognize full jurisdiction.

It was also agreed upon in the 2017 MOU that the federal government would develop legislation that would give effect to the template laws on children and families respecting the five nations and language groups in Manitoba.

As part of their obligations under that MOU, the Assembly of Manitoba Chiefs developed the draft Bringing Our Children Home Act, a Manitoba First Nations-specific piece of proposed federal legislation.

The Assembly of Manitoba Chiefs also developed a process and structure for the implementation of the Bringing Our Children Home Act with Indigenous leadership. The Bringing Our Children Home Act was developed through in-depth community consultations on traditional First Nations law on child welfare. Through the MOU, the development of the act is an example of what a nation-to-nation relationship could and ought to be.

There is a stark contrast between the Bringing Our Children Home Act draft and Bill C-92. It's pan-Indigenous legislation in Bill C-92, and it was not developed in consultation with the First Nations leaders in Manitoba. Bill C-92 fundamentally changes the approach Canada agreed to in the 2017 MOU with the Assembly of Manitoba Chiefs and First Nations in Manitoba, in many cases led by women chiefs who have been deeply involved in trying to reform the system for a very long time.

As a result of the discrepancies between Bill C-92 and the Bringing Our Children Home Act, Senator McCallum and I wrote earlier to Minister O'Regan to request a commitment letter in regard to the impact of Bill C-92 on Indigenous services for First Nations in Manitoba.

In that letter, we advised the minister that a commitment from him:

. . . would help to address these concerns and provide an opportunity to clarify how this legislation in fact supports working toward viable solutions for the AMC and First Nations in their vision for Manitoba child welfare system reform.

The Assembly of Manitoba Chiefs represents 62 out of the 63 recognized First Nations in Manitoba. In committee, the members of the Standing Senate Committee on Aboriginal Peoples heard that the Southern Chiefs' Organization in Manitoba was supportive of Bill C-92. I would like to share an explanatory statement released by the Assembly of Manitoba Chiefs this week.

The SCO is provincially mandated by the Child and Family Services Authorities Act to appoint board members to the Southern Authority; however, the Southern Authority is created by Manitoba legislation and is ultimately accountable to the Minister of Families, not to First Nations' governments.

This further entrenches the provincial system.

The Southern Chiefs' Organization is also on record as supporting the Province of Manitoba's child welfare reform. However, evidence is mounting that the child welfare reforms in block funding are resulting in dramatic, detrimental effects on First Nations families.

As an independent senator from Manitoba committed to being an ally for Indigenous people in the province, and with a focus on the well-being of children and their rights, it is my responsibility to raise these concerns, and I ask for your consideration, colleagues. Thank you, *meegwetch*.

**Hon. Sandra M. Lovelace Nicholas:** Would the honourable senator take a question?

**Senator McPhedran:** Yes.

**Senator Lovelace Nicholas:** Thank you. I'm concerned about the children in my province. We should all stick together, because what happens in the other provinces where the children reside, and what happens if this bill does not pass? The children lose out across Canada.

**Senator McPhedran:** Thank you so much for your question. I think maybe the best way I can answer this is to refer to the letter that Senator McCallum and I wrote to the minister, because part of what we were raising was the wording in Bill C-92, which has continued to create a fair degree of confusion. That's one of the reasons why we're asking the minister to prepare a letter of commitment with an explanation.

In the letter, we say:

Moreover, the AMC has voiced concerns that Bill C-92 will in fact be detrimental for First Nations children in Manitoba. Bill C-92 does not adequately address the realities of over-representation of First Nations children in care, the historical relationship between First Nations and the provincial Manitoba government, and the ongoing problematic approach to provincial reform of Manitoba's child welfare system. Clarification on the record is needed as to the possible constructive opportunity for "opting in" in this Bill and the status of the draft "Bringing Our Children Home Act" developed by the AMC under the leadership of women chiefs to respond to the realities in Manitoba. There is deep concern that years of work by First Nations leaders will be set back by this legislation.

The commitment letter we request from you as minister in regard to Bill C-92 would help to address these concerns and provide an opportunity to clarify how this legislation in fact supports working toward viable solutions for AMC and First Nations in their vision for Manitoba child welfare system reform.

This is as set out in the 2017 memorandum of agreement. It's as though this contract with the federal government somehow completely disappeared from the consciousness of the federal officials and the minister in the process of negotiating this contract.

I also want to clarify that it's come to my attention that one of the members of Parliament for Manitoba has indicated on the record to the media that the minister has been asking to meet with Senator McCallum and I for weeks, and I want that to go on the record that we are not aware of any request to meet. We would have been delighted to do that.

The position that I'm taking here, Senator Lovelace Nicholas, is that, of course, for pan-Indigenous legislation, then that can apply across the country as First Nations and Aboriginal peoples across this country decide that they want it to apply, and that that principle should apply to Manitoba, particularly since they have a pre-existing memorandum of understanding and they went ahead on that basis and developed the legislation for Manitoba.

• (0930)

**Senator Lovelace Nicholas:** Thank you for that answer.

Would you accept another question?

**Senator McPhedran:** I will.

**Senator Lovelace Nicholas:** In my experience, I have worked with individual chiefs and a body of chiefs, and not all chiefs listen to grassroots people. This is what bothers me.

Your province is having problems. Of course my province is going to have problems as well. I am deeply concerned that if this doesn't pass, we will not get anywhere.

**Senator McPhedran:** I think that's a very important statement that you made and I hear it with great respect, but I didn't hear a question.

**The Hon. the Speaker:** Senator McCallum on debate.

**Hon. Mary Jane McCallum:** Thank you, Your Honour.

Honourable senators, I rise today to speak on debate at third reading of Bill C-92, An Act respecting First Nations, Inuit and Métis children, youth and families.

I confess, honourable senators, that despite my initial excitement upon hearing this legislation was in the works, I have some serious misgivings about its execution since studying the product before it went back to the House of Commons. Even with the amendments, there are still too many unanswered questions to this bill.

As most of you are well aware, the epidemic of Indigenous children being apprehended and removed from their families has been a serious risk for decades. There have been no tangible improvements to this stark reality, despite countless calls for corrective action to be taken. While I laud the government for their encourage in considering this issue, I feel that this bill may not produce the optimistic results they are hoping for.

Honourable senators, in the book entitled *Native Children and the Child Welfare System* published in 1983, T. Hunsley, the Executive Director for the Canadian Council on Social Development stated:

We have seen much progress during the last sixty years concerning the care of children unable to live with their own families. It has, however, become more and more evident that this progress has not benefited Native children and their families. . . . the questions are so complex that few people understand why or even how the system fails to fulfill its obligation to Native children. The CCSC is of the opinion that serious and immediate attention must be given to the shortcomings in the Canadian child welfare system and the way in which it affects native people's.

Honourable senators, it has now been almost 100 years of apprehension under provincial jurisdictions. Over this time, these systems have continued to remove countless children from their families and their culture without ever addressing the issues that facilitate and perpetuate this cycle. Many of these children continue to live their lives in exile, not being able to reconcile with their families or their communities, nor being able to reconcile with other Canadians. Today, there are still no



programs in place for young adults who have aged out of care. They have no safety net. The percentage of these youths who have experienced a juvenile detention centre is unknown. There are not adequate resources for this specific group of children.

According to a September 2018 report of the Manitoba Legislative Review Committee entitled *Opportunities to Improve Outcomes for Children and Youth*, the province of Manitoba saw an 85 per cent increase in the number of children in care over the past decade; 90 per cent of these children were Indigenous; 60 per cent were permanent wards, meaning they were under the permanent guardianship of a CFS agency, and the guardianship rights of their parents had been terminated.

Manitoba's annual child welfare budget has almost tripled over the past 12 years to \$514 million in 2016-17. Roughly, this equates to \$46,800 per child in care. It should be noted that this figure does not include federal funding for on-reserve child and family services.

While Bill C-92 is sparse on details regarding funding, I can only hope that First Nations, Metis and Inuit in Manitoba will receive the same amount of funding that the province has been getting on this file. That would be a step toward equity.

Honourable senators, I would like to quote from this Manitoba report. It states:

Although the CFS system may be devolved on paper, meaningful devolution (transfer) of resources and authority to Indigenous governments and communities has not been a reality.

Honourable senators, provincial jurisdiction over child welfare is, quite frankly, a cash cow for the province. At the end of the day, it is not in their best economic interest to simply relinquish control of child welfare. While the province is highly motivated to retain control, Bill C-92 has no mechanism through which the province must act cooperatively and in good faith with Indigenous communities.

We have been told in committee that there is “. . . a one-year period. But if an agreement is reached before then, then the law gets to be federal law and has paramountcy. They don't have to wait for the one year if they have an agreement with the province or territory.” There was no mention of a requirement for meetings to take place between the provinces and the federal governments about this transfer of power.

There is also no mechanism if the Indigenous group is unable to get the province to the table in the one year. Does that mean they will have to wait another year to do the transfer, and who will facilitate this move if you're forcing the province to the table? Who makes the final decision that the Indigenous group is ready to transfer in this situation and who maintains the liability?

Honourable senators, as I am here to represent my region and my province, I would like to inform you of the situation in Manitoba, where the child welfare system and apprehension of Indigenous children is at a crescendo.

The AMC, with whom I have worked closely on this piece of legislation, has indicated time and again of their inability to get the province to the table to discuss this transfer of authority. The unwillingness of the province to discuss this matter while they continue to make money off the backs of First Nations children has been one of the main reasons why the Assembly of Manitoba Chiefs does not support this bill. They sought confirmation that the bill would not further entrench provincial jurisdiction over Indigenous governing bodies but has not received an answer.

It should be noted, honourable senators, that Manitoba First Nations are in a position of leadership when it comes to addressing this issue.

Senator McPhedran spoke about the MOU. This MOU saw the federal government give AMC \$1 million. I am proud to announce that this legislation is completed. It is entitled the *Bringing Our Children Home Act*.

The Women's Council at AMC has done tremendous work on this act and has worked with all five tribes in Manitoba to format this act in each of their languages. Yet, a serious concern exists of Western laws continuing to colonialize and override Indigenous governance, despite the fact that AMC is prepared to move forward on this file through their own initiative and legislation.

As was noted by one of the advisers during clause-by-clause consideration, “This affirms a right of inherent to self-government.” That is what it said.

Is this self-government confined to child welfare legislation, or is this a self-government agreement? How many of the self-government agreements put in place have worked or not worked? What was learned about the self-government agreements that didn't work and what will be the residual role of the federal government? What about outstanding land claims? There are more questions than answers.

• (0940)

Honourable senators, AMC had initially requested an opt-out clause in this legislation, citing the progress they have made under the aforementioned MOU as well as the historic and sustained unwillingness of the province to positively work together. However, I found out, when we did the clause-by-clause study of this bill, that such an option was never realistically available.

First Nations, Metis and Inuit are forced to stay within the confines of this bill or else they will be left in limbo and never able to opt in. This may be a different story if there is a pending self-government agreement, but for those not in that position, this is a risky endeavour they would be forced to face through the rejection of this legislation.

As Cindy Blackstock, Executive Director of the First Nations Child and Family Caring Society of Canada, astutely notes in her op-ed of June 6:

Bill C-92 offers Indigenous children a colonial Faustian bargain: Accept the flawed bill in its current state or get nothing.

Bill C-92 has caused much division in First Nations, Metis and Inuit communities and institutions. This is largely due to the fact that these three groups have distinctly different histories, realities and needs. For a government that prides itself on taking a distinctions-based approach to Indigenous issues, I am disappointed that such an important piece of legislation is done through a pan-Indigenous approach. What will work for First Nations may not work for other First Nations, Inuit or Metis.

I know that a one-size-fits-all prescription will be ineffective in combatting such deep-rooted and historic problems of these three groups, each with their distinct and different cultures within themselves. Moreover, a pan-Indigenous model would not be able to take into account the uniqueness of historical and current experiences of First Nations, Metis and Inuit peoples to ensure that funding would be equitable. If the appropriate funding is not given, it will set everyone up to fail and result in each group being worse off than they are now.

Honourable colleagues, part of the reason that the current and past systems have been unable to make progress in child welfare is that they did not address the social determinants of health and their impact on First Nations, Metis and Inuit lives.

If your family cannot provide the basic necessities and are combatting health issues such as addiction and depression, which are a result of oppression, how can their situation improve if they are not given the adequate and holistic resources to do so?

It is worth noting that social determinants of health like housing, employment, food security, mental health therapy, justice and so on, which are beyond the scope of this bill, are vitally important in mitigating this cycle of child apprehension.

There has been no mention of coordination between the different federal departments and how they would coordinate the services required for each community to accommodate this bill.

There are too many unanswered questions for me and for the many women whose voices I bring to this floor, and it's women from across Canada.

I will be voting against Bill C-92.

I want to thank Cora Morgan, the Family Advocate Office, AMC Women's Council, AMC Grand Chief Arlen Dumas and all the chiefs in Manitoba for all their hard work through this process. *Ki na nas ko mi ti na wow* for your advocacy, passion and determination. Thank you.

**Some Hon. Senators:** Hear, hear.

**Hon. Murray Sinclair:** Honourable senators, I rise to speak to some of the issues that have been raised with regard to the comments of our two colleagues present. As you know, I've been a supporter of this legislation from the beginning, even though it has, certainly, a considerable number of flaws.

One of the concerns, as I understand it, that has been raised by the Assembly of Manitoba Chiefs with regard to this particular legislation is the fact that they consider that it will override any

process or progress that they've made with regard to negotiations with the provinces and the federal government to this point in time.

In conversation with some chiefs who have called me with regard to trying to enact a Manitoba-specific piece of legislation, I pointed out that in the bill, at present, clause 3 provides for the fact that current agreements are not to be affected by this bill — in fact, will have overriding jurisdiction with regard to what the bill itself has to say.

If you look at clause 3 of the proposed bill, you will see that, in fact, it provides that if there is a conflict between this bill and any existing agreement regarding child welfare, self-government or anything relating to child and family services that is currently in place, then that agreement that is currently in place prevails over the bill. The bill does not supersede the terms of those agreements.

In my view, the memorandum of understanding that the Assembly of Manitoba Chiefs is afraid is going to be negatively affected by this legislation will not, in fact, be negatively affected to a certain extent. This particular bill will be overridden by that memorandum of understanding and any other related agreements that have flowed from that are currently in place with regard to child and family services in Manitoba.

One of the concerns that I have is that if we do not pass this legislation, then we are, in fact, continuing the status quo. It's very clear to us that the status quo is unacceptable. We cannot allow the existing child and family services legislation of each of the provinces to continue to practise as they have been practising, which has resulted in the extreme over-apprehension of children without appropriate consideration of the cultural and community backgrounds that are important to the child to be allowed to continue. Accordingly, defeating this bill will simply take us back to the status quo. We can't allow that to happen.

There are certainly concerns that need to be identified and acknowledged. One of them that was recognized early on — and I communicated to the minister about it — was the lack of a clear commitment to funding. Within the bill now, amendments that have been negotiated and, in fact, Senator Patterson and I talked about, was a commitment on the part of government that when decisions are being made with regard to future agreements with Indigenous communities, that funding will be a factor that will be part of those considerations and those agreements.

I am concerned that the only voices that we've heard spoken about with regard to the argument to dispose of this bill by voting against it have come from the First Nations communities. We have an obligation to also consider what is the voice of Metis community and what is the voice of those Inuit people in Manitoba. Manitoba does have a distinct Inuit population in northern Manitoba, plus the population of Inuit people in the city of Winnipeg who are also affected by this legislation. We need to acknowledge that we haven't heard from them.

While I don't like to say that silence is acceptance, the reality is I know that the Metis people of Manitoba, through their organizations, are looking forward to being able to figure how to make this bill work to their advantage. They have not spoken out against this particular piece of legislation.

The final point is that one of the important provisions in this bill, and Senator Patterson spoke about it in his speech, is that this particular bill acknowledges that jurisdiction over child and family services is recognized as a right of self-government that Indigenous people have pursuant to section 35 of the Constitution Act, 1982. Therefore, to take that principle away from the Indigenous people, particularly in Manitoba or across the country, by not voting for this legislation would be a retrograde step because I think they are all looking forward to being able to assert that jurisdiction.

Senators, I would speak against the suggestion that we vote against the bill. I still continue to support it. I repeat what has often been said in this place: It's not perfect, but sometimes perfection can be the enemy of the good. And this is a good bill. Thank you.

**Some Hon. Senators:** Hear, hear.

**The Hon. the Speaker:** Senator McCallum, a question?

**Senator McCallum:** One of the suggestions was if this bill had been broken down into three bills, with each of the distinct groups having their own bill, would that have been better? And if we had that opportunity with the next government, that these three bills be broken down into each of their own, would that work better?

• (0950)

**Senator Sinclair:** I can probably think of 187 different ways that this bill could be improved. One could argue and probably ought to think of the fact that recognizing the specific rights and jurisdiction of the various Indigenous groups across the country is an area that might need to be considered in the future. However, for now, this bill basically says to provincial governments that your practices have resulted in the unfair over-apprehension of children in the child welfare system and we need to stop that from happening. One way of doing that is to enhance the authority of First Nations' governments to be able to exercise their authorities.

This bill empowers First Nations to now exercise their authority under federal law. They arguably had it as well under the Constitution, but it had not yet been clearly enunciated in a court decision. Therefore, I think that in the future, if one needs to consider whether to have a separate Inuit child welfare law or Metis child welfare law or a First Nations child welfare law, one needs to question the fact, why would we continue to want to legislate for Indigenous people if they can begin to legislate for themselves?

**Hon. Kim Pate:** Honourable senators, I rise to speak to Bill C-92. I stand on the traditional, unceded, unsundered territory of the Algonquin Anishnabeg.

I want to take this opportunity to thank the sponsor, Senator LaBoucane-Benson and colleagues on the Aboriginal Peoples Committee for all of the work on this legislation.

Bill C-92 seeks to do three things: affirm the rights and jurisdiction of Indigenous peoples in relation to child and family services; establish a framework for the provision of these

services across Canada; and contribute to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

The bill has the potential to promote reconciliation by putting the decision-making power back into the hands of Indigenous communities so that they may care for their children on their own terms.

However, while I commend the Government of Canada on its efforts, I share the concerns of other colleagues who have spoken and wish that we could have had more time for a comprehensive discussion of this legislation instead of rushing it through in the last weeks of this parliamentary session. Indigenous children deserve no less, particularly in light of Canada's roles in the residential schools, the state-sanctioned removal of children — often referred to as the Sixties Scoop — and the discriminatory provision of child and family services as per the repeated decisions of the Canadian Human Rights Tribunal.

As the chamber of sober second thought, we have a duty to represent those who are rendered voiceless and to bridge legislative gaps where they exist. I therefore echo some of the concerns that were shared with the Aboriginal Peoples Committee during its pre-study of the legislation.

Experts and long-time children's advocates indicated that significant shortcomings exist in the bill, particularly in the concrete ways in which it will impact the lives of Indigenous children. These deficiencies risk making it a paper tiger.

The First Nations Child and Family Caring Society of Canada stressed that jurisdiction and funding go hand in hand; jurisdiction being an inherent right of Indigenous peoples, and funding allowing for the expression of that inherent right. Youth in Care Canada also expressed a need for sufficient and equitable funding for youth in and from care.

In light of its 12-year and ongoing litigation against the Crown to try to secure equitable funding for First Nations child and family services, and in the wake of seven — seven, honourable senators — Canadian Human Rights Tribunal non-compliance orders against the government since only 2016, The Caring Society called on the Senate to entrench the tribunal's funding principles into this legislation, including an approach that promotes substantive equality and recognizes the needs, culture and distinctness of the communities in which the children live.

Despite the recent addition of a funding statement in the "coordination agreement" section of the bill by the other place, including wording on substantive equality and a needs-based approach, there remains no — no — positive obligation on any government, including the federal government, to equitably fund child welfare.

In fact, Dr. Cindy Blackstock, Executive Director of The Caring Society, referred in committee to a study by the Yellowhead Institute in which five leading Indigenous law professors gave the entire bill a "C" on five dimensions. The funding dimension was given a failing grade and the institute called for a binding funding agreement.

In addition, Bill C-92 does not adopt the Spirit Bear Plan to redress all inequalities in First Nations services and reform the federal government's relationship with First Nations and their children. The federal government has failed to adopt this plan outside of Bill C-92 and has testified under oath that it has no equivalent plan to address all inequalities in federally funded public services.

Any eventual judicial determination that Canada has a positive obligation to fund child welfare could involve extensive litigation, an endeavour that far exceeds the capacity of most First Nations communities.

Furthermore, although the bill would prohibit the removal of children on the basis of poverty, this does not address the underlying systemic factors of inequality that drive children into poverty in the first place, including addressing the housing and water crises in First Nations communities and disparities in access to quality early childhood education and provision of maternal health care.

Federal officials have repeatedly told us that they have left the wording of the bill vague to allow Indigenous communities flexibility in law making. This may be comforting if there was a strong funding provision that required governments to fund those self-determined visions, but there is not. This leaves open the real possibility that the government's desire for vague language is motivated by a desire to avoid enforceable language that would require it to fund items like post-majority care and primary, secondary and tertiary prevention. The more vague the act, the harder it is for Indigenous communities to hold government to account.

To quote Dr. Cindy Blackstock: "If you put self-determination on top of inequality, it is not going to realize the dreams of healthy families that this bill tries to promote."

Honourable senators, when you and I reached the age of majority, while our parents may have happily nudged us out of the nest, most of us were not thrown to the curb or off a cliff. We did not wake up one morning to discover we were on our own, or as a former youth in care, Dr. Brian Raychaba, wrote in his book, *To be on Our Own with No Direction from Home*, with no home, no family, no financial support.

As members of the National Youth in Care Network, an organization run by and for young people who have been in care, ages 14 to 24, have been documenting since 1988, children leaving the care of the state share the characteristics of homeless people and too many end up on the streets, dead or in prison.

As we know from the many deaths described by Senator Simons in her comments, and from the Truth and Reconciliation Commission calls to action on child welfare, and the Inquiry into

Missing and Murdered Indigenous Women and Girls, too many young people like Tina Fontaine live in extremely precarious and vulnerable positions when they age out of care of the child welfare system. Despite heartfelt and urgent pleas from many young people and other witnesses, the bill is currently silent when it comes to this crucial need of youth.

Despite the wording of the bill and what I believe to be the government's good intentions, this legislation does not guarantee that regulations will fill in the gaps and address these issues in the future.

As I have already mentioned, First Nations have spent over a decade litigating against Canada to get equitable child and family services and this litigation continues as Canada is refusing to mediate outstanding issues at the same time it asks us to rely on their goodwill to discuss funding in the coordination agreements.

In its interim report, the National Inquiry into Missing and Murdered Indigenous Women and Girls called for full compliance with the Canadian Human Rights Tribunal ruling in 2016, which found that Canada was racially discriminating against First Nations children.

Last week, the final report from the national inquiry was released, indicating that this still has not been implemented. The national inquiry agreed with Dr. Cindy Blackstock when she says:

• (1000)

When I look at the wealth of this country, I think that equality for First Nations children should come in a leap not in a shuffle. And just frankly, if they can afford to spend five billion on a pipeline, they can afford to eradicate inequalities in education and other areas for their kids.

Honourable colleagues, there is no evidence that the Government of Canada will provide equitable funding through regulations in the future. In fact, it continues to resist such calls. As a result, without a legislated funding agreement, the fate of First Nations, Inuit and Metis children is, again, subject to political priorities about what gets funded and what is in the regulations.

Young people who know all too well the failures of child welfare and the challenges of being relegated the children of the state are watching, and they are legitimately frustrated and fearful. We must acknowledge that the trauma and systemic failures are not mere abstractions or theories. They are the lived experiences of far too many children, most especially Indigenous children in this country. For all these reasons, I urge us not to abandon these youth or successive generations to more promises and too few commitments.

Whether you vote for or against this legislation, I urge us all to remember that we have a moral, personal and legislative responsibility to do better. *Meegwetch*. Thank you.

**Hon. Lillian Eva Dyck:** Honourable senators, I rise today to speak to third reading of Bill C-92, An Act respecting First Nations, Inuit and Métis children, youth and families, as amended.

I wasn't planning to speak, but, listening to the speakers this morning, I feel that I must get up to say a few words.

First of all, we've talked a lot about the concerns with respect to Manitoba. The committee tried to propose some suggestions on how to meet those concerns. Unfortunately, the amendment that was brought forth was, I think, deemed inadmissible. We heard that Manitoba wanted to opt out, but we also heard that this bill won't apply to them unless they opt in. They don't have to be part of this. Senator Sinclair indicated that their memorandum of understanding will not necessarily be overridden by Bill C-92.

I'm going to get to Saskatchewan and Alberta in a few moments. Certainly in Saskatchewan there is great support for this bill. People in Saskatchewan want it to move forward.

Senator McCallum talked about the cash cow. This is the elephant in the room. The provinces and territories don't want to give up the child welfare system because they make money on it. They take an administrative cut. They get more funding to administer child welfare than the bands get, so they don't want to give that up. The reason this bill is so late in the game, why we're getting it so late, is the federal government had an obligation to speak to the provinces and territories to try to get them to the table and work out an arrangement that the provinces would accept.

That took time, because there were always these rumours we were going to get it on such-and-such a date, and then the ministers met with the provincial ministers, and nothing happened. That relationship is critical to understanding why the bill came late and why some provinces want to maintain that system.

I agree entirely with Senator Sinclair when he says the status quo is simply unacceptable. When we look at Saskatchewan and some of the situations that happen when Indigenous children are placed in non-Indigenous homes, there are some horror stories. There may be horror stories the other way around too. But as the rights holders, as citizens of this country, Indigenous people should be allowed to have control over their own families. It's a vestige of colonialism that has been perpetrated through legislation.

It is a colonial system. We should be giving the control over what happens to Indigenous children back to Indigenous families. The bill acknowledges that, because we were able to amend it to put in that the benefit to the child must include their connection to their culture and community. When we talk about the funding for child and family services, we have to include things like the cultural and spiritual benefits to the child, whereas the old system was just kind of like a monetary system: We're going to take your child away from you because we don't think your home is

big enough; you don't have a separate bedroom or bed for this child; we'll take it away. Then that child suffers. So the status quo is unacceptable.

There's been disagreement about funding, but from what we heard, the funding mechanism in the original bill was amended in the House of Commons so that they put in phrases that take into account the need for substantive equality. It's not a commitment that would be in the budget. We cannot add that to a bill because, as the Senate, our hands are tied. Those will be worked out by the individual groups across the country as the First Nations governments negotiate their contribution agreements with the federal government. They will be able to then negotiate the money that they believe they require.

I want to read into the record what the Federation of Sovereign Indigenous Nations has said with regard to this bill. You will recall that Vice Chief David Pratt appeared before the committee and indicated that in Saskatchewan all of the First Nations are strongly in support of this bill. They're ready to move forward. It was the exact opposite of Manitoba. They want to get the control away from the provincial government. They're ready to move forward. They're excited. They're champing at the bit. They want to go.

This is from Vice Chief Pratt:

The Saskatchewan regional chiefs, by way of chiefs assembly resolution, fully support Bill C-92 in achieving what thousands and thousands of us First Nations across this country have been advocating for, full jurisdiction and taking care of our children within our own care systems based on our language and culture. The provinces are failing our children. In the provinces' care, children are either dying, going to jail or falling victim to many addictions. This has got to change. With the passing of Bill C-92, we encourage and respectfully ask all those to support it as they will help to save many children's lives by supporting Bill C-92. That is what many people this morning should be telling themselves: Let's save the lives of those children currently in the provinces' child welfare, and support Bill C-92.

The chiefs in assembly passed a resolution. I don't think it's necessary to read it into the record. That was passed on November 28, 2018, six, seven or eight months ago.

Saskatchewan is ready to go. I think that was brought up by the sponsor, Patti LaBoucane-Benson. I think you mentioned that in your speech.

You talked about Cindy Blackstock, Senator Pate. But we also had as a witness Mary-Ellen Turpel-Lafond, and we know she was a B.C. child and family advocate for 10 years or so, an extremely talented, passionate, highly educated great advocate for children's well-being. She spoke strongly in support of this bill. I wish I had the transcript in front of me. If you watch what she said, she was saying this is a major step forward for First Nations because it will allow First Nations to get out of

section 88 of the Indian Act, which allows the provinces to control what's happening in child welfare. By entering into Bill C-92, by opting in, they can get away from that control. They can take charge of their own child welfare system and they can get away from the status quo.

• (1010)

I recognize Manitoba has a problem, but if Saskatchewan really wants to go forward then, as my friend and colleague here said, probably most of the other communities across Canada are ready to go. We cannot hold this up because of the concerns of the Manitoba chiefs.

That was all I wanted to say. I fully support this measure. I encourage all people here to vote in support of this bill. Although it may not be perfect, it still is a big step forward. Getting out from the Indian Act, section 88, is huge. You cannot do that unless you go into this or you have self-government, and we know how long that takes. This is a step toward control. As Vice-Chief Pratt said, the chiefs of Saskatchewan are ready to move ahead on child welfare, on education. This is their first step. It's a good way to move toward self-government without actually having to negotiate and spend millions of dollars and decades to get to self-government. Thank you. Please support it.

**Some Hon. Senators:** Hear, hear!

**The Hon. the Speaker:** Senator Pratte, question?

**Hon. André Pratte:** Would the honourable senator take a question? Thank you for this. I will vote in favour of the bill because I believe the principles expressed in the bill are extremely important and crucial. I'm a little bit worried that some provinces that are, let's say, more sensitive to the protection of their jurisdiction, how they will react to the affirmation of national principles in this legislation.

How do you foresee the discussions and negotiations for coordination agreements between the federal government and the provincial governments considering that, in my understanding, there's no enforceability in this act; is that right? If there's no agreement, there's just no agreement.

**Senator Dyck:** Within the bill, there's a one-year time period for the provinces and the groups to come to an agreement. No doubt, there are cases where that won't happen. Certainly in Manitoba their feeling was that's never going to happen; they can't get the province to the table.

Saskatchewan is probably in a very similar position. The ministry in Saskatchewan is really not supportive of giving up control to First Nations. Saskatchewan said, "Okay, we will do what we have to do and then, after the one-year period, if agreement can't be reached, then the Indigenous law prevails." Then the Indigenous people take control away from the province.

After that one-year period, they have control. That's a reasonable time period, one year. Right now, the only way they can get control is through some other much more complicated self-governing agreement. In some cases, the territories might come under land claims agreements. This is a powerful step forward, as Dr. Mary Ellen Turpel-Lafond said.

**Hon. Dan Christmas:** Honourable senators, I, too, wish to rise to speak to third reading of Bill C-92, An Act respecting First Nations, Inuit and Métis children, youth and families.

I really appreciate the work that the Assembly of Manitoba Chiefs have done on this topic. They're so far ahead of others that the fear is that this bill will hold them back. I was so impressed when they expressed and outlined how they are developing Indigenous laws in their languages dealing with their children. I found that extremely heartening.

I didn't see an example like that anywhere else during our testimony at the Aboriginal Peoples Committee. We did have some testimony of other areas working cooperatively with the province. I remember the testimony of the Grand Chief of Treaty 3 of Western Ontario. Plus we had the testimony of Chief Paul Prosper of the Assembly of Nova Scotia Mi'kmaq Chiefs. They expressed how they have worked well with the province in jointly developing legislation that helps their children in a more productive way.

My point is that the Manitoba situation is envious in the sense that they're so far ahead that their fear is that this legislation will hold them back. Like Senator Sinclair, I carefully looked at the bill and I couldn't see exactly where the bill would stop them. The only thing I could see was this notion of coordination agreements and this period of one year in which the bill allows for Indigenous groups to work with provinces to come up with a coordination agreement. The problem, of course, in Manitoba is that there is a very strong antagonism between the Assembly of Manitoba Chiefs and the Province of Manitoba.

The worst inconvenience that the Assembly of Manitoba Chiefs would put up with is having to wait for a year until that expires, and then they can proceed and go ahead with their legislation. That would then override the bill and provincial law.

I would argue that this is a big step forward for First Nations in the other areas of Canada. I can only speak for First Nations; I appreciate that there are also opportunities within Metis and Inuit communities. This bill enables us to begin to develop our own legislation, to come up with our own laws on how to take care of our children. For the first time, it will unshackle us from provincial law.

As Senator Dyck mentioned, right now the status quo is, at section 88 of the Indian Act, which gives the provinces jurisdiction over First Nations communities, that this bill will enable us to set free from the Indian Act and enact our own legislation.

Senator Dyck mentioned the strong support we received from the Federation of Sovereign Indian Nations of Saskatchewan. They were very clear, articulate and passionate that we as members of the Aboriginal Peoples Committee should strongly support that.

My last comment, honourable senators, would be how I look at the situation. There are experts who have concerns. There are political organizations that have concerns. This is the way I look at it: What about the children? What about those children who are in care or who will go into care over the next year? What's best for them? If we defeat this bill, we preserve the status quo. I would argue that, even though this bill is not perfect, it is a strong and powerful step forward for those children who are now in care or will be in care.

I'm in favour of this bill. I will vote in support of it. I appreciate the views of my colleagues, my sisters. I understand their point of view. I think senators will appreciate there's great diversity among Indigenous people in Canada but, given the moment and given this piece of legislation, I encourage you to strongly support this bill.

**Some Hon. Senators:** Hear, hear!

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

**Hon. Senators:** Question.

**The Hon. the Speaker:** It was moved by the Honourable Senator LaBoucane-Benson, seconded by the Honourable Senator Simons, that the bill, as amended, be read the third time.

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

**Hon. Senators:** Agreed.

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

• (1020)

## ADJOURNMENT

### MOTION ADOPTED

**Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate),** pursuant to notice of June 12, 2019, moved:

That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Monday, June 17, 2019, at 6 p.m.;

That committees of the Senate scheduled to meet on that day be authorized to do so for the purpose of considering government business, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto;

That, notwithstanding any provision of the Rules, if a vote is deferred to that day, the bells for the vote ring at the start of Orders of the Day, for 15 minutes, with the vote to be held thereafter; and

That rule 3-3(1) be suspended on that day.

She said: Honourable senators, I move the motion standing in my name.

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

**Hon. Senators:** Question.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

*(At 10:21 a.m., the Senate was continued until Monday, June 17, 2019, at 6 p.m.)*

**CONTENTS**  
**Friday, June 14, 2019**

	PAGE		PAGE
<b>Tributes to Departing Pages</b>		<b>ORDERS OF THE DAY</b>	
Hon. the Speaker . . . . .	8626	<b>Bill Respecting First Nations, Inuit and Métis Children, Youth and Families (Bill C-92)</b>	
<b>SENATORS' STATEMENTS</b>		Third Reading	
<b>National Sickle Cell Awareness Day</b>		Hon. Marilou McPhedran . . . . .	8628
Hon. Jane Cordy . . . . .	8626	Hon. Sandra M. Lovelace Nicholas . . . . .	8629
<b>World Oceans Day</b>		Hon. Mary Jane McCallum . . . . .	8630
Hon. Mary Coyle . . . . .	8626	Hon. Murray Sinclair . . . . .	8632
<b>Toronto Raptors</b>		Hon. Kim Pate . . . . .	8633
Congratulations on NBA Championship		Hon. Lillian Eva Dyck . . . . .	8635
Hon. Victor Oh . . . . .	8627	Hon. André Pratte . . . . .	8636
<hr/>		Hon. Dan Christmas . . . . .	8636
<b>ROUTINE PROCEEDINGS</b>		<b>Adjournment</b>	
<b>Legal and Constitutional Affairs</b>		Motion Adopted	
Committee Authorized to Meet During Sitting of the Senate		Hon. Diane Bellemare . . . . .	8637
Hon. Pierre-Hugues Boisvenu . . . . .	8627		
<b>United Nations Declaration on the Rights of Indigenous Peoples Bill</b>			
Time Allocation—Notice of Motion			
Hon. Murray Sinclair . . . . .	8628		
<hr/>			