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(HANSARD)

Tuesday, June 22, 2021

The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Tuesday, June 22, 2021

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

Prayers.

SENATORS' STATEMENTS

IMPACT OF COVID-19 PANDEMIC ON SENATE PROCEEDINGS

Hon. Scott Tannas: Honourable senators, over the past 18 months we have witnessed many challenges to our institution and our ability to properly do our jobs as senators. For the most part, we've met those challenges through patience, collegiality, the application of innovative technology and a pragmatic approach to passing legislation that was in the vital interests of Canada and its citizens as we navigated the COVID-19 pandemic. As recently as yesterday, we have, by unanimous agreement, broken our own time-honoured rules in order to deal with legislation offering financial relief to Canadians.

We may be asked once more to do so in the coming days and we will likely agree. However, a few times in this extraordinary era of urgent governance related to COVID we have been asked to suspend our rules and forgo our rights to fully exercise sober second thought on matters that are not emergencies and not related to the pandemic. In fact, earlier in this session and on behalf of Canadian Senators Group, or CSG, senators, I tabled a motion to highlight our reluctance to consent to non-emergency issues being waved through our chamber.

There is an old Western Canadian saying that goes like this, "Your bad planning is not my emergency." On behalf of CSG senators, I want to state that in the coming days we will carefully and thoughtfully be applying that principle in the Senate Chamber, and we hope you will join us in doing so. Thank you, colleagues.

ACADEMIC YEAR-END

Hon. Patricia Bovey: Honourable senators, we are approaching the end of the school year, and the spring university convocation season is here. I rise to extend my admiration for teachers, professors, students, parents and all educational support staff who have worked in so many new and important ways.

It has been quite a year: one of anxiety, uncertainty, changing realities, with everyone having to shift their lives on a dime. This truly difficult education year saw most university classes on Zoom, teachers and students shifting how they teach and how they learn. In schools, patterns changed substantially too. Parental engagement was necessarily greater than ever before, and I can only imagine the stress levels as parents juggled work, parenting and this new role of being at-home, full-time tutors.

So today I stand to thank publicly and congratulate all. To those graduating from universities with undergraduate and graduate degrees, I say you have demonstrated a tenacity for your studies which has been tested in new ways. You are unquestionably self-starters, a skill many employers are after, so I wish you well as you start this new chapter of your life.

To those graduating from high school, I applaud you too. Many of you have gone through much of your final year of school solo, at home, on Zoom and without the social lives which I well know sustain you. For some, internet access and lack of technology posed additional problems.

As for students of all ages, I know across this country some have been able to be in class all year, but in other parts of the country that has not been the case. You have been in the classroom for some spells, but attended via Zoom for weeks on end. Often, those plans changed overnight.

To parents, I am full of admiration. Many of you have been working full time and been home-based tutors simultaneously, at a time when you could not even set up play dates for your children and when many of the places where you could take your children for a much-needed diversion were closed — theatres, museums, swimming pools and more.

Colleagues, many of those parents working full time and being the daily tutor are our staff, our Senate Administration and in our own offices. I really thank them for keeping up with us as we have learned to do our jobs differently while not able to work with them face to face. We are truly blessed with the dedication of our professional teams.

May we all look back on this academic year as one in which we realize much was learned and accomplished, despite its uniqueness and stresses. I know we all look forward to and hope for a more normal 2021-22 academic year. In the meantime, again I thank teachers, students, staff and parents, as I wish all a wonderful summer. Thank you.

NATIONAL INDIGENOUS PEOPLES DAY

Hon. Gwen Boniface: Honourable senators, I rise today to commemorate National Indigenous Peoples Day. Each year on the summer solstice we celebrate the rich and diverse culture and knowledge of First Nations, Inuit and Métis peoples — a tradition that has been carried out by Indigenous communities since time immemorial.

At this time of celebration, we are collectively struck with the devastating discovery of 215 children's graves found near Kamloops Indian Residential School. We must understand it is only the beginning of the unveiling of truths of our collective history revealed in the courageous voices and Final Report of the Truth and Reconciliation Commission — truths that must come first and must guide us to take accountability and concrete steps to action.

At this time, I would like to take a moment to share with you a community project in my home region of Orillia, in the Gojijing, Lake Couchiching bioregion, in the traditional territory of the Anishinabek, in Williams Treaties territory and Georgian Bay Métis region. Inspired by my experience on the Aboriginal Peoples Committee and with the advice of our former colleague Senator Murray Sinclair, I realized the importance as a parliamentarian of my role and to take responsibility and dedicate efforts toward energizing truth and reconciliation here at home.

Over the past two years, with the guidance and lead from local Indigenous elders Lorraine McRae, Jeff Monague and John Rice, and with community members, I have been hosting regular meetings with a growing circle of Indigenous and non-Indigenous community leaders from across our region. What started as a series of round-table dialogues for truth and reconciliation led to a desire from the group to move into collective action and has inspired many collaborations, innovation and community vision.

An event planned for June 2020 was inevitably postponed by the pandemic and our meetings transitioned to an online format, which continued and have evolved. At the beginning of this year, a pathway plan and two priorities were identified for action: engaging the voices of Indigenous youth to lead us with their perspective, and to the development of education for families, schools, media, organizations and businesses across our region.

As a result of the planning sessions in collaboration with knowledge keepers and local educators, this group launched a website, dialogue series and online walk for truth and reconciliation through portals known as "choice boards."

There has been remarkable feedback since the site went live on June 1. I want to take a moment to thank our elders, our vibrant youth and the many community members of the round table whose commitment has been unwavering.

• (1410)

Honourable senators, the journey of the Gojijing Truth and Reconciliation Roundtable has been a great privilege, with people deeply committed to the principles and Calls to Action within the Truth and Reconciliation Commission. Please join me in congratulating them on what is certainly a great beginning. *Meegwetch*. Thank you.

[*Translation*]

QUEBEC'S NATIONAL HOLIDAY

Hon. Tony Loffreda: Honourable senators, in two days, it will be June 24. In Quebec, we'll celebrate our national holiday, while elsewhere in Canada, francophones will celebrate Saint-Jean-Baptiste Day. Wherever you are, be it in Abitibi, Bouctouche, Timmins, Saint-Boniface or elsewhere in the country, June 24 is a time to highlight our rich francophone heritage and celebrate the many contributions of Quebeckers, French Canadians and francophone immigrants to the cultural landscape of our country.

French is the common language of over 10 million Canadians, and is at the heart of our June 24 celebrations. It is a rich and beautiful language, and is an integral part of the history of Quebec and of the Canadian francophonie. Beyond the French fact, this great celebration on June 24 is also the perfect occasion to celebrate the traditions, accomplishments and values which make us, North American francophones, a strong and resilient people, clearly proud of its heritage.

June 24 reminds us of the extent to which our history and our culture have served to build bridges between us and the rest of Canada, through the generations and the ages, and to contribute, deservedly, to the multicultural dynamic of our country. In fact, Canada stands out in the world for its bilingual status, its inclusive pluralism and its protection of cultural and linguistic heritage. We have many reasons to be proud.

Growing up in Montreal, working in Quebec and living in Canada gave me the opportunity to learn, study, raise a family and work in both French and English. Not everyone has that privilege, and I'm grateful that I did. Since I was sworn in to the Senate, I've developed a greater appreciation for the magnitude and importance of the French fact in Canada, and it is up to all of us to ensure its vitality. On June 24, it is important that we recognize the historic contribution of the French fact in Canada and that we celebrate how that language unites us, even with its various accents and regional dialects.

Honourable senators, I hope that you'll join me in wishing all Quebecers an excellent national holiday and wishing all francophones and francophiles across the country a happy Saint-Jean-Baptiste.

Let's hope that we'll also be able to celebrate a victory by the Montreal Canadiens this evening. Thank you.

PREVENTION OF VIOLENCE AGAINST WOMEN

Hon. Pierre-Hugues Boisvenu: Honourable senators, 160 women were murdered in Canada in 2020 because, in many cases, our justice system was unable to protect them.

In my opinion, that is the great contradiction in the political discourse, one for which we're somewhat responsible. We encourage women to report when they are victims of violence and then they pay with their lives for doing so.

In recent years, I've attended many funerals for murdered women. I've consoled their parents, brothers, sisters and children. Sadly, I've never been able to provide them with a proper answer to their question about why our justice system failed to protect these women. What answer should I have given them, honourable senators? That we have time? Time for what? Time to bury even more women because our justice system doesn't protect them properly? If the 13 women who were murdered in Quebec since the beginning of the year had been murdered on the same day, would we have reacted differently?

My answer is yes, because one woman who is randomly murdered is quickly forgotten as the media rushes off to cover other news stories.

My colleague Luc Berthold, the member of Parliament for Mégantic—L'Érable, met with some shelters for abused women, and like many of us — although still not enough — he was disturbed by the wave of femicides in Quebec. I want to share a statement that he made in the other place that touched me, since it contains the same message I give to young people when I speak in high schools. The poem was written by Luc, and I would like to quote it:

It starts in school:
A tug of the hair
Some crass language
A first love, without love, without respect
Not to worry, boys will be boys...
And it continues
A new relationship, passionate, but unhealthy
Love serves as bait, but has no soul
The first love planted a seed, now growing strong
The respect comes and goes, and then just goes
Kind words become unkind
Whispered words become screams
Connection becomes disconnected
A gentle touch, now but a memory
Replaced by bruised skin, bruised heart
The love is gone, control's all that remains
Isolation, devastation
Death.
13 women were killed in Quebec
13 women lost to a treacherous love
I can no longer stand by and hold my tongue
I can no longer ignore this violence.
To colleagues and Canadians alike:
We cannot pretend we don't see
The cries, the tears, the noises, the bruises
Are not all harmless
Perhaps a sign of something wrong
We cannot close our eyes
If we're to save that 14th woman,
Who's now suffering in silence, hoping a neighbour
Will see the signs
And put an end to the deadly cycle
Of domestic violence

Dear colleagues, my bill would send a strong message in the fight to end the deadly cycle of domestic violence by protecting victims. How many of these women, who no longer have a voice, will have to pay with their lives for us to listen? Here, at home, in Quebec and in the rest of Canada, the only acceptable answer is "none."

On behalf of the 1,000 women and children murdered in Quebec since 1989 and on behalf of my daughter Julie, who was murdered by a repeat offender 19 years ago today, thank you for supporting my Bill S-231, which was written by women for women, from all political stripes who worked together in the shared goal of saving lives in Canada.

[Senator Boisvenu]

[*English*]

THE LATE AUDREY JOY FINLAY, O.C.

Hon. Diane F. Griffin: Honourable senators, Audrey Joy Finlay passed away on May 27 in Victoria, B.C., at the age of 88. Joy, as she was known, was born in Saskatchewan and grew up in rural prairie schoolhouses, where her mother taught. Her father died when she was 10, leaving behind four children. She met her husband of almost 66 years, Cam Finlay, as a student at Brandon College.

When Cam and Joy moved to Edmonton, Joy became a leading outdoor educator who inspired students and teachers to get out into nature and appreciate what was around them. I first heard of her when she was selected Woman of the Year by *Chatelaine* magazine in 1976. Later, while I lived in Edmonton for seven years, I was proud to be a friend and colleague of the Finlays.

Cam was the director of the John Jantzen Nature Centre, located next to the Fort Edmonton site, and Joy served with me on the board of the Canadian Nature Federation, now known as Nature Canada. She led a major cross-country campaign called Wildlife '87 to celebrate 100 years of wildlife conservation in Canada. Joy and Cam authored books, newspaper columns and other materials to encourage the love of nature and the importance of protecting it. Both were active advocates who worked through naturalist organizations to achieve their goals. They could certainly be called a dynamic duo.

Joy Finlay was recognized with many awards, which included being presented with a plaque by Prince Philip, and she received the Order of Canada. I offer my sympathy to Cam and his family on the loss of Joy, who literally brought great joy to their lives. Thank you.

[*Translation*]

ROUTINE PROCEEDINGS

CANADIAN NET-ZERO EMISSIONS ACCOUNTABILITY BILL

THIRD REPORT OF ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES ON SUBJECT MATTER TABLED

Hon. Paul J. Massicotte: Honourable senators, I have the honour to table, in both official languages, the third report of the Standing Senate Committee on Energy, the Environment and Natural Resources, which deals with examine the subject matter of Bill C-12, An Act respecting transparency and accountability in Canada's efforts to achieve net-zero greenhouse gas emissions by the year 2050 and I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Massicotte, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

• (1420)

[*English*]

BROADCASTING ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-10, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts.

(Bill read first time.)

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

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

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

CANADIAN/AMERICAN BORDER TRADE ALLIANCE VIRTUAL CONFERENCE, MAY 3 TO 4, 2021—REPORT TABLED

Hon. Michael L. MacDonald: Honourable senators, I have the honour to table, in both official languages, the report of the Canada-United States Inter-Parliamentary Group concerning the Canadian/American Border Trade Alliance Virtual Conference, held by video conference, from May 3 to 4, 2021.

QUESTION PERIOD

EMPLOYMENT AND SOCIAL DEVELOPMENT

CANADA DISABILITY BENEFIT

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, my question is for the government leader in the Senate.

In a Speech from the Throne last September, the Trudeau government promised to create a new Canadian disability benefit. This government did not see fit to include this benefit in Bill C-30, the first budget implementation act in two years. Today, the government finally brought forward legislation to implement this benefit one day before the end of the current parliamentary session. With no time left to deal meaningfully with this bill and a federal election looming, this legislation is coming far too late, leader, for millions of Canadians and their families.

Leader, is this last-minute bill yet just another sign that disabled Canadians remain an afterthought for this Trudeau government?

Hon. Marc Gold (Government Representative in the Senate): Thank you for the question. I can give you a short answer. The answer is no. That this bill has taken as long as it did to finally be introduced in Parliament was a function of the consultations the minister and her staff had with representatives of disabled communities across the country. These consultations were not easy and were protracted — and understandably so, given the diversity of issues and points of view that members of these communities have. Therefore, it is the hope of the government that when work resumes after the summer that progress will be made in moving that bill through the House and ultimately here into the chamber.

Senator Plett: Leader, back in February both Senator Munson and I asked your government to do all it could to help give priority to Canadians with disabilities for COVID-19 vaccinations based on research from the U.K. No answer was ever provided.

Senator Seidman and I have asked this government how many facilities exist for people with disabilities across Canada who experience COVID-19 outbreaks. In fact, we have asked for this information three times, leader, over the last year. How many people with disabilities in Canada have died from COVID-19? Again, no answer was ever provided. The Trudeau government won't say.

Leader, why should Canadians with disabilities believe the Trudeau government cares about their needs when there is so much evidence to say otherwise?

Senator Gold: Thank you for your question. I regret that you have not yet received an answer. The information is gathered by provinces and aggregated and shared — when it is shared — with the federal government. I will make further inquiries. It's a legitimate question.

Canadians with or without disabilities should have confidence that this government is doing its very best to help them get through this difficult period. In that regard the government stands by its record and is proud of the help it has given to all Canadians, whether fully able, disabled or otherwise.

Hon. Yonah Martin (Deputy Leader of the Opposition): I will respectfully disagree, leader, and my question also concerns Canadians with disabilities, and specifically a recent joint study from the University of British Columbia and the Abilities Centre in Ontario which was founded by our late colleague the Honourable Jim Flaherty. Among its findings, a majority of respondents to the COVID-19 disability survey indicated that during the pandemic their needs were not being met in such areas as income support, specialized health care, peer support, access to food, shops, groceries, accessible housing and transportation. As well, 82% of respondents have reported that the pandemic has negatively impacted their mental health.

Leader, actions speak louder than words. As mentioned earlier, we often do not get answers to the questions we ask — maybe six months later at best. Given that Canadians with disabilities continue to deal with many critical issues, why did your government think it was appropriate to introduce the disability benefit legislation at the last possible moment?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question, and I'm going to answer fully as best I can. To your last question, I explained to our honourable colleague that the legislation was introduced after consultation, and properly so, with members of the disabilities community and that's the reason it was introduced when it was.

The problems you've outlined, honourable senator, faced by those in the disability community are real, pressing and challenging. Nothing I am about to say is to slough off the question or the significance of each and every member and their families to whom you have referred. With very few exceptions, the list of problems you mentioned are problems that lie exclusively within provincial jurisdiction.

I feel awkward saying that, because we are facing a real human situation, but adequate health care, medical services and mental health support are things that our Constitution gives exclusively to the provinces. The federal government has done its part and the provinces are doing their best and, unfortunately, it is not enough. Perhaps it could never be enough, but efforts have been made and are being made by the federal government and those speak for themselves.

Senator Martin: Yes, as you say, actions speak louder than words, and any action and support to the disabilities community is long overdue.

• (1430)

Your government recently attempted, during a pandemic, to cut funding for accessible materials for Canadians with print-reading disabilities, as I have asked before. The rollout of the COVID relief benefits for Canadians who received the disability tax credit was anything but smooth, and it came long after many other groups in Canada had received emergency support. Also, under this government, the application process for the disability tax credit remains difficult and bureaucratic.

Leader, how does your government's record, or lack thereof, in these specific areas help build a more inclusive Canada for people with disabilities?

Senator Gold: Senator, that there were challenges with some of the rollouts of the programs is a story that has now been told many times, and the government has acknowledged during the piece, and continues to acknowledge, that there are lessons to be learned, and lessons are being learned.

The government stands behind the individuals, as well as organizations that represent them, and continues to use its best efforts and work hard to support people with disabilities across this country. I do not have at my fingertips the list of measures that have been taken, but I'd certainly be happy to share them with you outside this meeting. The fact remains that the government is committed and is acting in the best interest of Canadians with disabilities.

FINANCE

CANADA EMERGENCY STUDENT BENEFIT

Hon. Marilou McPhedran: Honourable senators, the youth unemployment rate in May was 18%, the highest rate since the first wave of COVID and nearly 10% above the national average.

Senator Gold, youth rely heavily upon the industries that were hit the hardest by COVID-19, such as tourism, retail and other entry-level jobs. Many of these jobs are not coming back due to continued travel restrictions and lockdowns. Further, employers are often unwilling to take on new talent in the uncertain state of our economy.

Last year, essential financial support for youth volunteers fell through, but at least some youth affected by the pandemic were eligible for the Canada Emergency Student Benefit to make it through the summer. This year is really no different — youth unemployment is similarly affected — so why hasn't the government brought back the Canada Emergency Student Benefit for this summer?

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

Young people are very much at the heart of the government's recovery efforts, not only to help them today but to invest in their future, their future success and the future success of Canada and our economy.

As the senator will know, at the outset of the pandemic, this government provided $7.4 billion to support young Canadians in the form of jobs, training and income support. Although the Canada Emergency Student Benefit program has ended, as you pointed out, Budget 2021 commits a further $5.7 billion to help young Canadians pursue their education, to provide relief from student loan debt and to gain access to over 200,000 all-new work opportunities. The measures to support students also include waiving the interest on federal student loans until March 31, 2023, enhancing the Repayment Assistance Plan, doubling the Canada Student Grants for two more years and extending disability supports.

Honourable senators, the fact is that the government has not exclusively used only one mechanism to invest in young Canadians; rather, the government's broad-based response totalling $13.1 billion, which I alluded to and outlined, represents the largest-ever investment in Canadian youth.

Senator McPhedran: Senator Gold, regarding that long list you gave us, which is very encouraging, can you provide any more details about the 200,000 new jobs that you mentioned?

Senator Gold: Thank you for your question.

I don't have the details, except to say the following: The government is committed to scaling up the Canada Summer Jobs program, and this year, 150,000 job opportunities are available through that program, which provides greater opportunities for Canadians than ever before.

I'll have to make inquiries, senator, if there are more details to be shared, and I certainly will do so.

Senator McPhedran: Thank you so much.

NATURAL RESOURCES

NATIONAL ENERGY STRATEGY

Hon. Rosa Galvez: Honourable senators, my question is for the Government Representative in the Senate.

Senator Gold, the Canada Energy Regulator is currently holding hearings in response to a request from Enbridge to change its pricing regime. Enbridge is requesting a switch from short-term contracts, wherein risk is borne by the pipeline owner, to long-term contracts. In this proposed regime, if a producer can't fill its contracted space, it is still on the hook for paying the pipeline fees.

Most Canadian oil producers oppose the switch, yet Enbridge says that most refineries support the switch, and it's their right. The problem is that those refineries are located in the U.S. and are owned by U.S. companies. Plain and simple, they want to pay less for our resources.

Senator Gold, considering we are all reluctant owners of the soon-to-be-completed expanded Trans Mountain pipeline, can you describe how this pricing regime will affect government revenues from TMX?

Hon. Marc Gold (Government Representative in the Senate): Thank you, senator, for your question and for giving me some advance notice, because it enabled me to seek more information from the government than I would have otherwise had at my fingertips.

The government is well aware that the proposed pricing-regime change has the potential to significantly impact many parties. As part of the Canada Energy Regulator's full review of Enbridge's application, all interested parties are invited to provide input to that body, which is an independent regulatory body.

With regard to the potential impact on government revenues, this government does not intend to be the long-term owner of Trans Mountain Corporation. I've been advised that the government intends to launch a divestment process after the expansion project is further de-risked, if I can use that term, and after engagement with Indigenous groups has concluded.

The government remains confident that this project was and is a responsible investment that will generate a positive return for Canadians. Again, I'll remind colleagues that every dollar earned will be invested in clean energy projects.

Senator Galvez: Earlier this month, another insurer declared the Trans Mountain pipeline too risky to be insured. Does the government have an estimate of when the project will no longer be insurable by private funds?

Senator Gold: Thank you for the question, senator. I do understand that one insurer has decided not to renew the insurance policy they were holding that expires in August. As we all know, insurance decisions are made by private-sector insurers based upon what they perceive the risks to be in the marketplace.

The government sees markets moving when it comes to energy. Globally, the energy landscape is shifting, and investors are putting their money in companies and jurisdictions that take climate change seriously. It has been much in the news, as we know, over the last number of weeks.

To answer your question, from the government's perspective, the fact is that Trans Mountain Corporation would be in a better position to comment on this matter, and I invite you to make inquiries there.

FOREIGN AFFAIRS

NATIONAL REOPENING PLAN

Hon. Douglas Black: Honourable senators, my question is also for the Government Representative in the Senate.

Senator Gold, I want to first acknowledge the government's announcement yesterday that fully vaccinated Canadians can now return to Canada, take their COVID tests and get on with their lives. Those developments are steps in the right direction, but Canadians are still left without a clear, consistent and science-based reopening plan that Canadian leaders, including me, started to call for on May 18. Questions remain unanswered at a time when clarity and certainty are needed for businesses to make forward-looking decisions. Canadians, and I would underline Canadian airlines and international tourists, need clarity to make travel plans, and border communities need clarity to prepare for reduced restrictions.

We now know that the Canadian-U.S. border will stay closed for all other travel for at least another month, which I believe is the wrong answer, but we still do not know the vaccination targets that will trigger phases of reopening or even what those phases are. There is also uncertainty around the hotel quarantine program and the number of authorized airports for international travel.

• (1440)

Senator Gold, in summary, there is no plan. There just seems to be a series of reactions. Senator Gold, when will the federal government finally release a comprehensive and transparent road map to get Canadians out of lockdown?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. The government is taking a prudent and cautious approach as it begins to reopen borders and relax some of the measures that were put in place to protect Canadians from infection. While restrictions for fully vaccinated returning travellers will begin to lift, all will need a negative pre-departure test and will be tested on arrival. These are important measures to protect Canadians.

Senator, the plan that the government is rolling out is evidence-based. The government is taking the advice of public health officials both at the national and provincial level, and it is working with its partners and stakeholders in other jurisdictions, including airlines and the tourist industry, and certainly its counterparts in the United States. The measured, step-by-step approach that the government has recently announced is the right approach for Canadians. The government understands the desire of some to have a comprehensive plan that could be put on a wall and followed as the days, weeks and months unfold.

We're not out of the woods yet. Variants are taking hold in this country in every province and territory, and the government is committed to using a cautious and prudent approach to make sure Canadians are safe and not at risk.

Senator D. Black: Thank you very much for that, Senator Gold. The problem is, of course, that your statements are not necessarily aligning with my understanding on a couple of points.

Let's start with the fact that there are domestic reopening plans in the U.K., France, Spain and Portugal. We don't have one. Let's recognize that the Government of Canada's own expert panel providing guidance on reopening issued a report weeks ago that the government has not followed. Meanwhile, economic recovery is being hampered.

Again, Senator Gold, can you confirm that the government will produce a comprehensive reopening plan immediately so we can continue to plan forward together?

Senator Gold: Thank you for your question. The countries that you mentioned, if I captured your list accurately, are all unitary states and not federations. The provinces are responsible for health measures and for measures to provide for the reopening or for introducing restrictions in economic, educational and other affairs. That's the reality of Canada, as all of us who live in different provinces know when we cast either a jealous eye, or a grateful eye, to our neighbours in other provinces.

With regard to the study that you referenced, the government takes seriously all of the input that it gets from the scientific community and is studying it carefully as it develops its response and its plans to assist Canadians and plan for the future, but a future that is and has to be safe for them, their families and our country.

PRIVY COUNCIL OFFICE

THE POSITION OF GOVERNOR GENERAL

Hon. Patricia Bovey: Honourable senators, my question is for the Government Representative in the Senate.

Senator Gold, as you know, the position of Governor General has been vacant since Julie Payette resigned in January following an independent report on the toxic work environment in Rideau Hall. Although the Chief Justice of the Supreme Court of Canada, Justice Richard Wagner, has been fulfilling the Governor General's duties as administrator, this is not an ideal situation, especially with rumours of an upcoming election looming. Justice Wagner himself has mentioned at his annual press conference how this has been challenging to juggle both roles, as seen in the CBC article "Six months after former GG Payette's resignation, chief justice still juggling two jobs."

Senator Gold, will this government confirm that they will appoint a new Governor General before Parliament rises for the summer recess?

Hon. Marc Gold (Government Representative in the Senate): Thank you for raising this issue, colleague. The government knows full well that it's not ideal for the Chief Justice of Canada, able though he is, to fulfill the Governor General's duties on a long-term basis. Minister LeBlanc, President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs, has told Canadians that the government is at the end of a process to select the next Governor General, and the government looks forward to naming a ". . .Governor General who represents the very best our country" and of our people.

Senator Bovey: Could you confirm the timing, Senator Gold?

Senator Gold: I'm not in a position to confirm the timing.

Senator Bovey: Thank you.

PRIME MINISTER'S OFFICE

USE OF PARLIAMENTARY FUNDS

Hon. Linda Frum: Senator Gold, I'm sure you have read it by now, but here's the opening paragraph of a story that ran in *The Globe and Mail* yesterday:

> Liberal MPs have been using parliamentary funds to pay for services from companies that provide two of the governing party's most important digital campaign operations, and that also run its powerful voter-contact database.

One of the companies in question, Data Sciences Inc., was founded by Tom Pitfield, a close personal friend of Prime Minister Trudeau. He is also president of Canada 2020, which *Maclean's* magazine wrote a lengthy article about in 2017, describing it as being both responsible for the rise of Justin Trudeau and the new nexus of power in Canada.

You will also recall that Mr. Pitfield and his wife, Anna Gainey, President of the Liberal Party at the time, accompanied Mr. Trudeau on his trip to the Aga Khan's private island, one of the two incidents over which the Ethics Commissioner found that the Prime Minister had breached Canada's ethics law.

Senator Gold, can you assure this chamber today that none of the money that 97% of the Liberal caucus members forwarded to the Prime Minister's good friend's company was used either for political or campaign operations, which, of course, would be both improper and illegal?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. The commentary around it, I'm sure unintended, honourable colleague, smacks somewhat of guilt by association and the like, but I will attempt to answer your question.

It is my understanding — and a number of members of Parliament have spoken to this — that the funds and the services of this company were used for constituency work and not political work. It is my understanding that that is both proper and legal.

Senator Frum: Senator Gold, I'm wondering how you can be so confident about this given that one of the Liberal MPs who was asked about this matter, MP John McKay, said that he could not explain what the money in his budget was being used for. Why are you so confident it was used properly?

Senator Gold: As I said, it is my understanding that the money was used properly, and on the basis of that, I've answered your question.

FINANCE

CANADA INFRASTRUCTURE BANK

Hon. Donald Neil Plett (Leader of the Opposition): Leader, in a March 2017 Question Period, I asked about the role and the mandate of the Infrastructure Bank that the Trudeau government was about to create. Since then, Conservative senators have raised issues about the Infrastructure Bank a dozen times in Question Period, and we were always told everything is fine.

We learned last fall the Infrastructure Bank has paid $3.8 million of taxpayers' money in termination benefits in the previous fiscal year. That is more, leader, than it paid in salary and benefits for all of its senior managers combined over the same period. We've also recently learned the Infrastructure Bank is refusing to comply with an order from a committee of the other place — sounds familiar — to disclose how much it spent on executive bonuses.

Leader, how much has the Infrastructure Bank spent in 2017 on bonuses and all forms of compensation? Will your government instruct the bank to provide the information to the House committee or do you think MPs are making excessive demands here as well?

• (1450)

Hon. Marc Gold (Government Representative in the Senate): I will certainly make inquiries into all aspects of those questions and be happy to report back.

Senator Plett: Leader, of course, we are going to be rising for the summer pretty soon, so you won't have to procrastinate too much longer. However, as we heard earlier, we might be sitting a little longer than you expected or maybe wanted to. You might give us an opportunity to ask again next week.

The Parliamentary Budget Officer, or PBO, has reported that four years after its creation, the Canada Infrastructure Bank has failed to attract much private sector funding, a key part of its mandate. The PBO has also reported that the infrastructure bank is unlikely to meet its objectives while still losing billions of taxpayers' dollars each year.

Leader, since the beginning, the infrastructure bank has been very good at spending taxpayers' money while not completing any projects — not one, leader.

Will you scrap the Canada Infrastructure Bank?

Senator Gold: Thank you for your question. I have no information that indicates the government is planning to scrap the Canada Infrastructure Bank.

[*Translation*]

JUSTICE

FIGHT AGAINST ONLINE SEXUAL EXPLOITATION OF YOUTH

Hon. Julie Miville-Dechêne: Honourable senators, my question is for the Government Representative in the Senate. In its latest report, the highly-regarded Canadian Centre for Child Protection criticized federal and provincial governments for their inaction in combatting the proliferation of child sexual abuse images on the internet. Furthermore, a committee in the other place has just recommended that the age and consent of all participants in pornographic videos be verified by porn sites before they're posted.

Will the government take action on this issue given that many websites and server owners refuse to do so?

Hon. Marc Gold (Government Representative in the Senate): Thank you, esteemed colleague, for raising this important issue and asking this question. I commend you for your efforts on this issue, including the bill you introduced here.

The government takes this issue very seriously and is studying it thoroughly. To answer your question, however, I can't give an exact timeline in terms of any measures the government might take.

Senator Miville-Dechêne: On another issue related to the one I just raised, we've learned that, after promising it six months ago, Minister Lametti is preparing to table his much-touted bill tomorrow, the one requiring the removal of any online hate

speech and child pornography within 24 hours. However, I'm having some difficulty understanding the government's logic as it is too late to study this bill. Is the government introducing this bill solely to have an extra ace up its sleeve in the event of an election, as some are suggesting?

Senator Gold: Thank you for the question. The government understands the skepticism or even the cynicism of many people, and I'm not including those who ask questions for political or partisan reasons. I have to say that in a pandemic, in the context of a minority government, things don't move along as quickly as anticipated. However, I can assure this chamber that the government takes its legislation quite seriously.

[*English*]

DELAYED ANSWERS TO ORAL QUESTIONS

(*For text of Delayed Answers, see Appendix*.)

ORDERS OF THE DAY

SPEECH FROM THE THRONE

MOTION FOR ADDRESS IN REPLY—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Gagné, seconded by the Honourable Senator Petitclerc:
>
> That the following Address be presented to Her Excellency the Governor General of Canada:
>
> To Her Excellency the Right Honourable Julie Payette, Chancellor and Principal Companion of the Order of Canada, Chancellor and Commander of the Order of Military Merit, Chancellor and Commander of the Order of Merit of the Police Forces, Governor General and Commander-in-Chief of Canada.
>
> MAY IT PLEASE YOUR EXCELLENCY:
>
> We, Her Majesty's most loyal and dutiful subjects, the Senate of Canada in Parliament assembled, beg leave to offer our humble thanks to Your Excellency for the gracious Speech which Your Excellency has addressed to both Houses of Parliament.

Hon. Pierre J. Dalphond: Honourable senators, I rise in reply to the Speech From the Throne. Like former Senator Sinclair on December 8 and Senator Dean on February 8, I will focus on the government's desire to advance Senate reform and the path ahead.

Since 2016, significant changes have occurred in the appointment and makeup of the Senate. Gender parity has been achieved, and we are fortunate to work with 10 senators who identify as members of Indigenous nations, but certainly, the most striking change is that, currently, 70 of the 90 members of this chamber appointed by Prime Minister Trudeau or his predecessors have chosen to affiliate with groups that are not linked to a political party in the House of Commons and do not caucus with them. The old two-party dynamics have been replaced by four vibrant groups and a culture of pluralism.

Moreover, votes are no longer being whipped in the Senate, as we have seen recently on significant bills. In reality, senators of all groups are more independent than at any time in the history of this chamber. Due to these changes, since 2016, the Senate has returned 34 government bills to the other place with amendments, and 31 bills have become law with amendments accepted by the government and the House of Commons.

Such amendments have brought about an appeal process around the revocation of citizenship, an end to historic gender discrimination in registration under the Indian Act, the protection of Quebec's jurisdictions over consumer protection, better rail service for soybean farmers in Western Canada, the strengthening of RCMP members' freedom of association in collective bargaining, a ban on the sale of menthol cigarettes, a ban on shark-fin imports, wide-ranging changes to access-to-information laws, the availability of federal services in Indigenous languages where capacity and demand exist and the expansion of access to medical assistance in dying.

Moreover, since we moved to this temporary chamber in early 2019, our debates are now accessible in real time on the web for the media and the public to watch. Excerpts of debates are broadcast by conventional media from time to time. This is especially beneficial for scheduled and themed debates that have allowed Canadians to follow our work on their behalf.

In 2016, under the leadership of Senator Harder, Senator Cowan and Senator Carignan, as well as senators from the newly formed Independent Senators Group, the Senate scheduled themed debates for Bill C-14, An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying).

[*Translation*]

In the first part of 2018, Senator Dean, with the support of the leaders of all groups and the government representatives, led the study on Bill C-45 on the legalization of cannabis. We were able to have themed debates of the bill based on the reports tabled by several committees.

In November 2018, the Senate devoted two days to the study of Bill C-89 on the resumption and continuation of postal services, which included a meeting in committee of the whole that lasted several hours and where ministers and representatives of the employer and the union testified. This did not happen in the House of Commons.

This year, Bill C-7 was another example of targeted debates on important government legislation, this time on medical assistance in dying.

[*English*]

Canadians were better able to consider all views shared in the Senate, including arguments for expanded access, the voices of racialized and Indigenous perspectives and representation of socially conservative values.

This accessibility helped make the Senate's work more relevant to the national conversation, contributing to the robust policy response from the government and the House of Commons.

• (1500)

Thank you to Senator Gold and his team for their effective representation of this chamber's views to the government.

This year, we also saw well-organized debates on Bill C-29 around the resumption of operations at the Port of Montreal and on bills advancing reconciliation.

Reading the *Ottawa Citizen* the other day, one passage jumped out regarding the structures of Senate proceedings:

> The common practice of the Senate in adjourning and spreading debates on different subjects over so many days, or weeks, or months tends to dissipate interest in the questions and remove all chance of attaining any impact on public opinion on the matters being discussed.

Colleagues, the date of this article may surprise you, May 8, 1946.

With reasonable time frames, scheduling debates for government bills better serves Canadians, the Senate and any government of the day.

All these changes since 2016 have been noticed. At a conference I attended, one scholar specializing in political institutions said we were witnessing one of the most significant changes ever to Parliament.

Canadians have noticed these changes, as two polls conducted by Senator Dasko over the past three years have shown. In fact, 76% of Canadians, according to the polls, want independent appointments to continue. They are also twice as likely to think the reforms will improve the Senate as compared to making no difference. These polls also show that a lot remains to be done to earn the trust of the majority of Canadians. I know that we are all ready to do whatever is necessary to improve public confidence in our work.

Important internal reforms have also succeeded through collaboration during this Parliament despite the pandemic. Thanks to the work of Senator Wells and others, the Senate now has an Audit and Oversight Committee with external membership, and thanks to the work of Senator Saint-Germain and many at CIBA, a modern harassment policy. We also have our first process for election, by all senators, of the Speaker pro tempore.

Since 2017, our rules have recognized parliamentary groups of nine or more senators, thus moving away from the old two-party dynamic. Other changes have been suggested by Senator Woo and Senator Tannas around group procedural powers and remain to be debated. The new reality is also reflected in Bill S-4; government legislation proposing changes to the Parliament of Canada Act. Thanks to the collaboration of Senator Plett and other leaders, the bill was passed by the Senate at the beginning of this month. Hopefully Bill S-4 will soon become law.

This Parliament, we have also considered possible reforms around non-government bills through an inquiry initiated by former Senator Sinclair and I, and a task force led by Senators Massicotte and Busson. Models we have looked to include the Rules of the House of Commons, and the 2014 proposal of former Speaker Senator Pierre Claude Nolin, former Senator Joyal and Senator White. I look forward to further discussions on these important issues. Recent days have shown the need for due diligence, with the possibility of reaching decisions in reasonable time frames while fully discharging our function of sober second thought.

I am certainly pleased with the recent agreement in principle between all groups, including the official opposition, to have fulsome debates and votes on as many private members' bills and Senate public bills as may be feasible. However, why should we be less stringent on these bills that do not have the benefit of departmental scrutiny?

This is particularly the case when private members' bills venture into financial and other areas more appropriate to the government. But we can think about this in the fall. However, I will reiterate that a main benefit of rule changes on private members' bills will be that Canadians and elected members of Parliament could understand and follow our proceedings.

On this point, senators may be interested to know that two caucus chairs in the House of Commons have reached out to Senator Sinclair and myself in personal support of the initiative. First, the member for Windsor West and caucus chair of the NDP, Brian Masse, supports these changes. Second, the member for Lac-Saint-Louis and caucus chair for the Liberal Party of Canada, Francis Scarpaleggia, supports these changes. This support is a reminder of the importance of private members' bills for non-government caucuses and for backbench members of any government caucus.

Looking ahead, we should also take a close look at the roles of sponsors and critics. For example, in the previous Parliament, two chairs of committees, Senator Andreychuk and Senator Runciman temporarily gave up the chair when bills they sponsored came before their committees. Recently though, a sponsor served as chair for her own bill at the Standing Senate Committee on Agriculture and Forestry. I believe that critics should speak early on in the process and not last in the debate. That's why we give them more time to explain positions in order to enlighten and inform the debate.

These issues require consideration, and I hope we find the time this fall. In closing, I would recommend to you, for inspiration around Senate reforms, the great historic senator from my division of De Lorimier, the Honourable Raoul Dandurand, whose bust is upstairs in the senators' lounge.

Appointed by former prime minister Sir Wilfrid Laurier in 1898, he served in the Senate for 44 years, including as Speaker for five years; as Government Leader three times, for a total of 18 years — maybe Senator Gold you can see that as a record to beat — and as Leader of the Opposition three times. In 1925, he also served as President of the League of Nations Assembly, so not exactly a lightweight.

Commenting on his career in the Senate, the Library of Parliament indicates:

> . . . Dandurand was a firm advocate of non-partisanship in the Senate, which he felt distinguished it from the House of Commons and led to better scrutiny and revision of legislation. Professor Robert MacKay of Cornell University maintained in 1926 that, as a result, "few, if any, senators have exercised such lasting influence on the character of the Senate as did Dandurand."

Honourable senators, let us carry on former Senator Dandurand's quest. We have taken steps in the right direction and there is much to celebrate, but much work remains. I know many senators are ready to move forward. In the meantime, have a great summer. Thank you, *meegwetch*.

Some Hon. Senators: Hear, hear.

(On motion of Senator Gagné, debate adjourned.)

• (1510)

[*Translation*]

PROTECTING YOUNG PERSONS FROM EXPOSURE TO PORNOGRAPHY BILL

THIRD READING—DEBATE ADJOURNED

Hon. Julie Miville-Dechêne moved third reading of Bill S-203, An Act to restrict young persons' online access to sexually explicit material, as amended.

She said: Honourable senators, I will be brief.

I want to thank Senator Linda Frum, the bill's critic, Senator Mobina S. B. Jaffer, the members of the Legal Affairs Committee, all parliamentarians and the many individuals and organizations that helped me raise awareness about this bill and improve it over the past eight months.

Bill S-203 has one single purpose: To make it harder, though still not impossible, for children to access pornographic images that are too often violent, that reflect a twisted and brutal representation of sexuality, and that leave their mark on our young people's hearts and minds. Why? Because currently unrestricted access to pornographic websites can have negative effects on minors. This is a public health issue, and implementing simple age-verification technology to protect children is urgent.

Bill S-203 was improved with a set of amendments. I agree that it is perfectible. It seeks to innovate in a vast and complex area, the internet, and I refuse to give up because the technology is supposedly inadequate. In fact, the many stakeholders consulted confirmed that it is entirely possible to verify age while keeping privacy risks to a minimum. Our efforts as legislators are essential in order to prevent the risk of serious and real harm to our children.

I hope to count on your support in this last stage of debate in the Senate. The other place can continue the work.

Thank you.

Hon. Senators: Hear, hear.

(On motion of Senator Dalphond, debate adjourned.)

BUSINESS OF THE SENATE

The Hon. the Speaker pro tempore: Honourable senators, it being 3:15 p.m., pursuant to rule 9-6, the bells will ring for 15 minutes to call in the senators for the taking of the deferred vote at third reading stage of Bill C-218.

Call in the senators.

• (1530)

[*English*]

CRIMINAL CODE

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Wells, seconded by the Honourable Senator Plett, for the third reading of Bill C-218, An Act to amend the Criminal Code (sports betting).

The Hon. the Speaker: Honourable senators, the question is as follows: It was moved by the Honourable Senator Wells, seconded by the Honourable Senator Plett:

> That Bill C-218, An Act to amend the Criminal Code (sports betting), be read the third time.

Motion agreed to and bill read third time and passed on the following division:

YEAS
THE HONOURABLE SENATORS

Ataullahjan	Klyne
Bellemare	LaBoucane-Benson
Bernard	Lankin
Black (*Alberta*)	Loffreda
Black (*Ontario*)	Lovelace Nicholas
Boehm	Manning
Boisvenu	Marshall
Bovey	Martin
Boyer	Marwah
Brazeau	Mercer
Busson	Mockler
Carignan	Munson
Cordy	Ngo
Cormier	Oh
Cotter	Patterson
Dagenais	Petitclerc
Dawson	Plett
Deacon (*Nova Scotia*)	Poirier
Deacon (*Ontario*)	Ravalia
Duncan	Richards
Forest	Ringuette
Frum	Saint-Germain
Gagné	Smith
Gold	Stewart Olsen
Greene	Tannas
Griffin	Wallin
Harder	Wells
Housakos	Wetston—57
Jaffer	

NAYS
THE HONOURABLE SENATORS

Anderson	Hartling
Batters	Kutcher
Boniface	McCallum
Christmas	McPhedran
Coyle	Miville-Dechêne
Dean	Moncion
Downe	Pate
Forest-Niesing	Simons
Francis	White
Galvez	Woo—20

ABSTENTIONS
THE HONOURABLE SENATORS

Dalphond	MacDonald
Dasko	Mégie—5
Dupuis	

• (1540)

INCOME TAX ACT

BILL TO AMEND—THIRD READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Griffin, seconded by the Honourable Senator Black (*Alberta*), for the third reading of Bill C-208, An Act to amend the Income Tax Act (transfer of small business or family farm or fishing corporation).

Hon. Jane Cordy: Honourable senators, I begin my remarks by acknowledging that I'm speaking to you from Mi'kma'ki, the ancestral territory of the Mi'kmaq people.

Colleagues, I will speak today at third reading of Bill C-208, An Act to amend the Income Tax Act (transfer of small business or family farm or fishing corporation).

I support the intentions of Bill C-208, and I acknowledge that unfairness exists in the current Income Tax Act where owners of small businesses or family farms or fishing corporations are financially penalized for transferring ownership of their business to their children, rather than transferring ownership to an outside third party.

Honourable senators, I do not question the motives of this bill. I believe the intentions of MP Larry Maguire who brought the bill forward are to be lauded.

Many small businesses, family farms and family fishing operation owners hope to transfer their business to their children. This is their family legacy and they should not be penalized for doing so. The Prime Minister himself has acknowledged that there are concerns, which is why he instructed the finance minister to, "Work with the Minister of Agriculture and Agri-Food on tax measures to facilitate the intergenerational transfer of farms."

While I certainly agree with the premise behind Bill C-208, I have concerns that the bill lacks the proper safeguards to ensure that the business transfer is actually real and not just on paper. There is no guarantee that the business would not be sold in name only in order to take advantage of the tax breaks in Bill C-208. This would be in complete contradiction to the intention of the bill.

While examining Bill C-208, one of my main concerns is that it will be more beneficial to wealthy Canadians. Bills such as this should be considered very carefully. We have heard that this bill will open up tax advantages not only to small businesses, family

farms and family fishing operations but to over 1.6 million businesses of all kinds, of which only a very small fraction are family businesses and fishing operations. Senator Woo did an excellent job of explaining this in his speech on Bill C-208 when he spoke of the Parliamentary Budget Officer's cost estimate report on an identical bill from a previous Parliament.

The data comes from the report by the PBO, *Cost Estimate for Bill C-274*, March 30, 2017. As a reminder, I will quote part of Senator Woo's speech:

> This bill covers all qualified businesses, not just farming and fishing operations. The PBO has estimated that there were 1,674,310 qualified businesses in 2014, of which 50,000 were farming corporations and 4,000 were fishing corporations. . . .

When you look at the numbers, colleagues, farming and fishing corporations only make up 3% of eligible qualifying businesses. I also agree with Senator Woo's comments that this 3% figure is likely overstated.

Honourable senators, as I have said, this bill, while well intended, raises concerns because it lacks safeguards to ensure that true intergenerational transfer takes place. The child may "buy" the business or the farm but does not have to have any involvement in the business. The parents do not have to give up their control in the business that has been sold to the child, and taxes are avoided. As Senator Gold succinctly stated:

> . . . it would allow the parent to sell shares to a child's holding corporation and then purchase the child's holding corporation, leaving the child with no interest in the business.

Colleagues, Bill C-208 will create too many loopholes in the Income Tax Act if it passes without amendment. There is also the real potential of eroding federal tax revenues, which will hinder the ability of our government to deliver on the programs and supports needed as we transition out of the pandemic and kick-start our economy. In their report, the Parliamentary Budget Officer costed the provisions in this bill at $457 million for the year 2018. Honourable senators, I'm hesitant, but would be remiss if I did not mention before I conclude my comments on Bill C-208 that I believe we have set a new precedent in how we conduct our business. I found it very unusual that the sponsor of the bill was chairing the committee that studied the bill. I cannot recall this happening in any committee that I have served on during my time in the Senate. This might be something that our Rules Committee should examine in the fall.

• (1550)

I also question why a bill amending the Income Tax Act was sent to the Agriculture and Forestry Committee and not to either the Finance Committee or the Banking Committee. These committees are more experienced in dealing with the financial repercussions related to the Income Tax Act.

Honourable senators, the government has stated its support for tax fairness the transfer of family farms. This isn't a case of different ideologies. We agree that something must be done, but this is a matter of getting it right.

I fully support the efforts of MP Larry Maguire to right a wrong in Canada's income tax framework, but the bill, as written, has the potential to do too much harm. Unfortunately, I cannot support it without amendment.

Thank you, colleagues.

Hon. Terry M. Mercer: Honourable senators, I would like to begin by acknowledging that I'm joining you from the ancestral and unceded territory of the Mi'kmaq people.

I rise today to speak to Bill C-208, An Act to amend the Income Tax Act (transfer of small business or family farm or fishing corporation).

I applaud the sponsor, Larry McGuire, the MP for Brandon-Souris, Manitoba, and Prince Edward Island Senator Diane Griffin for their good intentions and passionate promotion of this bill. But I fear expediency and unintended consequences may unravel those good intentions.

I fully support helping fishers and farmers to keep their businesses within their families, period. That intent of the bill I fully support, but fishing and farming are not the only businesses that would qualify. As noted by the Department of Finance officials, it would apply to any small business corporation that would extend the bill's reach and its cost. The bill potentially creates a loophole with no real safeguards in place to ensure that it is only intended for genuine intergenerational transfers. That is what worries me.

Indeed, we might ask ourselves if there are any ways to better help Canadian fishers and farmers without exposing the tax system to major abuse.

Innovation, Science and Economic Development Canada's report *Key Small Business Statistics — 2020* defines SMEs — small to medium-sized enterprises — as a business establishment with 1 to 499 paid employees. More specifically, a small business has 1 to 99 paid employees, a medium-sized business has 100 to 499 paid employees and a large business has 500 or more paid employees.

The report goes on to say that as of December 2019, the Canadian economy totalled 1.23 million employer businesses.

I want you to listen to these statistics and what these businesses are. Of those, 1.2 million, or 97.9%, were small businesses; 22,905, or 1.9%, were medium-sized businesses; and 2,978, or 0.2%, were large businesses. As of 2019, small businesses employed 8.4 million individuals in Canada, or 68.8% of the total private labour force. By comparison, medium-sized businesses employed 2.4 million individuals, or 19.7%, and large businesses employed 1.4 million individuals, or 11.5%.

This bill would not just apply to fishers and farmers; it would apply to doctors, dentists, electricians, lawyers, real estate, construction, retail stores, accountants, insurance brokers and the list goes on and on.

Small businesses are vital to the Canadian economy, and I fully support helping them thrive. However, such a major financial change to our tax laws should be enacted by a government bill and not through private member's legislation. It should be thoroughly reviewed to make sure its intentions are met.

The integrity of our tax system is such that provisions are put in place to prevent abuses in the system. I believe this bill could put its integrity in jeopardy. The sponsor of the bill has stated there is a safeguard in place: a five-year waiting period to ensure the transaction is legitimate. If there is a sale between a parent and a child, the five-year waiting period is meant to ensure that the transition is legitimate and the child would have to keep sole ownership of the business and not transfer it back to the parent, which is how the unfair tax advantage would be achieved. If shares are sold by the child within those five years, taxes would be applied. Is this five-year waiting period enough as a safeguard?

Honourable senators, there are options available for further safeguards that already exist in other jurisdictions.

In 2016, Quebec implemented changes to its Taxation Act aimed at facilitating the transfer of family businesses operating in the resource and manufacturing sectors to family members. One of the financial officials at the Agriculture and Forestry Committee said this about Bill C-208:

> . . . a significant improvement would be to introduce conditions that would need to be met in order to test whether there has been a transfer of a business. For a precedent to those, one could look to Quebec's rules, which have a similar intergenerational transfer rule except that they require involvement of the parent in the business before the transfer — significant involvement — a relinquishment of control of the business as part of the transfer and some involvement with the child in the business.

These safeguards, or something similar, are not in this bill.

Honourable senators, it was also noted during our last committee meeting that there was no one who would say they oppose this bill, except the Finance officials, of course. Why would they? Who would speak out against a bill that could potentially mean hundreds of millions of dollars in tax savings? That's right, no one. So the efforts to level the playing field for fishers and farmers would be derailed by wealthier businesses that will take advantage of this. It would be a case of the rich getting richer.

In 2017, the Parliamentary Budget Officer released a cost estimate for a previous, yet similar, bill. The forgone tax revenue would have ranged from $163 million to $273 million in 2017, and between $178 million and $279 million in 2018. However, that report was four years ago. What that report will not tell you is that it cannot predict people's behaviour in the future.

I've reviewed an interesting research report that was brought to my attention. *The Influence of Tax Factors on Québec and Other Canadian SME Transfers* is a research report published in December 2020 by the Institut de recherche sur les PME with the following people participating: Marc Duhamel, PhD, Department of finance and economics; Louise Cadieux, Département de Management, both of the School of Management, Université du Québec à Trois-Rivières; and François Brouard, Accounting and Taxation at the Sprott School of Business at Carleton University. Its results were fascinating. I would like to review some of these facts. The report is highly detailed, and I would encourage you to read it fully. On the economic contribution of the capital gains generated by SME transfers, the report states:

> In Québec alone, the capital gains that would be generated by the fulfilment of all SME transfer intentions could reach the $15.7 billion mark over a period of five years (2017-2022). . . . At the same time, we note that SME transfers in the other Canadian provinces annually represent a little over $41 billion in capital gains over a period of five years . . . . Across Canada, the value of the anticipated capital gains from intended SME transfers corresponds to a little over $11.4 billion annually.

• (1600)

This is not a small budgetary item, honourable senators. The report goes on to say:

> Our findings suggest that the Québec SME owner population that intends to transfer to family members between 2017 and 2022 could save $245.6 million to a little over $1.04 billion, if it were eligible for the same capital gains deduction as the one extended to Québec SME owners who are thinking about transferring their businesses to external successors. . . .

This bill treats family transfers the same as external transfers. The data is only for the province of Quebec and not the country. Again, it's not a small budgetary amount, honourable senators, it's $1 billion. How much will it be for the rest of the country?

We all care about the programs that taxes provide, so this potential hit to the tax base is a bit worrisome. Why are we pushing ahead with this bill instead of ensuring that we can effectively lower taxes on such transfers for farmers and fishers without costing the treasury? Why have we not examined how we can improve the tax system for all small business without shocking the budget?

Upon hearing the evidence from Finance officials that the bill may open the door for major tax avoidance, I asked that we hear from more witnesses. It had been my intention to review the aforementioned Quebec model, which would help mitigate some of the unintended consequences of this bill. I also tried to attach an observation to the bill, which was to simply recommend that a parliamentary committee review the bill's consequences after one year and then report on it after the year with any recommendations. That seemed pretty straightforward to me and a reasonable thing to do. Unfortunately, neither of those things happened. There were some suggestions that the government, agencies or officials would be doing a review anyway, which I found odd. How do we know that they would do that?

One final comment I would like to offer is that I do not believe most people understand the major consequences resulting from the passage of this bill. Tax law is extremely complicated. It was certainly a learning experience for me. The bill may seem straightforward, but as they say, the devil is in the details. So, honourable senators, where do we stand? Do we want the rich to get richer, or do we want a proper system to help fishers and farmers without exposing the tax system to major abuse?

I am fully supportive of measures to level the playing field for fishers and farmers. Indeed, I would fully support a bill that does so. But I cannot support this bill if it creates a loophole that threatens the integrity of the system. I ask you to seriously consider some of these questions and concerns, and the consequences this bill would expose the tax system to, before you decide on how to vote. Thank you, honourable senators.

The Hon. the Speaker: Senator Mercer, Senator Loffreda has a question. Will you take a question?

Senator Mercer: Yes, if I have time.

Hon. Tony Loffreda: I had my hand up for Senator Cordy, but I thank you both for your compelling speeches.

No one wants tax loopholes. The problem with this bill was that, at the beginning, it would strip the earnings at capital gains rates. I agree it's not a perfect bill, but do you agree with me — the intergenerational tax being charged is 48%, if the business is purchased by a Canadian company it is 26%, if it is purchased by a non-resident it's 13%.

I'm afraid that if there is an amendment, this bill will not go forward. We have been waiting for so long to correct this injustice. You are talking about numbers over five years, Senator Mercer, and it is at a cost of $178 million to $300 million a year, but the bill could be amended. We could fix the budget bill eventually, and the CRA could make interpretations to the accounting community. There are ways of authorizing this bill, approving it and correcting it as we go along. I've always said that it's never static, it's dynamic.

Would you agree that it has taken far too long to correct these injustices, and now that we have the opportunity to do so, we should correct them, and make certain that there are no loopholes? It's not about the wealthy. The average Canadian farmer was 55 in 2016. About 75% of small business owners are already intending to exit their businesses between 2018 and 2028. Some 50% of business owners wish for the succession of their business to a family member. To add to that, the CRA says that these proposals also require a taxpayer to provide the CRA an independent assessment of the subject shares' fair market value and an affidavit signed by the parties.

Do you feel that the current tax rate is fair, and do you feel we should not adjust it now when we have the opportunity and come quickly back to amend this bill when we can and not — with the rumour of a fall election — kill it and maybe wait another three, four or five years? That is my worry.

Senator Mercer: No, I don't think we should wait that long.

The Hon. the Speaker: I'm sorry, Senator Mercer, your time has expired.

Senator Mercer: Well, I enjoyed Senator Loffreda's speech.

Hon. Pierre J. Dalphond: Honourable senators, let me start by clearly stating that I share the comments so well expressed by Senator Woo last Thursday in opposition to the bill. I won't repeat what he said, but instead I will emphasize a few points that I feel are still missing in this debate.

First, Bill C-208 will not apply to all transfers of farming or fishing businesses or other small businesses. Indeed, this bill aims to create an exception to a tax avoidance rule that applies only to a very specific scenario: The family business is incorporated and not owned directly by the parent or the parents who run it. The seller is selling the shares of that incorporated business and not the assets. The buyer is a corporation and not an individual, and the buying corporation is controlled by a child or grandchild of the seller. These are the sole cases that are contemplated by the bill.

If the sale of the farming or fishing business is done by a non-incorporated owner, the tax treatment will always be the same whether it is sold to a child, grandchild or third party. If the business is incorporated and the sale of the shares is made directly to a non-incorporated child, grandchild or unrelated third party, the tax treatment will also be exactly the same.

According to Statistics Canada's 2016 Census of Agriculture, barely 25% of family farms were incorporated. Twenty years before that, it was 12%. In 2016, that corresponded to about 48,600 incorporated farms across Canada. Senator Woo has explained what it represents to the whole picture of all the small businesses. It is only the tip of the iceberg; less than 3% of all small businesses targeted by that bill.

Second, among the owners of unincorporated farming businesses planning to retire, those wishing to sell to their children or grandchildren make up about one third.

• (1610)

This issue of transfer of family-run businesses has been the subject of a comprehensive and interesting report published in 2020 by the Institut de recherche sur les PME at the Université du Québec at Trois-Rivières, to which my colleague Senator Mercer referred briefly.

[*Translation*]

These professors weren't called to appear before the Standing Senate Committee on Agriculture and Forestry, despite how relevant their work was to our study.

As a result of various studies, analyses and interviews, the professors' report indicates that 70% of family business owners wanted to sell to third parties and not to their children or grandchildren for all kinds of reasons not necessarily related to taxation.

Far be it from me to suggest that the tax aspect played no role in their decision, but once again, we have to be careful. Indeed, the professors found that the vast majority of family businesses sold result in a capital gain of about $100,000 — not millions of dollars, $100,000. This means that the tax impact of the scenario I just described is between $0 and $53,000, depending on the seller's tax rate.

None of these figures were mentioned at the Standing Senate Committee on Agriculture and Forestry. In other words, in the majority of family businesses, even when incorporated, the decision to sell to a third party rather than to a family member represents a loss to the seller that can range from $0 to a maximum of $53,000. After consulting statistics from Revenue Canada and census data and conducting interviews, the professors revealed in their report that, on average, the loss would be around $29,000. Can we honestly say that $29,000 is enough to jeopardize these sellers' retirement savings? I admit that I'd rather have that $29,000 than not have it, but it's a bit much to claim that that alone is compromising family successions and retirement savings.

[*English*]

Third, as Senator Woo mentioned last Thursday, farming and fishing businesses would represent only 3% of the small businesses that could benefit from the bill if adopted. In other words, the bill is not targeted at the transfers of small family-run farming and fishing corporations located in the countryside and in remote communities, but rather at small family businesses located everywhere in Canada and mainly in cities. For example, in a brief from the Insurance Brokers Association of Canada in support of this bill, the association stated that 25% of insurance brokers in Quebec and Ontario are family-owned small businesses. These types of businesses, which will be predominantly making news on the removal of the tax avoidance rules proposed, are the ones that would take advantage of the removal of the tax avoidance rules proposed in Bill C-208.

Fourth, in support of a speedy passage of this bill, we have heard on numerous occasions that this bill is in its fourth iteration and is widely supported by all parties in the House of Commons. This assertion calls for several important caveats.

Colleagues, the first bill of this kind was introduced on March 26, 2015, by NDP MP Francine Raynault. It never made it past second reading in the House of Commons, and more importantly, it targeted family farms and fishing corporations only, not all small businesses.

The second bill was introduced by Liberal MP Emmanuel Dubourg on June 11, 2015. The bill never made it past its introduction and first reading in the House of Commons. Noticeably, the bill contained a long preamble on its intent and required the purchaser to keep control of the purchased business for only 24 months.

The third bill was introduced on May 19, 2016, by NDP MP Guy Caron. It did not have a preamble that would guide the tax authorities and the tax court in interpreting the real intent of Parliament. This bill was defeated at second reading in the House of Commons with the entire Liberal caucus and one independent MP voting against it.

This brings us to Bill C-208, which is identical to the one introduced and defeated in 2016. It was adopted at second reading in the House of Commons by a vote of 178 yeas against 146 nays, which included 145 Liberal MPs and 1 independent.

At third reading, on May 12, 2021, just a month ago, more or less, the bill was adopted by a vote of 199 yeas against 128 nays, including 127 Liberal MPs, the full cabinet and 1 independent MP.

Nays from the cabinet members came despite the Prime Minister's mandate letters to the Minister of Finance and Minister of Agriculture and Agri-Food asking them to come forward with a solution to address the tax inequity to which Senator Loffreda referred, especially for those having substantial assets of over $1 million and $2 million under the scenario that I described earlier.

As the Minister of Agriculture explained at the Congrès annuel de la Fédération de la relève agricole du Québec, held on March 5, 2021, the government is committed to addressing the inequity under the scenario described at the beginning of my speech, but is opposed to Bill C-208 because it is not properly designed.

What are these flaws in the design?

Colleagues, if you operate your fishing or farming business on your own, you file a tax return every year which includes all the income you made from the farming or fishing business, from which you deduct all the expenses, to obtain the net income that is taxable that year according to your taxation level, and that could vary from zero to 53%.

But if you set up a corporation to operate that business, the income belongs to the corporation. The corporation will use the net income to pay you a salary or a mix of salary and dividends, which incidentally, for dividends, would be taxed at a lower rate than salary. The corporations also have the option to keep the surplus money in its capital in its bank account — that's why we call it the "surplus money." When retirement rolls around, if the incorporated owner wants to sell shares to a third party, the sale price will not be based on the amount of cash in the bank account because the third party will agree to pay a price reflecting the true assets of the company, because a rational buyer does not borrow money from the bank to buy money from the seller; that makes no sense. Thus, prior to the transaction, the seller will make sure that the corporation redeems some of his shares or will pay him a dividend to cash out the accumulated surplus at the bank. That money received will be taxed as it would have had the money been taken out earlier. So you have deferred the tax, but you will pay the tax.

But if you have a corporate entity which was used and you are selling to a friendly buyer, then you could organize it to cash that money tax free as making it a capital deemed. Butterfly transactions are sophisticated things that I used to do as a corporate lawyer before I was a judge.

These are the types of things that are possible to do, but you transfer what is taxable in tax-free money. This tax avoidance rule was adopted to avoid that type of thing because we know a third party will not pay cash. But a friendly buyer, such as your son or grandson, might be ready to do it and will give you a promissory note and then will use the money from the company to pay you back the promissory note and give you the $1 million or whatever it was at the bank tax free. That's what the rule we want to remove today is doing and that's why it was adopted.

Before we do that, we should be careful. This is a budgetary measure and it should be left to the government, quite frankly.

[*Translation*]

Lastly, I want to talk about another of the bill's failings, which is that it doesn't harmonize with the Quebec system. As various experts told the committee, the only other government in Canada that has passed legislation to address tax inequality is Quebec, which introduced a measure in its 2015 budget that came into force on March 17, 2016. Nobody was taken by surprise. Revenu Québec had time to prepare interpretation bulletins, create forms and set up an adapted system.

When it was announced in 2015, the measure addressed only shares of the capital stock of family farm corporations, family fishing corporations and small businesses in the resource and manufacturing sectors.

• (1620)

In response to criticism, it was announced in Budget 2016 that eligibility for this measure would be expanded to all sectors of the economy. Quebec's current system includes seven specific requirements that do not appear anywhere in Bill C-208. If we pass this bill, we'll have a non-harmonized system that is more vulnerable to abuse than Quebec's system. As the Institut de recherche sur les PME professors wrote in the report I referred to earlier, and as some Quebec tax experts have also said, harmonization would be ideal.

Failure to harmonize will cause problems for Quebec taxpayers and for Revenu Québec, which will have to explain that a transaction doesn't meet Quebec's requirements and will be rejected even though it meets federal requirements.

Instead of working toward harmonization, this bill will pressure the Government of Quebec to change its tax policy. That flies in the face of the principles of cooperative federalism.

[*English*]

The lack of proper safeguards as they exist in the Quebec framework is made more concerning by the fact that Bill C-208 will come into force immediately. In other words, there is no transition period contemplated to allow the Canada Revenue Agency to adapt to this new reality, to issue any forms needed or to train its employees.

In closing, while I believe that the Senate will have a fair and transparent system for dealing with House of Commons private members' bills, I also think the Senate should keep the same high standards in reviewing those bills as it does with all government bills, especially because we are talking here about a budgetary measure. With Bill C-208, the high standards that Canadians should expect of the Senate have not been met, in my opinion. At a minimum, we should amend this bill for that reason. In the absence of a reasonable amendment, I suggest we defeat the bill.

Thank you. *Meegwetch*.

Some Hon. Senators: Hear, hear.

CRIMINAL CODE

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-6, An Act to amend the Criminal Code (conversion therapy).

(Bill read first time.)

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

Hon. Marc Gold (Government Representative in the Senate): Honourable senators, with leave of the Senate and notwithstanding rule 5-6(1)(f), I move that the bill be placed on the Orders of the Day for second reading at the next sitting of the Senate.

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

Hon. Senators: Agreed.

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

INCOME TAX ACT

BILL TO AMEND—THIRD READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Griffin, seconded by the Honourable Senator Black (*Alberta*), for the third reading of Bill C-208, An Act to amend the Income Tax Act (transfer of small business or family farm or fishing corporation).

Hon. Peter Harder: Honourable senators, I rise on debate on private member's Bill C-208, which aims to facilitate the intergenerational transfer of family businesses between family members and provide better retirements for the parents and grandparents who operated them.

While it goes without saying that the contribution of Canada's fishers and farmers to the nation's livelihood and food security is indispensable, their value in providing sustenance to us and other countries, especially during the pandemic, has been incalculable. Supporting those individuals is crucial to the renewal and future of our nation's farming and fishing communities.

However, while the goals of Bill C-208 are laudable, there are also omissions in this bill that can and will lead to unintended consequences. Those include the avoidance of taxes; a reduction in tax revenues to the government; and providing unintended advantages to wealthier Canadians, be they doctors, lawyers, dentists, accountants, construction businesses and even family-owned plumbing businesses.

I believe there is a need here for sober second thought to ensure that, in our efforts to see family farms and fishers thrive and to ensure stable retirements for those who built those businesses, we don't end up with a bill that leads to something unintended and unspoken of during second reading debate. Simply put, by reducing the tax payable on the sale of a parent-controlled company, this bill creates a loophole that could benefit individuals it was not intended to benefit.

While fishers, farmers, small businesses, politicians and many others have been asking for this law for some time, perhaps it might be useful to quickly review what is already in place, as that has ramifications for the bill.

Canada's Income Tax Act currently has a number of rules that specifically help farmers and fishers accumulate capital for retirement and facilitate the intergenerational transfer of property used in fishing or farming businesses. For example, through the lifetime capital gains exemption, an individual may shelter from tax up to $1 million of capital gains realized on the disposition of eligible farm and fishing property. The exemption can be doubled to $2 million if both farmer or fisher and their spouse qualify for the exemption.

Farmers and fishers are also entitled to transfer qualifying farming or fishing businesses on a tax-deferred basis to their children, thereby avoiding immediate tax on capital gains and facilitating the intergenerational transfer. A transfer may be structured so as to maximize an individual's lifetime capital gains exemption limit while also minimizing the tax implications of the transfer through the use of the intergenerational rollover.

Finally, farmers and fishers are also entitled to a capital gains tax deferral through a 10-year capital gains reserve where the proceeds of disposition have not been fully received and the property has been transferred to a child.

We are familiar with the positive measures raised in Bill C-208, but we also need to keep in mind all the potential negative consequences of it passing.

First, there are good reasons for the existence of corporate anti-avoidance rules that the bill proposes to amend. For example, rules currently preclude companies from moving shares around within a non-arm's-length group in order to convert a taxable dividend into a capital gain. Taxable dividends are taxed at a significantly higher rate than capital gains, hence the reason why an owner would want to do this. Bill C-208 would allow an exception to the rule by allowing a form of internal transfer among siblings purchasing their parents' or grandparents' business.

This will effectively lead to a lower tax rate upon sale, providing a wealthier retirement nest egg for their parents. But according to tax officials who testified at our own Committee on Agriculture and Forestry last week, this bill lacks the appropriate safeguards that ensure that a real intergenerational transfer takes place. For example, there is nothing in this bill — nothing at all — that requires the parent to cease their involvement in the business they have just sold to their offspring, nor does it require the offspring to take a role in running it. Without such a safeguard, the parents can sell the shares to a holding company set up by the children, avoid taxes on this sale and then buy the shares back at a later date. Married couples who do this will save taxes payable up to $1.8 million over their lifetimes if they decide to use their capital gains exemptions upon sale.

One has to ask oneself whether the goal of the bill is being achieved if this does not require the child to be the operator of the business.

Moreover, as noted earlier, these measures apply to all businesses, not just farms and family fishing companies; it would apply to a securities-trading business just as simply as it does to a farm.

Finally, there are serious tax-avoidance opportunities that will become a significant cost to the tax framework that the government has been carefully planning in the 2021 budget. In short, this would provide considerable benefits to some taxpayers in the form of a tax-exempt distribution of corporate surpluses without adequately guaranteeing that a true intergenerational business transfer has occurred.

Given these complexities, it is essential not to undertake any modification without a deliberate and in-depth reflection of what it would represent in practical terms and to avoid creating loopholes that would disproportionately benefit the rich. That means that changes in these sections of the law must be done with great caution lest they create unintended consequences, as I've just mentioned.

In summary, there are four good reasons why this bill needs to be amended.

First, the bill is regressive. The bill would open the door to new tax-avoidance opportunities that would unfairly benefit wealthy individuals instead of hard-working Canadians, and in the end, it would provide up to $900,000 tax-free wealth to wealthy taxpayers and up to $1.8 million to couples.

• (1630)

Second, the bill is not targeted. The bill does not apply solely to farmers and fishing corporations. It applies to all Canadian-controlled private corporations, or CCPCs, creating widespread tax planning opportunities. You may recall that economist Kevin Milligan has found that CCPCs are used predominantly by higher income individuals. Given the value of transactions that would benefit from this, we can expect the incorporated higher net worth individuals to take advantage of these provisions.

Third, the bill creates serious opportunities for tax avoidance. This bill creates major opportunities for illegitimate business transfers to be used to reap tax benefits. The bill does not require the parent to cease controlling the business, neither does it require the child to be involved in the business. This would allow parents to sell the shares to a child's holding company and then, as I say, buy the child's company back.

Fourth, the bill becomes a substantial fiscal cost to the Government of Canada. The Parliamentary Budget Officer has spoken of earlier contributions and estimated the cost at half a billion dollars four years ago. Combined with behavioural responses as more tax firms offer this product, I can only assume that this number will be much exceeded should this bill be adopted.

Thank you, colleagues. I would ask you to consider these amendments and close these loopholes now.

MOTION IN AMENDMENT NEGATIVED

Hon. Peter Harder: Therefore, honourable senators, in amendment, I move:

That Bill C-208 be not now read a third time, but that it be amended, in clause 2,

(a) on page 1, by replacing lines 26 to 30 with the following:

"length if

(i) the purchaser corporation is controlled by one or more children or grandchildren of the taxpayer who are 18 years of age or older,

(ii) the purchaser corporation does not dispose of the subject shares within 60 months of their purchase, and

(iii) prescribed conditions are met.";

(b) on page 3, by adding the following after line 19:

"**(3) Subsections (1) and (2) apply in respect of dispositions that occur after January 1, 2022.**

(4) The Minister of Finance must prepare a report on the tax integrity implications of this Act.

(5) The Minister of Finance must cause the report to be tabled in each House of Parliament no later than one year after the date on which this Act receives royal assent, or, if either House is not then sitting, on any of the first 15 days on which that House is subsequently sitting.".

Hon. Diane F. Griffin: Honourable senators, I've listened with interest to the debate on Bill C-208, and I thank senators for their attention to this bill. Regarding the amendment by Senator Harder, there are some things I would like to note. There has been discussion on whether the Standing Senate Committee on Agriculture and Forestry, or AGFO, was the right committee for this bill to have been sent.

Senators, I suggest that if Banking and Finance are the only committees that could consider legislation, we would have a big problem on our hands since those committees are fully tasked with legislation already and can scarcely consider taking on any more. Are we really suggesting that committees like AGFO, the Standing Senate Committee on Fisheries and Oceans, or POFO, and the Standing Senate Committee on Energy, the Environment and Natural Resources, or ENEV, are not well enough equipped to handle important bills, including those pertaining to financial matters? I should hope not. There are competent senators throughout this chamber who can study bills, listen to expert witnesses, ask questions and make rational recommendations.

Agriculture has been identified by the government as a key area for economic growth in the years to come, so it's only fair that the concerns of farmers should be considered when examining legislation that will affect them. Furthermore, the motion for this bill to go through the Standing Senate Committee on Agriculture and Forestry was debatable and amendable, and it was agreed to by the Senate.

I note that the bill was actually studied by the Standing Committee on Finance in the other place. I think examination in one chamber through a finance lens and examination in another chamber through a more natural resources lens should be considered a good thing.

I've heard some colleagues say that we should have heard more witnesses who were opposed to the legislation. I even conferred with the Chair of the House of Commons Finance Committee about this. As Senator Deacon emphasized to me several times that he wanted to hear all sides of the issue, especially from those who were opposed, we tried. We could not find them. As you know, concerned parties can contact the committee clerk and ask to appear or submit briefs. None did; nor did any potential witnesses who were opposed to the legislation ask to appear before the House of Commons committee.

We've also heard that government officials should have had more time to present their arguments. Let me assure you that the committee went to great lengths to accommodate our government witnesses. Finance officials were invited to earlier meeting dates, but the department made no one available until June 10. At that meeting, we went overtime during the panel of officials to be sure senators' questions were answered.

By the way, you will have heard the refrain about this committee being rushed, but it's not the only time a committee was said to be rushed this month. It is June. Everyone is acting in good faith in dealing with legislation with the limited time and resources available, whether it is AGFO or other committees.

I reject the notion that the Department of Finance Canada hasn't had time to prepare for this legislation. Emmanuel Dubourg introduced a version of this bill on June 11, 2015. There have been several other similar bills since, resulting in multiple opportunities for Finance Canada to provide suggested amendments in the years since, but it chose not to.

Senators, this is one of the first times since the implementation of the new independent senator appointment process that we've received a bill from the House of Commons in this kind of circumstance. As you know, there is a tension between what the government wants versus what the elected House of Commons wants.

Consider for a moment that this was a whipped vote for government members in the other place. Nevertheless, 19 Liberals defied the whip and voted in favour of the bill, including Wayne Easter, Chair of the House of Commons Finance Committee.

To address another, more personal, issue raised today, I had planned to step aside as chair of the committee until I was informed by the most senior member of the committee that I did not need to do so, as he was aware of other circumstances. For instance, former Senator Oliver chaired the Legal and Constitutional Affairs Committee and was the sponsor of Bill C-2, The Federal Accountability Act, in 2006.

• (1640)

As you know, if we accept this amendment, it is a de facto killing of the bill, as it would die on the Order Paper. Please join me in voting against this amendment and letting the original bill go forth for the final vote. Thank you.

Hon. Colin Deacon: Honourable senators, I am rising to speak in opposition to this amendment and in strong support for an unamended Bill C-208. This important bill finally addresses an anti-avoidance rule in our Income Tax Act that next to everyone agrees places a deep unjust tax burden on those wishing to complete a genuine intergenerational transfer of a family-owned small business, farm or fishing operation. Bill C-208 provides us with the opportunity to address that long-standing, painful reality.

Before I address the concerns raised by Senator Harder and other speakers in this chamber, I'll begin by providing you with some personal insights as to why I think this bill is so important.

As you can imagine, I come at this issue from the perspective of a small-business person. When I was given the responsibility of being a senator, it was the first time since I began my business career 40 years ago that I wasn't fully responsible for bringing in every single dollar that paid my income. It's the first time I had a benefits plan or access to a pension plan. Additionally, for a 20-year period, I was CEO of a small start-up company fully responsible not just for myself but for making the payroll for the employees who were helping me build those businesses. If we were short on payroll, my wife and children felt it because I wouldn't get paid.

During these times in my career, I had countless 3 a.m. panic attacks, worrying about whether or not I would be able to make payroll or overcome yet another bump in the road. Every family member lived these ups and downs.

For the first time in my life, I now have a secure job and income. Still, I find I cannot relax. The sense of urgency and fear of failure simply do not abate.

Unlike corporate, academic or government employees, farmers, fishers and entrepreneurs have no job security, no income security, no benefits and no pension. When they make a mistake, don't make a key sale or don't win a key contract, they own it. There is absolutely no safety net. Too often there's no elasticity in either the business or your personal financial life. Your business is your livelihood and your pension plan.

Let's imagine the agonizing choice that Finance Canada currently forces when your offspring have the passion and talents to carry on the family business and you want to pass it on to them. Either you pay up to 27% more in extra taxes, dramatically diminishing the value of your lifetime of work and savings, or you sell it to a stranger so you can better fund your hard-earned retirement. It's a heartbreaking choice.

Now, to address the criticisms of this bill. I disagree with the assertion made by speakers today and last week by Senator Woo that Bill C-208 is too expansive because it goes beyond fishing and farming operations to include small businesses. Canada needs more entrepreneurs, and one of the best ways to get them is to grow them, and intergenerational transfers can help.

I'm firmly of the opinion that diverse and vibrant small businesses are the essence of a community. They bring energy and personality to our cities, neighbourhoods and small towns. Without them, we only have structures — no life.

When we studied the bill in the Agriculture and Forestry Committee, we benefited from insightful perspectives offered by an official from the Canadian Federation of Independent Business, or CFIB, among many others. Based on personal experience, one of the hardest things for the owner of a unique small business to do is to find a buyer for their business. The more unique a business, the tougher it is. It's likely a reason why a recent CFIB survey found that 25% of owners hope to pass their small business on to a family member.

Additionally, an argument was made that Bill C-208 introduces an intellectual inconsistency that undermines the integrity of the tax code. Personally, I'm not entirely sure that a

whole lot of Canadians find our tax code to be very intellectually consistent as it stands. Personally, I find the perception of an arbitrary discrimination to be much more problematic.

Importantly, the senior Tax Policy Branch official at Finance Canada did not find this inconsistency to be a problem. In response to one of my questions in the AGFO committee meeting, he stated that, from a policy perspective, the essence of Bill C-208 is justified on neutrality grounds and that the situation warrants an exception to the application of surplus stripping rules. This says that Finance Canada understands that the estimated fiscal revenue reduction that may result from this bill only exists due to a current inequity in our tax code.

Senator Woo and others have told us that, if passed, Bill C-208 will unleash a flurry of tax avoidance via surplus stripping. The purpose of this bill is to stop disadvantaging genuine intergenerational business sales in an incredibly detrimental way. It is not to open up loopholes or create tax avoidance opportunities. I'm willing to bet that no one in this chamber, and certainly not me, would want to do anything to increase tax avoidance in Canada.

Concerns about possible abuse is one of the reasons why the AGFO committee sought to find expert voices beyond the same two Finance Canada officials who testified at the House Finance Committee. We wanted to understand whether the bill's current protections of requiring arm's-length valuations and the purchaser to own the business for a minimum of five years were sufficient. Neither the steering committee nor our clerk, and, in fact, not even the chair of the House Finance Committee could find additional witnesses to testify against the merits of Bill C-208.

In response to very direct questions from the House Finance Committee members, the Finance officials simply repeated their concern that the bill could possibly allow for intergenerational transfers in name only in order to avoid taxes. They stated that they believed the issue can be addressed but provided no specifics as to how and proposed no changes to the bill. They did not even recommend delaying its coming into force or adding the ability to create special regulatory powers.

If this bill is so flawed and fears of potential abuse are so real, why then did our country's top tax policy experts not help the chair and members of the House Finance Committee identify and debate specific amendments? I found this strange because every tax expert I've ever met thrives on offering meticulous specifics. Not one amendment was introduced in committee or in third reading in the other place.

We asked these same tax policy officials about additional tax avoidance safeguards in the Senate committee. This time, they cited the 2016 regulations in Quebec and suggested that the bill could now, in the Senate, in June, be amended to include the ability for Finance Canada to add specific regulations.

Given that they were asked the same question repeatedly in the House Finance Committee and offered nothing, we asked how long they had known about the Quebec regulations. After a long silence, they replied that they had known since the department's small business consultations in 2017. Incidentally, 2017 is the same year that our own Senate National Finance Committee tabled a report entitled *Fair, Simple and Competitive Taxation: The Way Forward for Canada*.

In their report, they noted that:

> The government said it would work with family businesses, including farming and fishing businesses, to make it more efficient, or less difficult, to hand down their businesses to the next generation.

Further, the 2017 report went on to suggest that the rules already being used by the Government of Quebec should be adopted in order to make intergenerational transfers easier.

Colleagues, neither this solution nor the problem are new to Finance Canada, and the problem goes back several decades. Both Conservative and Liberal governments have failed to fix it. Until now and until today, no one has done anything to fix this unfair tax penalty, again leaving owners who want to pass their business on to their capable offspring with a completely unfair, completely unnecessary and agonizing choice.

Contrary to the assertion that, by passing this bill, the Senate will somehow arbitrarily make intergenerational family ownership a public policy priority, it does not. Bill C-208 only levels the playing field as it relates to an unjustifiable imbalance in our current tax system.

Now, if tax avoidance problems actually materialize following the passage of this bill, there are multiple recourses available to the government. Finance officials told AGFO that additional protections could soon be added by the government through a regulatory power. Finance Canada and the government could put forward corrections quickly and through a ways and means motion. This point was also made by the long-respected chair of the House of Commons Standing Committee on Finance Wayne Easter, a former Liberal cabinet minister with 28 years and 8 elections worth of parliamentary experience. He said this during his third reading speech. He reminded his colleagues that farmers, fishers and small business owners have been waiting on the sidelines for years.

• (1650)

In terms of additional options available to prevent potential abuse, several tax experts advised me that the Canada Revenue Agency has access to extraordinary powers through section 245 of the Income Tax Act, called GAAR, the General Anti-Avoidance Rule. It allows CRA to impose adverse tax consequences and to deny any tax benefit resulting directly or indirectly from a tax-avoidance transaction. It was also noted that future tax changes put forward to address oversights could be applied retroactively, something that is not problematic if done in the same fiscal year.

We also heard the assertion that the changes to Bill C-208 are somehow regressive. CFIB data make it clear that the vast majority of small business owners are not wealthy. Two thirds of Canadian small businesses earn less than $73,000 a year and have four employees or less, and almost one third of those business owners earn about $15 an hour less — and these are pre-COVID numbers. I would offer that including all small business is not about the rich getting richer, as is being asserted. The provisions in Bill C-208 provide a very affordable alternative to the vast majority of small business owners, especially when compared to the huge cost of the status quo.

As I conclude, let me summarize why I'm asking you to pass this bill unamended.

First, Finance Canada and successive Liberal and Conservative governments have failed to act. They committed to solving this inequity in 2017 when they already had full knowledge of the Quebec regulations. They have not come up with a comprehensive solution following three different budget cycles.

Second, Bill C-208 addresses a deeply unfair, problematic and long-standing inequity in the Income Tax Act that has long been ignored. Bill C-208 is a product of a private member's bill going back to early 2015. It did not suddenly appear as a populist bill immediately prior to an election, as has been asserted.

Four different elected parliamentarians from three different parties — Liberal, NDP and finally Conservative — in three different parliaments have attempted to correct this inequity. This bill arrived in the Senate with the support of elected parliamentarians in all five parties, including 19 Liberal MPs, only two of whom had voted in favour of the bill at the second reading.

Finally, if this chamber passes the bill and abuse materializes, there are multiple ways in which to address those issues. These include legislative amendments — for instance through a ways and means motion allowing for additional regulatory powers, by applying the General Anti-Avoidance Rule that exists in section 245 and finally by making whatever necessary changes retroactive.

Colleagues, immediately prior to my accepting the enormous honour and responsibility of this appointment, Prime Minister Trudeau made one crucial request of me. He asked that I "challenge the government during my time in the Senate." I know others have said that they had the same conversation. In response, I said, "Absolutely, Prime Minister. That is why I applied." I have worked to do so collegially and constructively as much as I can ever since.

The backbone of countless communities is small businesses, farms and fishing operations. Those who can pass a business down from generation to generation create the history and the character of countless communities across our country. We need to give every opportunity to those families to make that transfer. Solving this problem once and for all is up to us now. If you do not support this bill — and I absolutely accept that you may not — then I ask you to please not kill it by voting for the amendment. Instead, vote directly against the bill itself. We all know that amending this bill now in the Senate in this Parliament will kill this bill.

My sincere hope is that you will join me in voting against the amendment and finally voting in favour of an unamended Bill C-208. There are a lot of families counting on us. Let's do it for them. Thank you, colleagues.

The Hon. the Speaker pro tempore: Senator Downe, you have a question. We have one minute left.

Senator Downe: In that case, on debate, Your Honour.

The Hon. the Speaker pro tempore: Senator Loffreda, we have 45 seconds for a question.

Hon. Tony Loffreda: Senator Deacon, thank you for the speech. Very insightful. How much discussion was there in committee around how difficult it is currently for family members to purchase the business if they want to purchase from their parents? They're taxed at after-tax money, at salaries at 53.31%, as opposed to a corporation where you can do it through future earnings.

Senator Mercer: Question.

Senator C. Deacon: Thank you, Senator Loffreda, for the question. I'd offer that one of the biggest challenges is that many businesses cannot take advantage of the 10 years currently allowed. The parents have to get the resources early on, so they are left with this horrible choice. The current situation is deeply unfair. At the part of the committee when we heard all the different stories —

The Hon. the Speaker pro tempore: I'm sorry, Senator C. Deacon, but your time has expired.

[*Translation*]

Hon. Lucie Moncion: Honourable senators, I just listened to the comments and speeches of my colleagues and I will get right to my conclusion. I won't go over all the tax rules that we've presented and gone over here. However, I'd like to make one thing very clear to my colleagues, and I'll start with a comment made by Senator Dalphond. We've gone over the history of the work done in this file. Bills have been introduced in the House of Commons on three occasions and none of them made it to committee.

In 2020, so quite recently, Bill C-208 was introduced in the House of Commons and was studied there for the first time. Even tough we've been discussing this bill for 10 years, it's only been under consideration for a few months.

The bill was referred to the Senate on May 25, and, on June 3, it was referred to committee for consideration. It pertains to important tax laws. The Agriculture Committee only had two meetings. Still, we're being told that the issue has been dragging on for years.

We didn't examine this bill properly. As a senator, I'm disappointed and frustrated to hear those sorts of comments. Attempts are being made to go over my head to ask me to vote on a bill that wasn't studied properly. Are we going to agree to vote on a bill that wasn't presented properly? I find it rather disturbing that we would do that, particularly on a matter of taxation.

Everyone presented excellent arguments. The Senate is the chamber of sober second thought, and you will not convince me that we studied this bill objectively. I'm sorry, but I can't go that far, even though I tried.

Before Senator Woo told us last week that there are real problems with this bill, everyone was ready to move ahead as though this were a done deal. That is the sort of attitude that frustrates me as a senator. We shouldn't agree to spend two meetings studying legislation only to refuse to vote on a certain aspect or agree to vote on an amendment. That's not fair to farmers, fishers or SMEs. It's not fair to Canadians.

I'm sorry, honourable senators, but I won't be voting in favour of this bill. I'm extremely disappointed to be debating this subject. I find it utterly absurd. I seems to me that the government is trying to quickly get something past us, and I think that's a real problem.

The Honourable Senator Salter Hayden was a member of this chamber in the late 1960s and early 1970s.

[*English*]

Senator Hayden spearheaded the Senate committee that studied major changes to the tax system. The complete tax overhaul done at the time was a success story for the Senate. Maybe it's time for the Senate to do this again and to fix the problem instead of having a boutique tax code of piecemeal fixes, we could have a more up-to-date tax code that would be geared to the needs of our time.

• (1700)

I think it's very important that we look at this in this session. I'll stop here. I have a lot of other arguments, but I think I've said enough, and I hope that you will vote against the amendment and that you will vote against this bill because this should not be going anywhere else. Thank you, colleagues.

Some Hon. Senators: Hear, hear.

[*Translation*]

The Hon. the Speaker pro tempore: Do you have a question, Senator Forest?

Hon. Éric Forest: Would the senator take a question?

Senator Moncion: Go ahead, but you can see the kind of mood I'm in.

Senator Forest: I'll give you some time to calm down. Indeed, this has been dragging on for quite a while now, but we didn't say that it's been dragging on in the Senate. There have been three previous attempts.

When you talk about a tax response, it is very important to assess that. The main characteristic that a tax should have is fairness, that is, to be fair in the tax efforts of all taxpayers. Whether it is property tax, provincial tax or federal tax, fairness in tax effort is essential. We all fundamentally recognize that this bill, with respect to related business transfers, is unfair. There could be a fiscal cost of up to $279 million, because the money would be taken from the pockets of Canadians in a related transaction that is unfair. That would be even more worrisome than the fear of creating an imbalance in the federal tax system if this bill were to pass, because my main concern is fairness in our tax system, and yet in this case, the system is unfair. Would you agree?

Senator Moncion: As I said in my speech, I'm unable to come to the same conclusion, Senator Forest, because this bill is complex and we haven't been given enough time to study it. I believe that there are loopholes and all kinds of inequities in the code. We haven't looked into any of that. We're being asked to vote on a bill that we haven't had enough time to study properly.

I've worked with people from all sectors, except the fisheries. One company I worked at started estimating the number of intergenerational transfers that were taking place, starting in 2010. These problems have been around a long time. My problem here today has to do with the complexity of all of these rules and with the fact that this bill was studied over a mere two meetings.

The government is asking us to make decisions on a single, simple bill, Bill C-208. I'm just as frustrated about Bill C-208 as I am about Bill C-218. It's exactly the same thing. Things are being slipped in because we're at the end of the session. We're being asked to vote, to make decisions and to adopt bills so they can get Royal Assent. This approach doesn't work, Senator Forest. I'm not calling into question the bill itself. I'd like the opportunity to study it in its entirety and to come up with real solutions for SMEs, for the fishery and agricultural sectors, after hearing from witnesses and understanding the real issues these businesses are dealing with, whether it's about transferring a business, obtaining loans or going through the planning process.

Senator Forest: By your logic, then, in the interests of fairness we should stop Bill C-208 and every piece of legislation that we're asked to consider at the last minute.

Senator Moncion: That is not what I'm saying, Senator Forest. If we want to be fair, we need to do the work properly, and to do that, we need to hold more than two meetings and hear from more witnesses, in addition to accountants or people who are good with numbers who only have good things to say about the bill. That way, we can study the bill thoroughly instead of doing a piecemeal job to correct just one small problem that may result in five or six others.

The Hon. the Speaker pro tempore: Senator Bellemare, do you have a question?

Hon. Diane Bellemare: Will Senator Moncion agree to take another question?

Senator Moncion: Yes, and I'll try to calm down.

Senator Bellemare: First of all, I want to commend you for the passion with which you addressed this issue. As I was recently saying to someone who was following the work of the Senate, we're currently dealing with an excessive number of bills that we need to fast-track.

I also have a big problem with this approach. When we're called upon to pass public interest bills from the Senate or the House of Commons, we know that these bills haven't been examined as thoroughly.

Senator Moncion, do you agree that we should implement an approach that would allow us to do a thorough job at every stage of the legislative process? In that regard, I agree with you that perhaps proper procedure wasn't carefully followed. Do you agree with me on that?

Senator Moncion: I couldn't agree with you more. I'm much calmer now thanks to your question.

The Hon. the Speaker pro tempore: Senator Loffreda, do you have a question?

Senator Loffreda: Would Senator Moncion take another question?

Senator Moncion: Yes, Senator Loffreda.

Senator Loffreda: Now that you've calmed down somewhat, I'd like to take the opportunity to ask you a question. Many studies have already been done by accounting firms and chambers of commerce. Many of them support this bill. As senators, what's stopping us from reading these bills, from reading and carrying out studies? I've been reading up on this bill for several days. I didn't make a speech because Senator Deacon gave an exceptional one and I wanted to contribute in another way.

What's stopping us from doing the reading and looking at the studies without necessarily always doing it in committee? With your experience, perhaps you could answer my question. Thank you.

Senator Moncion: I thank you for this question, senator. Senators have very diverse areas of expertise. Some study tax issues whereas others study financial issues. Some, like Senator Galvez, are authorities in their fields or experts on the Constitution Act. When we consider the work that a senator must do, it is not the work of one, two or three senators, it is a collective effort. The beauty of being in the Senate is having access to our colleagues' expertise when we need it. We saw that in recent weeks.

I read up on the bill, but I'm working on another one. I was unable to spend as much time as I wanted to on this one. I've even told myself that, ultimately, we may not have enough time to arrive at these conclusions. If we were to do a more in-depth study, perhaps we too would come up with the same solutions or others that would be better tailored to the needs of our fishers, farmers and SMEs.

We must try. Someone asked me what this bill would do. I told them that when I looked at the Income Tax Act, I saw an old boat with holes that are being plugged in a piecemeal manner, and that we've been trying to repair this boat that's taking on water for a very long time. We need to start from the ground up if we want an adequate and much more flexible tax code than the one we have now.

Senator Loffreda: If I understand correctly, Senator Moncion, it's not that you disagree with the accounting firms, the experts, the studies and the research or that you don't trust them. You want more time. Many studies and considerable research support the bill's measures and many experts believe that this inequality must be addressed. Do I have that right?

• (1710)

Senator Moncion: That's exactly right. I'm not questioning the accountants' expertise. However, I expect the Senate to be able to carry out objective studies, given its role of sober second thought and responsibility for studying every bill that comes before it, whether from the Senate or the House of Commons.

The Hon. the Speaker pro tempore: Honourable senators, Senator Moncion only has 15 seconds left. There are three other senators who would like to ask questions.

[*English*]

Hon. Percy E. Downe: Colleagues, it was my intention to ask Senator C. Deacon a question on his excellent speech, but time was too short so I want to make a few comments on the legislation.

The major problem with this legislation is that the government is opposed to it, and that's it. It's been studied for years. There are simply no concerns about tax avoidance or tax allocation or tax cheating with this bill. As Senator C. Deacon correctly pointed out in his speech, these issues can all be addressed by the CRA with directives or accounting rules and interpretation. They have all the tools they need.

Colleagues, to think that this government is suddenly concerned about tax evasion is laughable. We have seen over the years what they have done and not done on tax evasion. I point today to a story in the *National Newswatch* where they talk about once again having no success for prosecuting or convicting the very rich.

This bill is about farmers and fishers. They desperately need our assistance and they need it now. I appreciate the comment made that we should do an overview of the tax system. I'll be gone from the Senate by the time that's completed. Help is needed now, it's needed today.

I thought Senator Griffin made a key point. The government was so opposed to this bill that they had a whipped vote. I know most colleagues understand what that means, but for those who do not, let me tell the price you pay when you go against the whip. Scott Simms is an MP from Newfoundland and Labrador. He voted against the government on a whipped vote a couple of years ago and he lost the chair of the Fisheries Committee right away. There is punishment for going against the whip. These

people are forced to vote that way. So the significance of 19 Liberals voting against what the whip and the leader of the party told them is very telling. They know this legislation is needed, they know this legislation is required and that's why they went against the whip.

Senator C. Deacon also referred to the chair of the Finance Committee, a long-time chair, former cabinet minister Wayne Easter, who not only voted for this, but supports the bill and through every avenue has been trying to get it passed for years.

Colleagues, there are all kinds of reasons to support this bill, but let's take the tax avoidance and the tax argument off the table because there has been no indication whatsoever from the government that wealthy Canadians are being punished for tax avoidance if suddenly they are going after farmers and fishers. That would certainly be the first interest we saw from this government in collecting taxes owed by Canadians. This bill is important for a host of reasons and I intend to support it.

And I say this — I'm a long-time supporter of, financial contributor to, and voter for the Liberal Party of Canada, but that does not mean the Liberal government is always correct. We are not talking about North Korea here where you have to bow down to the dear leader. The government makes mistakes. This is one of them. They should have supported this bill.

I intend to support this bill and support farmers and fishers. I'm not supporting officials from Finance Canada who are opposed to this, who have spoken about this, who suddenly woke up to what is going on and are opposed to this legislation. If the choice is between Finance officials and farmers, fishers and their families — who are trying to struggle for all the reasons that Senator C. Deacon gave about the amount of money they make and how little it is, and they are trying to survive to keep us all in food and to help a rural economy — there is no question what we should all do. I hope you would join me in supporting this bill. Thank you, colleagues.

Some Hon. Senators: Hear, hear.

Hon. Pat Duncan: Senator Downe, I have listened to you in the past, and I value your expertise regarding tax avoidance — and the government's ability or inability, depending on your point of view — to wrestle with this problem.

I'm not an expert on this bill. One issue that I have not heard mentioned in the debate is that, intergenerationally, businesses are taxed at 48%. To transfer a business to a Canadian corporation it is 26%, and to a foreigner it is 13%.

Placer mining in the Yukon is often referred to as the family farm of the Yukon. If I understand this correctly, if a placer mine in the Yukon was to be sold to a foreign entity, it would be taxed at far less than if it was sold or passed on to the family. I'm wondering if during all of the discussions on this bill anyone has measured the number of transfers to foreign versus Canadian or intergenerational transfers?

Senator Downe: That's an excellent question, Senator Duncan, because you hit the nail right on the head by highlighting the disadvantage farmers and fishers currently have in the tax system. I cannot answer the question in specific detail, but I think you have highlighted once again the various tax rates paid by Canadians and non-residents, and the disadvantage that rural farmers and fishers and their families face at the current time.

Senator Duncan: I would like to thank Senator Downe for his frankness in response. I invite other senators who might have that information to send it to me. Senator Downe, are you supportive of a national finance review of the tax system? I would like to sincerely applaud Senator Moncion for her passionate defence of this idea.

Senator Downe: I think it's an excellent proposal. My only concern or hesitation would be it could take this bill completely off the rails and our farmers and fishers would wait years.

As Senator C. Deacon correctly pointed out, any errors or flaws in this legislation can be quickly picked up by the Canada Revenue Agency and the Finance Department, and they can be corrected very quickly through different measures.

For an overview of the tax system, that's exactly the type of work the Senate should be doing on an ongoing basis; the big picture issues. We should not be trying to compete with what the MPs are doing. On big policy issues, that's where the Senate should shine.

Senator Duncan: Thank you, Senator Downe, I couldn't agree more.

The Hon. the Speaker pro tempore: Senator C. Deacon do you have a question?

Senator C. Deacon: Yes, Senator Downe would you take another question?

Senator Downe: Yes, of course.

Senator C. Deacon: I want to say how much I agree with what you just said, Senator Duncan's thoughts and also the proposals put forward by Senator Moncion.

How many years have you been working in the Senate to deal with the issue of offshore tax avoidance and evasion? When did you start that work, because my sense is that it is not an issue that is at the feet of any one particular government — it is at the feet of all governments in how we've been dealing with that. I would like your thoughts on that, please.

Senator Downe: You are right, it has been an ongoing issue for at least the last 10 years. As I said in the Senate recently, because of the personal intervention of the Minister of Finance, we finally had the first significant development in the fight against tax evasion, which is the beneficial ownership registry. However, that will take four years.

• (1720)

Senator Gold is finding out why it is taking so long and how they are spending the money. He told the Senate he would get back to us in response to my question, but that's four years from today. That is a good beginning, and I give full credit to the Minister of Finance. I understand from various people around Ottawa that it was her personal intervention — in fact, there was a story in *La Presse* within the last two weeks where the reporter interviewed the current revenue minister, who basically blamed the former Minister of Finance for not doing anything on tax evasion, which I thought was rather interesting. That aside, Minister of Finance Freeland deserves full marks.

Senator C. Deacon: Thank you, Senator Downe. I couldn't agree more about Minister of Finance Freeland's efforts in that regard. Absolutely a fantastic first step.

Hon. Pierre J. Dalphond: Honourable senators, I'm sure Senator Plett is happy to see me rising to make another speech. I had a long speech of 15 minutes. I won't deliver it. Instead, I will go to a shorter version, but I think some comments deserve to be made about the comments I heard during that interesting debate.

If we accept that the flaws in the bill will later be addressed by the government, why should we accept passing a bill with flaws when we know the government won't be sitting before the fall? Well, the government can fix it.

Flaws have been indicated and three options have been considered. Some senators suggest the bill could be amended by the government, but let's be realistic. This bill has no coming-into-force provision. That means, unless the amendment proposed by Senator Harder is adopted, the bill will come into force the day it receives Royal Assent. That could be tomorrow or Friday. If that is the case, as of that day, people will be able to exercise the new tax option that will be made available. We've heard that many people are considering retirement, so I guess that will be a good invitation to retire and do their tax planning accordingly. Even if the government is opposed, you know you will have a window of opportunity you could use. That is the first thing that needs to be understood.

The bill will come into effect the day it receives Royal Assent, and if the way to fix it is by amending it, this will not happen before the end of this week. We all know it will happen in a few months if we resume sitting in the fall, or it will happen after an election, if there is one. There will be a few months where the tax loophole will be fully open, to be used by whomever wants to use it with the proper accounting and advice to take advantage of it.

Second, some people are saying it could be fixed by regulation. Again, this is if the law provides the government the opportunity to adopt regulations to complete the legislation. We have seen this happen with the special bills that were adopted during the pandemic. One of them gave the government power to change the Income Tax Act, and we all opposed it. The other house did not agree either. You need authority to complete the law through a provision of the law that says the Governor-in-Council can adopt regulations to define this, to have restrictions and to provide the appropriate period of time to hold shares before you can transfer them to a third party.

Another option to address the flaws has been suggested. Many senators seem to acknowledge that there are flaws. They say the Canada Revenue Agency can resolve these flaws; they can adopt directives or an interpretation bulletin. Again, this is not what the law provides. If the law says you can do it in the following ways, the Canada Revenue Agency cannot then adopt internal methods or an interpretation bulletin that will contradict what Parliament has decided.

If it can be done that way and you don't have to run the operation, you can buy it. You can be a student studying in Vancouver who buys shares of his father's farm corporation in Quebec and pretend he is not using it and not exploiting the farm. Well, that cannot be fixed by the CRA. They have no authority to change that. The law speaks and the law must be read as it is written. Tax Court judges will come down on the CRA if they dare change the law we have passed.

Quite frankly, if you consider there are flaws in the bill, there is no way to pass it without the amendment proposed by Senator Harder. That is really important. That's all I wanted to say.

The Hon. the Speaker pro tempore: If you are opposed to the motion, please say "no."

Some Hon. Senators: No.

The Hon. the Speaker pro tempore: Those in favour of the motion who are in the Senate Chamber will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: Those opposed to the motion who are in the Senate Chamber will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker pro tempore: I believe the "nays" have it. I see two senators rising.

And two honourable senators having risen:

Senator Plett: Fifteen minutes.

The Hon. the Speaker pro tempore: Is there an agreement on a 15-minute bell?

Some Hon. Senators: No.

The Hon. the Speaker pro tempore: I will ask again. Is everyone in agreement with a 15-minute bell?

Some Hon. Senators: No.

The Hon. the Speaker pro tempore: I hear a "no," so we will have a one-hour bell. The vote will be at 6:27. Call in the senators.

• (1830)

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

YEAS
THE HONOURABLE SENATORS

Anderson	Forest-Niesing
Bellemare	Francis
Boehm	Gagné
Boniface	Gold
Bovey	Harder
Boyer	LaBoucane-Benson
Brazeau	Lovelace Nicholas
Christmas	Marwah
Cordy	Mercer
Cotter	Moncion
Coyle	Munson
Dalphond	Ringuette
Dasko	Saint-Germain
Dawson	Simons
Dean	Woo—31
Duncan	

NAYS
THE HONOURABLE SENATORS

Ataullahjan	Marshall
Batters	Martin
Black (*Alberta*)	McCallum
Black (*Ontario*)	McPhedran
Boisvenu	Mégie
Busson	Miville-Dechêne
Campbell	Mockler
Carignan	Moodie
Dagenais	Ngo
Deacon (*Nova Scotia*)	Oh
Deacon (*Ontario*)	Pate
Downe	Patterson
Forest	Petitclerc
Galvez	Plett
Greene	Poirier
Griffin	Ravalia
Hartling	Richards
Housakos	Seidman
Kutcher	Smith
Lankin	Stewart Olsen
Loffreda	Wallin
MacDonald	Wells—45
Manning	

ABSTENTIONS
THE HONOURABLE SENATORS

Bernard	Klyne
Cormier	Wetston—5
Dupuis	

• (1840)

The Hon. the Speaker: Honourable senators, it is now after six o'clock, and pursuant to rule 3-3(1) and the orders adopted on October 27, 2020, and December 17, 2020, I am obliged to leave the chair until seven o'clock unless there is leave that the sitting continue. If you wish the sitting to be suspended, please say, "suspend."

Some Hon. Senators: Suspend.

The Hon. the Speaker: The Senate is suspended until 7 p.m.

(The sitting of the Senate was suspended.)

(The sitting of the Senate was resumed.)

• (1900)

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Griffin, seconded by the Honourable Senator Black (*Alberta*), for the third reading of Bill C-208, An Act to amend the Income Tax Act (transfer of small business or family farm or fishing corporation).

The Hon. the Speaker: Honourable senators, for clarity, the amendment was defeated, so we are now resuming debate on the main motion. Are senators ready for the question?

Senator Harder: Question.

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

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

BILL TO AMEND THE CANADA ELECTIONS ACT AND THE REGULATION ADAPTING THE CANADA ELECTIONS ACT FOR THE PURPOSES OF A REFERENDUM (VOTING AGE)

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator McPhedran, seconded by the Honourable Senator Loffreda, for the second reading of Bill S-209, An Act to amend the Canada Elections Act and the Regulation Adapting the Canada Elections Act for the Purposes of a Referendum (voting age).

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, I rise to speak to Bill S-209, An Act to amend the Canada Elections Act and the Regulation Adapting the Canada Elections Act for the Purposes of a Referendum (voting age).

Colleagues, I have been following this debate and I want to say at the outset that I appreciate Senator McPhedran's dedication to this cause. I know she believes deeply in this and has worked tirelessly to make her case in this chamber.

I would also like to say that I share her view that our youth have much to offer and are not just leaders of tomorrow; they have a significant contribution to make today. Many of them have already found their voices and are engaging in important public discussions and making valuable contributions to public debates. The perspectives and views of our young people are important and their voices should be heard. We gain absolutely nothing by diminishing them.

I also believe in our youth being involved in politics and political campaigns. I was a member of the Conservative Party at a young age and was only 15 years old when I volunteered for the first time in an election campaign as a scrutineer for long-time member of Parliament the Honourable Jake Epp. My dad got me involved in that campaign and subsequent campaigns. These were formative experiences for me, and through them I developed a keen interest in politics and public service.

However, colleagues, in spite of my support for our young people and my clear recognition of the valuable contributions they make, this is not the equivalent of saying they should have all the rights and responsibilities that currently belong to adults who are the age of majority.

We have many things that are restricted by age and I would note that all of those restrictions have been determined by the democratic process, which is controlled by those who are of voting age.

If we reduce the voting age from 18 to 16, how can we prohibit 16-year-olds from also purchasing alcohol, tobacco and cannabis? What about firearms? What about gambling? If you're old enough to decide who should be the Prime Minister of Canada, aren't you old enough to do all of these things as well?

What about running for public office? If you can vote in an election, shouldn't you be able to run in an election? Do we believe that all 16-year-olds are ready to shoulder the weight and responsibilities that come with public office?

What about viewing a restricted movie or getting married without parental permission? Are we going to allow 16-year-olds to sue and be sued in their own name? Are we going to allow them to enter into binding contracts? These are all things that are currently restricted by age, and for very good reasons. But if we change the voting age to 16, there is no logical rationale for preventing those same Canadians from participating in the very things they are now old enough to vote on.

Colleagues, my primary concern with this legislation is that it has originated in the wrong chamber. We are an appointed chamber and it is my firm belief that it is not our place to initiate legislation that predominantly impacts the other place.

Senator Wells made this point very effectively in his speech, and I agree with him wholeheartedly when he said, "We must leave the elections up to the elected chamber." Elections directly determine who will fill the seats in the other place. As the elected house, they are the ones who should initiate any necessary changes to that process, including who qualifies as an elector.

If they choose to initiate such legislation, then we will have an important role in reviewing it and recommending improvements. But until that time, I believe it is a breach of due process to initiate such a bill in this chamber.

Colleagues, I have said many times that even when I am not in favour of a particular bill, I still support it going to committee for further study.

This bill, colleagues, I think, is an exception. Legislation that changes the electoral process is not the business of this chamber. It is the democratically elected body that should initiate changes to the democratic process.

I am opposed to this bill in principle and, quite frankly, do not believe it should continue any further. Colleagues, I did contemplate asking for a standing vote, simply to register my difficulties with this bill. However, I think we have spent enough time needlessly voting tonight. I will simply allow this bill to be referred to committee. As far as I am concerned, we will be passing this bill on division. There may be those who want a standing vote, but we will not be calling for one. We are prepared to allow this bill to go to committee for further study.

The Hon. the Speaker: Are senators ready for the question? It was moved by the Honourable Senator McPhedran, seconded by the Honourable Senator Loffreda, that the bill be read a second time.

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

(Motion agreed to and bill read second time, on division.)

REFERRED TO COMMITTEE

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

(On motion of Senator McPhedran, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

• (1910)

JANE GOODALL BILL

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Sinclair, seconded by the Honourable Senator Pate, for the second reading of Bill S-218, An Act to amend the Criminal Code and the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (great apes, elephants and certain other animals).

Hon. Yonah Martin (Deputy Leader of the Opposition): Your Honour, I would like to adjourn for the balance of my time.

The Hon. the Speaker: It was moved by the Honourable Senator Martin, seconded by the Honourable Senator Plett, that further debate be adjourned until the next sitting of the Senate. If you are opposed, please say "no."

Hon. Terry M. Mercer: No.

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

Hon. Donald Neil Plett (Leader of the Opposition): Your Honour, I will adjourn the debate in my name.

(On motion of Senator Plett, debate adjourned.)

HEALTH-CENTRED APPROACH TO SUBSTANCE USE BILL

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Boniface, seconded by the Honourable Senator Woo, for the second reading of Bill S-229, An Act respecting the development of a national strategy for the decriminalization of illegal substances, to amend the Controlled Drugs and Substances Act and to make consequential amendments to other Acts.

Hon. Kim Pate: Honourable senators, I want to thank Senator Boniface for bringing forward this legislation geared toward making communities safer, healthier and more just by changing Canada's approach to drug policy.

As some will know, my appointment to this place was announced on the same day as that of Senator Boniface. Newspaper headlines wondered how a "top cop" and a "prisoners' advocate" would fare serving alongside each other in the Senate. Like so many headlines, it missed the reality that we share many common interests. Supporting drug decriminalization is one of these. Our respective life's work left us all too familiar with the realities of people being abandoned to the streets, to the criminal legal and prison systems, and to death for reasons that are preventable.

Senator Boniface and others have ably laid out the extensive evidence that fighting the so-called "war on drugs" with zero-tolerance criminal law policies simply does not work. This approach does not deter drug use or make communities safer. In fact, it makes communities less safe by criminalizing, stigmatizing and pushing people in need of health, social and economic supports into the margins, the streets, prisons and death.

Indeed, in 2020, the Canadian Association of Chiefs of Police joined — and in fact today it was announced the mayors of Ontario's largest cities also joined — the growing chorus of experts and advocates demanding an end to mandatory criminal sanctions for drug possession, and proposing instead access to alternate measures, including treatment. This increased public interest in decriminalization comes in the midst of an opioid crisis that is ongoing but has only been exacerbated by the COVID-19 pandemic.

Canadians have watched as other countries, including Portugal, have responded to drug crises with decriminalization policies — similar to what is contemplated by Bill S-229 — that have improved access to healthcare, housing and economic well-being, while also reducing incarceration, all without causing any significant increase in crime and illicit drug use.

It is time for Canada to show the same leadership, particularly because it is those most marginalized who have borne the risks and health, safety and criminal law consequences of our status quo. Canada's punitive approach to drug policy has entrenched racism and inequality by disproportionately criminalizing women, those who live below the poverty line, as well as those who are homeless, racialized and, in particular, those who are Indigenous.

In Canada, drug offences are one of the three most common types of convictions that result in women being incarcerated in federal penitentiaries, and researchers note there is often a specific, gendered context to women's substance abuse and use. Nearly 90% of women relate their use of substances to attempts to anaesthetize themselves to their experiences of violence and other past trauma. Indeed, 87% of women and 91% of Indigenous women in federal prisons have histories of physical or sexual abuse.

The evisceration of publicly funded addiction counselling and mental health services in communities has resulted in people increasingly being abandoned to prisons, the streets and death, for what are in essence health issues, because appropriate supports do not exist or are not meaningfully and equitably accessible.

The Correctional Investigator estimates that more than half of women in federal prisons have a current or previous addiction. Two out of three women with substance use issues have concurrent mental health issues.

At the time that simple possession of cannabis was legalized, research indicated that cannabis use was similar among different racial groups, yet data from cities across Canada indicated vast differences in who was convicted of possession offences. In Halifax, Canadians of African descent were five times more likely than others to be arrested. In Regina, Indigenous people were nine times more likely to be arrested.

Individuals have ended up in prisons, not because they are the only members of our communities using substances, but rather because they are those easiest to catch and have fewest supports; those from neighbourhoods that are more heavily policed; those racially profiled and targeted for stops; those without the legal supports necessary to make a case for access to treatment as an alternative to prison or without the resources to be able to afford or access meaningful and timely treatment. As Senator White so aptly summarized the problem, we are dealing with a two-tiered system where, too often, the rich go to treatment and the poor go to prison.

Bill S-229 aims to prevent people from being criminalized for simple possession and abandoned to prisons — the most expensive and least effective means of ensuring people get the supports they need. As British Columbia's Public Health Officer reminds us, the consequences are particularly stark for women:

> Incarcerating women with addictions or who sell drugs to survive negatively impacts their families and children in a much greater way than incarcerating men.

Many are mothers, meaning that their institutionalization separates them from their children, often resulting in children being taken into the care of the state. Not only is this destabilizing for children, families and communities, for racialized communities it perpetuates colonial policies of forced separation of children that, as we have seen with the legacies of residential schools, give rise to lasting and incalculable harms.

Bill S-229 also aims to prevent situations where people are required by the criminal legal system to adhere to unrealistic or unsafe conditions in order to stay eligible for alternatives to prisons. Conditions imposed by drug courts, conditional or suspended sentences, or the parole process relating to housing, treatment or employment may be premised on a person being able to access resources that simply are not available in practice or for which wait lists are punitively long.

Bill S-229 also aims to ensure that people do not carry the burden and stigma of criminal records as a result of simple possession. As noted by the Global Commission on Drug Policy and as emphasized by the Minister of Public Safety with the recent introduction of Bill C-31, these records too often push people further into poverty and marginalization because widespread practices of record checks create barriers to jobs, to apartment rentals, to education and volunteer opportunities, even to elder care, as well as other vital aspects of community integration and social determinants of health.

Bill S-229 is the right step forward and one that requires us to act urgently on additional criminal justice reforms to complement the vital goals of decriminalization, decarceration and decolonization that this legislation advances. This is particularly the case for those who already have criminal records relating to possession, and for those with convictions other than simple possession.

Despite measures designed to be more user friendly, shockingly few were able to obtain relief from historical criminal records following our passage of Bill C-93. Within the first year of the bill's passage, only 257 people — or less than 3% of the 10,000 people the government estimated would benefit from the bill — had successfully obtained record suspensions. Expiry or expungement of records, without requiring an individual to go through an application process, is vital to avoid perpetuating injustices associated with criminalization.

Bill S-229 focuses on decriminalizing possession, and it must be noted that criminal prohibitions on trafficking can too often have the same effect of criminalizing those most in need of supports. According to the Correctional Investigator, more than half of Black women in federal penitentiaries are there as a result of drug convictions, most related to trafficking and many because they had agreed to carry drugs across international borders in attempts to climb out and lift their families out of poverty, to afford necessities for survival such as safe shelter, food and clothing.

• (1920)

For too many other women, both criminalization and substance use are linked to experiences of violence. Lack of vital health, social and economic supports means that too many women who are victimized are isolated, and are sent the message that this is their own responsibility and essentially deputized to protect themselves. Some do so, whether by anaesthetizing themselves through substance use or reacting with force to an abuser, in ways that can result in a range of different types of convictions and punitive sentences.

This criminalization of women with histories of substance use, health issues and experiences of violence again emphasizes the need for effective relief from criminal records so that marginalization is not magnified and perpetuated by a record. It also means, as emphasized by the Truth and Reconciliation Commission, the National Inquiry into Missing and Murdered Indigenous Women and Girls and the Parliamentary Black Caucus, that judges need discretion to consider alternatives to prison sentences in cases where imposing mandatory penalties would entrench systemic inequality and racism or be unjust or inappropriate, including as a result of an individual's substance use issues.

We also need to consider measures like a guaranteed livable income that can help address the root causes of poverty and inequality, increase opportunities to access health and social supports and prevent people from being criminalized in the first place.

Canada presents itself internationally as a country that values and promotes human rights and substantive equality. Bill S-229 calls on us to ensure Canada's drug policy reflects these values by centring people's health and well-being, and abandoning punitive criminal law approaches that have been proven not to work. Canada owes this obligation to Indigenous, Black and other racialized communities who continue to be disproportionately targeted by tough-on-crime approaches to drugs as an ongoing legacy of colonialism.

It is time to ensure that, instead of criminalization, we promote equitable and meaningful access to health, social, housing and economic supports so that we may allow individuals to heal and reintegrate into society. Let's get this done, dear colleagues. It's long past time.

Meegwetch. Thank you.

(On motion of Senator Martin, debate adjourned.)

[*Translation*]

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Pierrette Ringuette moved second reading of Bill S-233, An Act to amend the Criminal Code (criminal interest rate).

She said: Honourable senators, I'm happy to introduce Bill S-233, which would lower the criminal interest rate. I think it's the right time for this bill. It was before, too, when I tabled similar versions of the bill, but it is even more urgent now in light of the debt burden on Canadians because of the pandemic and efforts to restart the economy.

I had previously tabled a bill to lower the criminal interest rate twice. The first time, the bill made it to committee but died on the Order Paper when the election was called. The second time, the bill made it through committee with an amendment. I disagreed with the amendment, but the bill did not move forward before another election.

Here we are again, and I believe this bill is more crucial than ever. It will amend section 347 of the Criminal Code, which currently sets the criminal interest rate at 60%. This bill will set it to 20% above the Bank of Canada rate, which is currently 0.25%. Why set the rate at 20% above the Bank of Canada rate? By setting it to move with the Bank of Canada rate, the limit will move with general interest rates so that it will always be reasonably reflective of the market.

When the criminal interest rate was first put into place 40 years ago in 1981, the Bank of Canada rate was around 21%. Now the rate is 0.25%. The Bank of Canada rate has fallen by 99%, but the criminal interest rate remains the same. It's time to change the criminal interest rate.

Given the current Bank of Canada rate, an interest rate of 20% is above the majority of credit cards and well above any mortgage rate or most standard bank loans. This measure won't affect the vast majority of standard financial transactions, and it's very unlikely that the Bank of Canada rate will go lower than it is, so there's no danger of the rate falling below most standard transaction rates. While those rates might increase in the future, it would be moving along with the bank rate and thus handling those increases are built into the system. However, it would affect outliers, excessive rates on late charges from phone and cable companies, installment loans, high interest credit cards, and others.

Currently the government is using its ability to borrow at rock bottom rates to cover their expenses, and I don't begrudge them doing so, but why should Canadians have to put up with interest rates verging on 60%? To elaborate, major bank car loans, lines of credit, and mortgages fall well below this threshold of 60%. Almost every major bank credit card is 19.99% or less. Other credit cards, however, like Scotiabank's, have a rate of 20.99%, which is a small adjustment.

This bill would affect some other credit cards. The Home Depot card, for example, has a rate of 28.8%, similar to other store cards. It would also affect late fees charged by many companies, such as Rogers and Bell, which charge 42.58% interest.

[*English*]

After 31 days, Alberta Utilities Commission charges an interest rate of 30% plus the prime business interest rate taken from the Bank of Canada website.

It will affect many of the instalment loans and lines of credit that are being offered by many companies, some of which are branching out from traditional payday loans.

Fairstone advertises instalment loans at 26.99% to 39.99%. Easy Financial advertises unsecured instalment loan rates starting at 29.99%. Money Mart advertises at 29.9% to 46.9%. Loans Canada's rates range from 2.99% to 46.96%. Capital Cash's loans are priced at 59%.

As you can see, there are a lot of places that charge what many would consider to be excessive interest rates.

• (1930)

Many of these companies will say they are not predatory and not seeking out the most financially vulnerable in our society, but look at where the storefronts are located. They are also proliferating online, and look at the advertising: no credit checks, bad credit okay, easy money.

If you Google "payday loans," you will find 24 pages of them on the internet. They specifically target the financially vulnerable and advertise themselves not as a last-resort lender but as easy cash, while downplaying the costs.

Which brings me to payday loans. This bill, nor the criminal interest rate in general, affects payday loans. In 2006, a carve-out was added to section 347 of the Criminal Code, "Criminal Interest Rate," that placed the regulation of small, short-term loans, that is, loans under $1,500 for no more than 62 days, into the hands of the provinces. That's another story for another day. So they do not have to offer loans under this limit, recognizing that short-term loans require a higher fee in relation to annualized interest rate.

The provinces vary in how they regulate, generally around $15 per $100 borrowed. In Quebec, they just won't license any lender who charges more than 35%, effectively banning payday loans.

Now, when I say this won't affect payday loans, this applies only to the specific caveat in section 347(1), loans under $1,500 for less than 62 days. However, many of these payday lenders have expanded their services to larger loans and longer periods. These should currently be covered under the criminal interest rate, but there is a lack of enforcement. By lowering the rate, we send a message to lenders of all stripes as to what we as a society consider acceptable.

Some will worry about limiting access to credit. Do we want our most financially vulnerable to be piling up loans with excessively high interest rates, those most likely to get caught in the debt cycle?

Is it true that companies cannot afford to offer these Canadians loans with reasonable interest rates? There are companies operating now that are offering low-interest loans. For instance, Borrowell, a for-profit company, offers loans at an average APR around 11% to 12%.

Let me take a moment to talk about why 20%. I chose 20% because it covers the vast majority of existing options from mortgages, credit cards, lines of credit, governmental rates and so on. The fact that the vast majority of these financial instruments can operate at these rates, and in many cases significantly below it, shows that, fundamentally, it is a reasonable rate. It should also be noted that most of these rates were also in play when the Bank of Canada rates were much higher.

The purpose of this bill is not to criminalize legitimate financial activity, but section 347 of the Criminal Code is where the law created a limit on interest and is therefore the most productive place to lower interest rates. The existing law has only been used in civil contract disputes; it has not been used as a criminal matter. We would expect the lowered rate to have a suppressing effect on interest rates without needing it to be criminalized.

Despite a slowdown this year due to the pandemic, Canadian household debt is again on the rise. As a percentage of disposable income, 170.7% at the end of 2020, up from 162.8% in the second quarter according to Statistics Canada. Household debt service ratio grew from 12.36% to 13.22% over that same period. Overall, Canadians hold $2.041 trillion in household debt, up 3.8% from a year ago. Personal bankruptcies hit a 10-year high at the end of 2019.

The MNP Consumer Debt Index, a measure of Canadians' attitude toward debt and ability to meet obligations, has reached its lowest point ever recorded. MNP also notes that 3 in 10 Canadians have taken on more debt as a direct result of the pandemic.

Household debt was a concern before the pandemic, and it has pushed some Canadians even further. This is a looming crisis and one that will affect our economic recovery.

COVID pressured the federal government to program spending at a historic high while arguing that the deficit was "controllable" since borrowing is at historic lows.

Given the above rationale and section 347 of the Criminal Code, where the criminal interest rate is set at 60%, why are many Canadians paying up to 59% interest rates? Why are Canadians financially penalized at a time of historically low interest rates? Why accept two standards of interest, one for the government and one for citizens, particularly low-income households?

The Canadian government is currently borrowing at historically low interest rates. The high cost of the pandemic response is being mitigated by these low rates, but do Canadians, who support this government through their taxes, have to pay extreme rates?

This measure would be a perfect way to help Canadians during this crisis. Correcting section 347 by lowering the criminal interest rate does not increase government spending. It costs nothing to the government. This will help Canadians who are feeling the pressure of mounting debt, particularly during this time. It is an issue of fairness and provides adequate repayment of loans for the most marginalized.

Honourable senators, Victorian treasurer Tim Pallas has called this April for a review into credit card interest rates, calling them unconscionable at 20%. Australia caps the interest rate at 48%.

Colleagues, you will see more and more countries reviewing their interest rates over the next few years. We have created a system that runs on credit, on debt. Very few of us can live without it, particularly those on the margins. This is not about giving them a handout. It's about a hand up to get out of debt.

How can we let someone's life fall apart because they have to take out a loan to fix a car they need to go to work, to cover child care while they look for a job or get training?

We say we want these things for our citizens, for them to have the opportunity to achieve things for the betterment of themselves and for our country, but we allow these roadblocks to be put up. How do we sit back and expect those with the most financial vulnerability to be faced with the highest interest rates while the rich not only get low rates but get rewards with those rates?

• (1940)

I was recently on an episode of CBC's "Marketplace" where they describe a number of excessive interest rates. I recommend you watch it to see for yourself how this is affecting people. It's not an abstract financial concept. These are not just numbers on a ledger. These are real people with real impacts, and these impacts reverberate across their families and communities.

Honourable senators, it's time we act. This is my third attempt at this. Please, when we come back in the fall, let's move forward and give Canadian citizens an interest rate that they deserve. Thank you.

Some Hon. Senators: Hear, hear.

Hon. Kim Pate: Honourable senators, I speak today in support of Senator Ringuette's Bill S-233. Canadians in need have been taken advantage of by exploitative lenders for far too long.

Lowering the criminal interest rate is a critical step toward supporting those who end up inextricably ensnared in debt traps advertised as the antithesis of what they are. As most recent television advertisements reveal, these corporations exploit and capitalize on the desperation of those sinking in the quicksand of poverty and economic marginalization.

I am reminded today of my first-ever work for the government in what was then known as the Department of Consumer and Corporate Affairs. Over the course of the months I worked there, I watched the team responsible for "alternative lenders" expand from two people who at one desk to an entire floor. In short order, the extent of predatory lending practices had stretched well beyond the capacity of the bureaucracy to monitor, much less control.

I want to thank Senator Ringuette for her work on this bill and her leadership in reminding us that economies in Canada can function and thrive without having to impose 60% interest rates on the poor.

Budget 2021's commitment to begin consultations regarding the reduction of the criminal interest rate has underscored the need for urgent action to prevent this exploitation. Bill S-233 could deliver this vital action now.

As with so many areas of pre-existing marginalization and discrimination, the COVID-19 pandemic has exacerbated the detrimental impacts of predatory interest rates. Senator Ringuette just referenced the January 2021 CBC "Marketplace" investigation that found that fringe lenders were charging almost 50% annual interest on some multi-year loans.

The current criminal interest rate was hard to justify when it was set in the 1980s, at a time when the Bank of Canada's interest rate was 21% as Senator Ringuette has also underscored. This year, that rate started at below 1%. How can we excuse such a discrepancy? Lenders, who present themselves as a critical service for Canadians turned away by traditional financial institutions use this niche to exploit.

People like Patricia Edwards, a Toronto mother, have been forced to borrow from a fringe lender. She told CBC that she'd love to get a bank loan, but without a car or a home she didn't have any assets and did not qualify. Instead, she is being charged 47% interest by a fringe lender and still owes $5,000 as the remaining debt on a $1,500 loan.

While the wealthy have access to low interest rates, approximately 9 million Canadians with low credit ratings or in poverty experience "financial exclusion" as they are refused loans from mainstream financial institutions.

I have personally lost track of how often I have paid off such debts, co-signed or otherwise guaranteed leases and loans for people in order to prevent, sometimes unsuccessfully, homelessness, criminalization and the plunging of too many into deep wells of abject poverty.

For people on social assistance, these debts are counted as income at the point the money is borrowed but are never credited based upon the actual costs or even the base amount borrowed, much less the interest rates that accrue.

Imagine for a moment the hue and cry if, every time you or I borrowed money to buy a home, a car, furniture or to care for a loved one — whatever — that debt was calculated by Revenue Canada as income and was clawed back, dollar for dollar. And what if failure to repay was characterized as criminal?

As we know, people's attempts to escape poverty can all too easily result in criminalization, incarceration, separation from the families they struggle to support and then the stigma and additional challenges that come with being criminalized.

The majority of usurious instalment loans are taken out for family support. Studies reveal that most use the loans to cover costs of rent, electricity and food and only seek such loans after traditional banks turn them away due to low credit scores. Many more people were plunged into these realities after being deemed ineligible for CERB which they thought they had received legitimately during this pandemic.

Bill S-233 is a necessary step toward preventing economic oppression of those most marginalized. As important as this bill is, however, much more is needed to fully counter financial exclusion in this country.

As the Parliamentary Budget Officer and a chorus of others have reminded us, Canada could halve the number of people living in poverty within a matter of months by implementing a guaranteed liveable income, which would ensure that Canadians in need would have enough to live on to afford food, housing and other basic necessities. It would also prevent people from having to turn to fringe financial institutions and ensure that everyone has the economic ability to access credit at a legal, reasonable and affordable rate.

The CERB demonstrated that it is possible to effectively roll out direct economic supports to individuals in need, and it is possible to do so in very little time when the political and public will exists. All of us stand to benefit from living in communities where everyone can be safe, healthy and well.

With the ability and the public support to do so, with the recent prioritization of guaranteed liveable income in the 2021 Missing and Murdered Indigenous Women, Girls, and 2SLGBTQQIA+ People National Action Plan, and with provinces and territories like P.E.I. and the Yukon and Newfoundland and Labrador interested in these conversations, the planning and execution are all that stand between us and making significant steps toward the eradication of poverty in Canada.

Honourable colleagues, the current criminal interest rate permits exploitation of the poorest and most vulnerable Canadians. To what end? To augment the wealth of fringe lenders?

Senator Ringuette's Bill S-233 will lower the criminal interest rate and lessen the injustices of abusive lending for Canadians with the least. This bill is a pressing and important measure to reduce income inequality. Let us work together to support this bill as well as future anti-poverty and equitable measures.

Meegwetch. Thank you.

Hon. Frances Lankin: Honourable senators, I want to thank Senator Ringuette for her many years of championing this issue and her attempts to bring forward a solution. We have an opportunity that we will now have to pursue in the fall. I think it is incredibly important that we take this step, and I thank her. I appreciate and fully support the bill.

I thank Senator Pate for her contribution to the debate tonight, too. Both have spoken from an evidence-based place to talk about the real-life impacts. I had a number of years, when I was at the United Way, when I was able to work side by side with people who had lived this experience. A piece of research that we carried out became quite a groundbreaking report for us in Toronto. It helped us organize our investments in community and our capacity-building work. The report was entitled, *Poverty by Postal Code*. We mapped the demographics of all neighbourhoods in Toronto — racial, income and education demographics — and we found a very clear pattern of a concentration of poverty in a very large part of the city of Toronto.

Of course, it won't surprise you to know that the majority of people living in these neighbourhoods are racialized individuals. Many of them are new immigrants. Many of them, though, I have to say, are in long-standing families from the Caribbean and other places that have experienced both the oppression of structural racism but also the lack of opportunity and the challenges of having been brought up in communities of poverty.

• (1950)

When we worked side by side with people, we started a project called Action for Neighbourhood Change, which was about capacity building for residents to bring their own issues forward and be able to approach corporations or governments with policy solutions to the challenges they were having to bring those issues forward.

We heard a number of things. For example, if you take a look at where grocery stores are located in our city, they are not located in these neighbourhoods. It is called a "food desert" in the lingo of the social services sector. Those food deserts mean that people there, without access to transportation or by taking a number of buses with their kids and strollers in tow, would have to go to get their food. Where does the food come from? In many cases, it is from convenience stores and the products sold there are higher in price and lower in nutrition.

We found that while there was a food desert, there was a proliferation of stores that rent to own: furniture, appliances and other sorts of things. It makes sense. That's where their market is because people who have the ability to purchase may use credit or layaway plans, but rarely use rent to own. There was one time in my life when I did that too, with my economic situation in terms of my family at that time.

It was interesting. We talked to people about economic literacy, putting forward programs and supporting the Canadian Foundation for Economic Education in their approach to the provincial government to bring economic literacy into our elementary schools and secondary schools to help prepare people for the world they face and all of these things that many of us don't know about in terms of taxation, tax rates, interest rates and financial matters.

In talking with people we obviously knew about economic insecurity, but we quickly found a large number of people were relying on, for example, alternative lenders, fringe lenders and predatory interest lenders. In many cases, it was that lifeline. We started to look where they were located. We went out and mapped every single one in the City of Toronto. Again, they were co-located with these neighbourhoods that were living in deep poverty. Again, not a surprise. That's where the market is.

I won't go through the details of the rates that are being charged. You heard it from both previous speakers who did an excellent job in reviewing the evidence. The rates were perhaps understandable given the lack of specificity in the Criminal Code to tie it to any other economic markers, but they were usurious: If not by Criminal Code definition, they were usurious in the practice, the effect and impact.

I believe that this is long overdue. There have been many attempts at provincial levels. There has been some success where the province can regulate. There have been some successes, but it's a very significant patchwork. As people have pointed out, in

these unprecedented times of low rates — unprecedented at least in my lifetime and history — we still see these rates that have not adjusted at all.

This is just theft. It's robbery. It is placing more hardship on people living in poverty and families who are struggling. This very simple move is a step towards correcting that. I can't tell you how seriously I support this legislation. From all of the experience I have had working at the community level and working with people in poor neighbourhoods, this is a huge opportunity to rebalance the scales a little bit. We still have much more work to do, as Senator Pate pointed out, on economic and job security. Thus I look forward to when the Senate undertakes the review of the future of workers in the gig economy, because we know a lot of these things and a lot of the challenges we saw around essential workers during the pandemic fall upon the shoulders of people living with low income.

I add my voice in support. I ask all of you to consider supporting this bill and getting it to a point where we can study it and bring it back at a very important intervention in the Canadian economy and in the lives of low-income Canadians. Thank you very much.

Some Hon. Senators: Hear, hear.

(On motion of Senator Martin, debate adjourned.)

INVESTMENT CANADA ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Thanh Hai Ngo moved second reading of Bill S-234, An Act to amend the Investment Canada Act (mandatory national security review of investments by foreign state-owned enterprises).

He said: Honourable senators, it is my great honour to speak to my Senate public bill entitled An Act to amend the Investment Canada Act (mandatory national security review of investments by foreign state-owned enterprises).

Dear colleagues, as you may recall, this is the second time I'm introducing this bill. Bill S-234 is my former Senate public bill, Bill S-257, that I introduced back in December of 2018 and which died on the Order Paper because of the 2019 federal election.

I've introduced this bill and I'm reintroducing it again, inspired by the rising global investments presented by foreign state-owned enterprises, or SOEs, in Canada, but also because I'm still extremely troubled by the real and increasing threat they pose to our national security, our critical infrastructure, our sensitive and emerging technologies as well as our key resource sectors.

This increase of extensive foreign interest in our companies and assets, and their evolving security implications, begs us to consider whether full-scale security reviews of proposed investments in Canada by foreign state-owned enterprises should be mandatory, rather than discretionary, and whether foreign countries should have a tremendous stake in our economic growth.

These increased threats, especially to our national security, have become so pressing in the past few years that they ought to be properly addressed, more so now in the aftermath of the COVID-19 pandemic which has exposed, and in some cases even aggravated, our country's vulnerabilities.

While the government assesses all foreign investment through a net-benefit test and from a basic security perspective pursuant to the Investment Canada Act, including those that do not lead to a change of control, the highest level of security screening, known as the National Security Review, exclusively remains subject to the cabinet's discretion and continues to be sparingly applied to SOEs. This, in turn, leaves the government dangerously open to a panoply of security risks as it fails to consistently perform its due diligence.

As it currently stands, when a foreign state-owned enterprise presents an investment under the set of rules laid out in the act, Canadians must wait for the Minister of Innovation, Science and Economic Development to consult with the Minister of Public Safety and Emergency Preparedness to decide if the potentially injurious foreign investment should be referred to the Governor-in-Council before a proposition may be ordered for review from a national security standpoint.

Following the review, which I will explain soon, the Minister of Innovation, Science and Economic Development would again consult with the Minister of Public Safety and Emergency Preparedness to either refer the investment to the Governor-in-Council, along with a report on the review and recommendations, or, if satisfied that the investment would not be injurious to national security, notify the foreign investor that no further action will be taken.

Based on the recommendations and findings of this high-level review, the Governor-in-Council has the authority, under section 25.4(1) to decide either to authorize the investment, with or without conditions; disallow the investment; or require the investor to divest control of the Canadian business or investment in an entity.

• (2000)

Honourable senators, Bill S-234 proposes a technical change to the Investment Canada Act that would ensure that the Governor-in-Council would no longer have the discretion but rather the duty to scrutinize all foreign, state-sponsored enterprise investments from a national security standpoint before reaching a decision.

Additionally, this bill would also be an effective tool to address threats from the beginning. Where appropriate, this would help the government identify potential issues in advance so it is able to proactively address them, and in turn, help clarify any issues and avoid delays.

Under the act, these reviews would include, but are not limited to, the following national security factors that are outlined in section 8 of the Guidelines on the National Security Review of Investments:

> i. The potential effects of the investment on Canada's defence capabilities and interests, including but not limited to the defence industrial base and defence establishments;
>
> ii. The potential effects of the investment on the transfer of sensitive technology or know-how outside of Canada . . .
>
> iii. Involvement in the research, manufacture or sale of goods/technology identified in Section 35 of the Defence Production Act;
>
> iv. The potential impact of the investment on the supply of critical goods and services to Canadians, or the supply of goods and services to the Government of Canada;
>
> v. The potential impact of the investment on critical minerals and critical mineral supply chains. . . .
>
> vi. The potential impact of the investment on the security of Canada's critical infrastructure. Critical infrastructure refers to processes, systems, facilities, technologies, networks, assets and services essential to the health, safety, security or economic well-being of Canadians and the effective functioning of government. . . .
>
> vii. The potential of the investment to enable foreign surveillance or espionage;
>
> viii. The potential of the investment to hinder current or future intelligence or law enforcement operations;
>
> ix. The potential impact of the investment on Canada's international interests, including foreign relationships;
>
> x. The potential of the investment to involve or facilitate the activities of illicit actors, such as terrorists, terrorist organizations, organized crime or corrupt foreign officials; and,
>
> xi. The potential of the investment to enable access to sensitive personal data that could be leveraged to harm Canadian national security through its exploitation, including, but not limited to:
>
> > a. personally identifiable health or genetic (e.g., health conditions or genetic test results);
> >
> > b. biometric (e.g., fingerprints);
> >
> > c. financial (e.g., confidential account information, including expenditures and debt);
> >
> > d. communications (e.g., private communications);
> >
> > e. geolocation; or,
> >
> > f. personal data concerning government officials; including members of the military or intelligence community.

At this point, allow me to say that the risk factors identified in the national security guidelines are not limited to those I've described, as there is also a non-exhaustive list of Sensitive Technology Areas in Annex A of the guidelines. This list is updated regularly when necessary.

Some of these risk factors are capable of being interpreted very broadly, particularly the concept of critical infrastructure, which is defined to include sectors ranging from the more obvious ones of transportation, energy and utilities, safety, government and water, to broad sectors such as finance, manufacturing, food, health, as well as information and communication technology. These thriving sectors are increasingly considered to be matters of national security.

We can and really should also debate what constitutes sensitive technologies. However, I will limit my remarks at second reading to the principle of the bill, which recommends a realistic change to strengthen our investment review process against threats posed by state-owned enterprises without removing the final decision-making power of the Governor-in-Council.

This bill puts forward assessing every new proposed investment by a state-owned enterprise under the national security provisions of the act to ensure that the nature of the asset or business activities and the parties, including the potential for third-party influence involved in the transaction, would automatically receive the due consideration required to ensure that foreign governments are not exploiting an investment deal through the guise of their state-owned enterprise to the detriment of our security. This provision would ensure that all incoming state-owned investments would be subject to mandatory review and be properly vetted by our national security review process, supported by Public Safety Canada, intelligence agencies and other investigative bodies and prescribed in the regulations before the Governor-in-Council makes an informed decision.

This bill would therefore impose the necessary checks and balances on a mandatory basis to protect our economic growth and national security against investments that pose a potential threat.

[*Translation*]

Honourable senators, as I've already mentioned, this bill will be an important tool for the government, since it will help identify potential issues in advance and address them proactively, when necessary.

Bill S-234 will help solve problems and avoid delays, especially with respect to investments made by state-owned enterprises. These investments can involve risks such as the transfer of dual-purpose technologies, sensitive data or know-how; can have a negative impact on the provision of essential services to Canadians or the government; and can allow a foreign country to conduct surveillance or espionage.

The Investment Canada Act already clearly defines a state-owned enterprise as follows:

> (a) the government of a foreign state, whether federal, state or local, or an agency of such a government;
>
> (b) an entity that is controlled or influenced, directly or indirectly, by a government or agency referred to in paragraph (a); or
>
> (c) an individual who is acting under the direction of a government or agency referred to in paragraph (a) or who is acting under the influence, directly or indirectly, of such a government or agency.

Honourable senators, unfortunately, the existing wording of the act, which I just read, requires several successive administrative steps for matters of national security before cabinet can determine whether or not a proposed investment by a state-owned enterprise in a key sector of our economy must be subject to a thorough security check. It is high time that Canada's foreign investment policy reflect strict national security principles.

Bill S-234 proposes a specific and effective screening measure that would ensure that direct investment by foreign state-owned enterprises will continue to be a part of our national wealth.

At this point, I'd like to repeat the following statement for clarity: Direct foreign investment, including by foreign state-owned enterprises, plays an important role in national research in Canada and economic prosperity. However, esteemed colleagues, we must remember that our economic prosperity and our national security are intertwined.

[*English*]

For that reason, this bill seeks to provide future governments with effective tools to guarantee the security of our investment climate. Consequently, the bill would implement a mandatory, non-discriminatory and predictable security review of investments by foreign, state-owned enterprises in Canada.

Honourable senators, foreign governments are developing and deploying a growing range of capabilities to leverage, manipulate and advance their own national security interests through the guise of their state-owned enterprises, especially during the current context of the pandemic. For instance, some countries use their state-owned enterprises to exert their economic, ideological and geopolitical interests through such techniques as stealing intellectual property, influencing other nations' domestic politics, conducting cyber-espionage and even developing cyber weapons.

These legal commercial entities in Canada can provide foreign governments with a strategic advantage to inflict damage to our critical infrastructure, steal our sensitive data and even influence our democratic process if they are not properly vetted.

As I mentioned, the current government's efforts and risk-inclined approach to encourage foreign investment represents a notable shift from previous governments.

• (2010)

Several lessons drawn from experiences with Chinese state-owned enterprises clearly indicate that our investment policy needs to be updated and optimized for the world of today and tomorrow.

I will now highlight some of the high-profile examples to better understand Canada's approach when it comes to investments from China.

In 2017, Canada's government reviewed and approved some controversial transactions from Chinese investors. One of those transactions was the takeover by the private Chinese telecom giant Hytera of Vancouver-based Norsat International, the Canadian satellite communications company that was producing and selling satellite equipment and transceivers. Norsat technology was used by Nav Canada — Canada's air navigation service provider — the American military — the U.S. Department of Defense, the U.S. Army and the U.S. Marine Corps — and by many other high-profile customers such as NATO and Boeing.

This controversial takeover drew criticism from security experts but also from one of our most trusted allies, the U.S. In mid June of 2017, Commissioner Michael Wessel from the U.S.-China Economic and Security Review Commission told *The Globe and Mail*:

> Canada's approval of the sale of Norsat to a Chinese entity raises significant national-security concerns for the United States as the company is a supplier to our military.
>
> Canada may be willing to jeopardize its own security interests to gain favour with China.

Despite legitimate concerns being raised by security experts and the United States, the transaction was approved by the Canadian government. This approval was granted without a full national security review.

It is worth noting that the government's decision to not proceed with a full-fledged national security review was incredibly disturbing and dangerous as it didn't properly assess the actual impacts and consequences of the transaction as well as the grave security risks it posed to transfer the proprietary technology to a firm from a ruthless authoritarian state.

The Norsat takeover has demonstrated that even though the government's approach regarding investments from China is continuously evolving — and that we can expect certain types of investments to undergo more scrutiny — the government's recklessness with this file has highlighted the extraordinarily risky level of comfort this government has established when it comes to Chinese investing in critical and sensitive sectors that are of paramount importance, not just to our national security but also to that of our allies.

Some other high-profile and controversial transactions include the following: the takeover by Anbang Insurance of Vancouver-based Retirement Concepts, the largest provider of long-term care in British Columbia, operating in British Columbia, Calgary and Montreal. In this case, the transaction was approved by the

government without adequately being addressed, in spite of significant questions raised by the U.S. about Anbang's murky ownership structure as well as its ties to the Chinese communist government. Instead of conducting a national security review of the transaction, the government simply approved it on the basis that it would be of net benefit to our economy.

In 2018, the Chinese communist government seized control of Anbang, and in 2019, it created the state-owned enterprise Dajia Insurance Group to take over Anbang's main insurance operations. The government screwed up so badly that Retirement Concepts, the largest retirement home company in B.C., is now owned by a Chinese SOE.

Another significant development concerns the national security review of the Chinese investments in sensitive Canadian industries in spite of the previous Conservative government's decision barring the request from Hong Kong-based O-Net Communications to take over Montreal-based ITF Technologies. In 2015, the Liberal government re-evaluated the investment request and subsequently approved the transaction in 2017.

It is baffling that such an approval was even granted, given that a known SOE, the China Electronics Corporation, has a 25% ownership stake in O-Net.

Thankfully, in another instance, Aecon's acquisition by Chinese state-owned enterprise China Communications Construction Company Limited was blocked in May of 2018 after an extensive national security review.

More recently, at the end of December 2020, the government blocked another Chinese takeover after it was subject to a national security review. The proposed sale of TMAC Resources shares and its Hope Bay gold mining project in Nunavut to the SOE Shandong Gold Mining Co., Ltd. was rejected.

Another controversial high-risk transaction occurred in July of 2020 when the government awarded a standing offer to Nuctech — a Chinese government-owned firm with close links to the most senior echelons of the Chinese Communist Party and to the People's Liberation Army, which has been described as a threat to western security by the U.S. National Security Council — to supply sensitive security equipment to all 170 of our embassies, consulates and high commissions worldwide.

Last week, the House of Commons Standing Committee on Government Operations and Estimates released its report into the government's procurement of security screening equipment at Canada's embassies around the world, specifically focusing its study on the standing offer awarded to Nuctech — also known as the "Huawei of airports" — in which it raised concerns regarding market fairness and the security of the federal government's assets.

The Nuctech debacle truly stands as an example of how the government continues to fail miserably when it comes to Chinese SOEs as it recklessly excludes national security considerations by exclusively awarding contracts to the lowest bidder. Miraculously, in November 2020, the government finally came to its senses and rejected the standing offer. To this day, it is quite astonishing that the offer was even awarded in the first place. However, the government has yet to make a decision regarding whether or not it will ban Huawei from our 5G network.

As the government is still considering Huawei's bid to build the next generation of telecommunication networks in Canada, all of our Five Eyes members — the U.S., Australia, the U.K. and New Zealand — have expressed their concerns. They have all banned Huawei from implementing its technology in their networks based on national security grounds as this Chinese company poses a real significant threat.

Other countries, such as Japan, Taiwan, Germany, France, Poland, the Czech Republic and more, have all concluded that Huawei's expansion would put their next-generation communications infrastructure at risk. Some have banned it outright, while others have increased their security measures to tighten 5G network controls.

Not only our Five Eyes members but also our current and former CSIS directors, national security experts and senior military officials have warned the federal government that Huawei cannot be trusted — nor should it be trusted — and it needs to be banned. It is well known that Huawei has strong ties to the Chinese Communist Party, engages in espionage and is complicit in the Uighur genocide.

Furthermore, China's 2017 National Intelligence Law gives Beijing the power to compel individuals and companies, both public and private and those who do business abroad, to cooperate with Chinese intelligence agents or risk prosecution.

Honourable senators, this government — and any future government for that matter — should be running full-fledged national security reviews when foreign governments are investing in key sectors and critical technologies that are intrinsically linked to our national security — semiconductors, biotechnology, quantum computing and nanotechnology, to name a few — especially when these are from countries that have high rates of corruption and poor transparency standards and are responsible for gross violations of human rights, engage in foreign interference and espionage, engage in hostage diplomacy and keep threatening the international rule-based order.

Therefore, this bill would ensure that Canada does more than a routine national security analysis when foreign state-owned enterprises from China, Iran, Russia and other countries with questionable backgrounds, dire human rights records, zero accountability, cultures of impunity and remarkable rates of corruption seek to purchase our companies.

In an era of advanced technology and artificial intelligence, where emerging state-owned multinationals continue to occupy an important place in regional and global markets that can harm our economy, our national security and Canadian's well-being and safety and can ultimately lead to endangering our national security sovereignty, this issue is of paramount importance.

• (2020)

Honourable Senators, this issue of investment screening is relevant not only to our economy, our national security and the safety of Canadians but also to our international relations.

This is extremely important, especially now, in the wake of the COVID-19 pandemic, since it has exposed the vulnerabilities of most countries around the world as they experienced devaluation of their businesses, and are at great risk of being taken over by state-owned enterprises that wish only to exert their economic, ideological and geopolitical interests in such a manner that would harm their economy's national security interests.

To that end, in March of this year, the Minister of Innovation, Science and Industry updated Guidelines on the National Security Review of Investments issued under the Investment Canada Act.

These updated guidelines followed the Policy Statement on Foreign Investment Review and COVID-19 that was released in April 2020, to take into account the context of the pandemic. The policy statement from April 2020, particularly highlighted that investments, specifically in the health sector regarding critical goods and services, will be subject to enhanced scrutiny. Additionally, the government specified that the said statement would continue to apply until our economy recuperates from the repercussions of the pandemic.

Furthermore, the guidelines issued by the minister under section 38 of the Investment Canada Act state the following at section 7:

> In particular, some investments into Canada by state-owned enterprises may be motivated by non-commercial imperatives that could harm Canada's national security. The Government will subject all foreign investments by state-owned investors, or private investors assessed as being closely tied to or subject to direction from foreign governments, to enhanced scrutiny under Part IV.1, regardless of the value of the investment.

Although this is a welcome change and a step in the right direction, it is not sufficient.

First of all, these guidelines are not legally binding. And lastly, the statement will only be in place temporarily.

In contrast, the legislative amendment that I'm proposing in my bill would achieve the purpose of rendering all investments by SOEs subject to a national security review. As such, this statutory amendment would take precedence over any guidelines or interpretation notes issued by the minister.

Moreover, Bill S-234 does not make reference to China, Russia, Iran or any country of special concern. But it is clear that this provision is coherent if we turn our attention to the countries which present a risk to our national security.

Many other countries understand that such safeguards are entirely justifiable considering the increasing threats posed by state-owned enterprises that prey on all manner of technology and data, some with overlapping military and civilian uses, making our security and surveillance concerns about such investments global.

Especially now, with the current context of the pandemic, many countries across the globe have implemented enhanced scrutiny of investments from SOEs by imposing greater limitations and restrictions.

Germany's government has started to tighten its rules on foreign takeovers since 2017, and even more so since 2020, to increase its powers to block foreign direct investment. Some of these changes regarding transactions that could have implications for the country's security include the temporary suspension of a deal until a final decision is rendered. Additionally, the risk level of actual danger to the public order or security is no longer required to undertake a review of a potential transaction. Instead, the risk threshold has been lowered and the review can be triggered once the potential deal poses likely harm.

Over the years, Germany's foreign direct investment regime has been extended to include many sectors, groups and business activities that are now subject to the mandatory notification requirement and are deemed critical to the country's public system and security. These sectors, groups and business activities include: critical infrastructure, defence and encryption categories, businesses in the health care and life science sectors, sensitive nature sectors such as agriculture, secret patents and critical technologies, to name a few. The latest amendment came into force May 1, 2021, and saw the regime extended to 16 of these sectors, groups and business activities.

China itself, citing national security, is not allowing any foreign investors to acquire their natural resources. So why should we?

Australia's Foreign Acquisitions and Takeovers Act 1975, FATA, authorizes the Treasurer of Australia, under the guidance of the Foreign Investment Review Board, to review proposed foreign investments and either prohibit or impose conditions should they be deemed contrary to the national interest.

In 2015, the Australian Parliament passed into law three bills that amend and further strengthen the FATA — repealing and replacing all of its substantive provisions.

Due to the disruptive impacts of the COVID-19 pandemic on critical sectors and the overall Australian economy, the Treasurer announced on March 29, 2020, that for the duration of the pandemic all foreign investments will undergo a review, irrespective of their value or nature. The Foreign Acquisitions and Takeovers Amendment (Commercial Land Lease Threshold Test) Regulations of 2020 further builds on the 2015 amendments to reflect these new measures.

Foreign investment is regulated in the United States under the Foreign Investment and National Security Act of 2007, which grants the President of the United States — following review by and under the advisement of the Committee on Foreign Investment in the United States — the authority to suspend or

prohibit proposed foreign investments if there is sufficient evidence that such an investment poses a threat to national security.

On August 13, 2018, the U.S. adopted a more robust legislation to expand the scope of the committee with the aim to further strengthen and modernize the review process of the CFIUS, the interagency body able to block deals that may threaten national security and ultimately protect itself from any further bank fraud, technology theft, obstruction of justice and money laundering. This regulatory regime was significantly reformed that year by the passage into law of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Foreign Investment Risk Review Modernization Act of 2018, in order to better address national security concerns, and which expands the authorities of the President and CFIUS to address national security risks of proposed foreign investments on national security grounds.

In March 2021, the House of Commons Standing Committee on Industry, Science and Technology released its report on the review of the Investment Canada Act, entitled *The Investment Canada Act: Responding to the COVID-19 Pandemic and Facilitating Canada's Recovery*. Most witnesses focused particularly on China and its SOEs when it came to national security risks of foreign investments. Certain witnesses highlighted the strong links between Chinese firms and the Chinese Communist Party.

The committee ultimately came to the conclusion that it's important for Canada to maintain a certain openness of its economy by allowing foreign investments while ensuring that these investments are not injurious to our national security, and that they also benefit our country. In total, the committee made nine recommendations. Two of the recommendations specifically concern SOEs but one relates to my bill, which is as follows:

> That the Government of Canada introduce legislation amending the Investment Canada Act to reduce the current valuation threshold for prospective acquisition of control by either state-owned or state-controlled enterprises to zero, so that every transaction triggers a review, including a net benefit test and a national security test.

As such, it is time for Canada to take a stronger approach to protect our national security and to respond to situations that are becoming increasingly challenging for our real estate, banking, critical infrastructure, universities, and especially emerging technologies and sensitive data.

• (2030)

Therefore, my bill would achieve the purpose of rendering all investments by SOEs subject to the national security review. It further proposes a more thorough investment screening process to deal with the backdrop of potential threats to national security posed by new and emerging technologies, a rising suspicion of the motivations behind foreign investment by strategic competitors and a global economic environment characterized by increased tensions and tit-for-tat retaliation.

Honourable colleagues, we need to appreciate what is at stake in this bill, which remains committed to promoting free trade and foreign direct investment, including from state-owned enterprises, for our economic growth. The government's commitment to drive economic growth and attract foreign investment must be achieved while remaining vigilant and active to strengthen our national security from risky state-owned enterprise investments.

According to Statistics Canada, foreign direct investment in Canada in 2020 increased by almost 2.75% from the previous year. According to the *Investment Monitor 2021 Report* by the Asia Pacific Foundation of Canada:

> . . . SOEs make up 18 per cent of all Asia Pacific investment activities in Canada since 2003. However, these transactions have generated over 51 per cent of the total inward investment value, with C$107.5B invested in Canada in the past 18 years. This asymmetry between number of deals and investment value highlights the fact that SOEs are much more likely than non-SOEs to make high value investments.

> The natural resources sectors attract the vast majority of inward Asian SOE investment. The oil and gas producer sector, in particular, has accounted for 72 per cent of the total inbound SOE investment value in the last 18 years.

The definition of "state-owned enterprise" in the act, as I've highlighted earlier, includes individuals acting under the direction of a foreign government or an agency of such a government, as well as individuals or enterprises either directly or indirectly influenced by a foreign government or agency.

A study conducted by the China Institute of the University of Alberta cites the following industry sectors as those with the most Chinese direct investment in Canada: energy, metals and minerals, entertainment, real estate, consumer products, as well as services related to our critical infrastructure. It is estimated that two thirds of these state-owned Chinese investments are located predominantly in British Columbia, followed by Ontario and Alberta.

Honourable senators, something that seems innocuous today, like many of these unreviewed investments, can easily turn into a vulnerability to our security tomorrow. Take a look at the Chinese ban on canola, pork, beef and seafood, for instance.

A conference report published by the Canadian Security Intelligence Service in May 2018 called *Rethinking Security: China and the Age of Strategic Rivalry* warned that it is irrelevant

whether a Chinese company doing business with a Canadian partner is a state-owned enterprise or not. According to the report:

> Whether a Chinese partner company is a state-owned enterprise or a private one, it will have close and increasingly explicit ties to the CCP [Chinese Communist Party].

The report further states that:

> Unless trade agreements are carefully vetted for national security implications, Beijing will use its commercial position to gain access to businesses, technologies and infrastructure that can be exploited for intelligence objectives, or to potentially compromise a partner's security.

While the vast majority of the foreign investment in Canada is carried out in an open and transparent manner, a number of SOEs and private firms with close ties to their government and/or intelligence services can pursue corporate acquisition bids in Canada or other economic activities. Corporate acquisitions by these entities pose potential risks related to vulnerabilities in critical infrastructure, control over strategic sectors, espionage and foreign influenced activities, and illegal transfer of technology and expertise. CSIS expects that national security concerns related to foreign investments or other economic activities in Canada will continue.

I think this resonates all too well with the consequences of our ongoing diplomatic rift with China, especially at a time when our foreign direct investment from China in Canada increased by 100.5% between 2010 and 2020. This should also come as no surprise, since China's economy is centrally planned and led by a phalanx of 150,000 state-owned enterprises owned by both the central and local governments controlled by the Chinese Communist Party that prey upon all manner of technology and data, some with overlapping military and civilian uses, making our security and surveillance concerns of such investments global.

Despite continuous research efforts, I remain unable to obtain information about the total level and value of investments made in Canada by foreign, non-Chinese state-owned enterprises. However, I am able to provide the following key examples: North American Oil Sands Corporation's takeover by Statoil ASA from Norway in 2007; PrimeWest Energy Trust takeover in 2008 by Abu Dhabi National Energy Co., commonly known as TAQA; Harvest Energy Trust takeover in 2009 by Korea National Oil Corporation; the PTT Exploration and Production PLC acquisition by Thailand with 40% joint venture buy-in with Statoil in 2011; the PETRONAS from Malaysia takeover of Progress Energy Resources Corporation in 2012; and the acquisition of 50.1% of the Canadian Wheat Board by G3 Global Grain Group by a joint venture between U.S. food company Bunge Canada and a unit of the Saudi Agricultural and Livestock Investment Co.

[*Translation*]

Honourable senators, China's national growth and its international expansion now depend on the advancement of what is referred to as the new silk road or the "One Belt, One Road" initiative. This major development strategy is growing at an unprecedented rate. Huge investments have been made in strategic industries in over 130 countries, including infrastructure, construction, mining, artificial intelligence, agriculture, sensitive technologies, telecommunications, health care, culture, banking and energy. It is therefore not surprising that parallels are being drawn between these investments and previous proposals from foreign state-owned enterprises that were approved in recent years without undergoing a thorough examination and security review.

[*English*]

Members of the international community, particularly in the West, are beginning to see Beijing's signature foreign-policy initiative for what it really is: Chinese expansion.

On April 21, 2021, the Australian government scrapped the memorandum of understanding on the Belt and Road Initiative, or BRI, between the Chinese government and the state government of Victoria, the only such agreement in the country. Only this month, following the G7 summit, it was announced that plans are underway to launch the "Clean Green Initiative." This strategy to counter Beijing's BRI would provide a framework to support sustainable development and the green economy. There's a shift in how countries are starting to view China's expansionism, and it isn't about protectionism but rather prudence.

[*Translation*]

That being said, although Canada conducts a careful security review of all proposed investments, including those that do not result in a change in ownership, review power related to national security is still rarely used.

[*English*]

Let me be very clear: Bill S-234 was drafted in a spirit of caution, not protectionism. This bill would help to dispel growing national security concerns when it comes to foreign state-sponsored enterprise investments.

In conclusion, honourable senators, some of you might recall March 2017 when China's former ambassador to Canada, Lu Shaye, laid out tough conditions for a bilateral free-trade agreement. He told *The Globe and Mail* that Beijing is seeking unfettered access for Chinese state-owned firms to all key sectors of the Canadian economy during free-trade talks now under way with Ottawa – including an end to restrictions barring these enterprises from investing in the oil sands.

• (2040)

Canada needs to be able to function in an open investment climate, but not to the detriment of our national security. We are clearly in an era when state enterprise investments are receiving special attention in the context of the application of national benefit and national security tests under our national investment law, especially now in the wake of the COVID-19 pandemic. That is why this bill would prevent any risk-tolerant policy shift from putting Canadians in harm's way.

Given the potential challenges posed to national security as a result of such investments, it is incumbent upon Canada to have a legal framework that addresses such proposed investments in a realistic manner.

(On motion of Senator Duncan, debate adjourned.)

CANADIAN ENVIRONMENTAL PROTECTION ACT, 1999

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Frum, seconded by the Honourable Senator Martin, for the second reading of Bill C-204, An Act to amend the Canadian Environmental Protection Act, 1999 (final disposal of plastic waste).

Hon. Marc Gold (Government Representative in the Senate): Honourable senators, I am pleased to resume my remarks on second reading of Bill C-204, An Act to amend the Canadian Environmental Protection Act, 1999 (final disposal of plastic waste).

Colleagues, the world is facing a challenge with managing plastic waste responsibly. Challenges in domestic management of large volumes of plastic waste often result in releases to the environment or landfilling, posing a serious global environmental problem and lost economic opportunity. There is simply no denying that reality.

However, whether Bill C-204 is the appropriate instrument to address those issues or even to assist in addressing them is an important question that this chamber must carefully contemplate. Respectfully, it is the government's view that it is not, and I will outline the reasons for this position.

Canada's policy response to the issue of the transnational movement of harmful plastic waste has been focused on multilateral solutions. Specifically, Canada and its allies have successfully sought to respond to this issue under the auspices of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

The Basel Convention was adopted on March 22, 1989, in response to a public outcry following the discovery of deposits of toxic waste imported from abroad in Africa and other parts of the developing world. For context, during the 1980s, a tightening of environmental regulations in the industrialized world led to a significant spike in the cost of toxic waste disposal. This led to a rise in what is called "toxic trading," whereby hazardous waste began to get shipped to developing countries and Eastern Europe. When this abhorrent practice was revealed, international outrage led to the conclusion of the Basel Convention.

The objective of the Basel Convention is to protect human health and the environment against the serious adverse effects of hazardous waste. The fact that it binds 188 countries makes it a crucial instrument in global efforts to curb the harm caused by hazardous waste in the developing world. It is also an effective platform to address emerging issues effectively in concert with the international community.

In May 2019, the parties to the Basel Convention agreed to and ratified amendments in response to the global problem of plastic waste. These amendments addressed both plastic waste exported for final disposal, which is the subject of Bill C-204, as well as plastic waste exported for recycling. Importantly, these controls require the prior informed consent of an importing country that is party to the Basel Convention before export of plastic waste can occur.

The amendments are implemented in Canadian law under the Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations made under the authority of the Canadian Environmental Protection Act, 1999. To put it simply, these new rules mean that since January 1, 2021, an export permit is required before the export of Basel-controlled plastic waste can occur, when that waste is destined to a party to the convention. Before issuing a permit, the consent of the transit and importing countries is required. In short, this means that Canada has taken significant steps to improve the control of plastic waste exports in concert with the international community.

Colleagues, I would also note that Bill C-204 was introduced in the other place before these measures were put in place domestically. This raises the question of what Bill C-204 can offer to address the issue of problematic plastic waste, whether it is redundant or could generate confusion under the applicable act and regulations.

As mentioned, the plastic waste amendments under the Basel Convention impose controls on plastic waste destined both for final disposal and recycling. This is significant because, as was noted by some of our colleagues in the other place during their deliberations on this bill, it is assumed that the majority of exported plastic waste is traded for some form of recycling rather than for final disposal — as is the focus of Bill C-204 — as there is little economic incentive to export plastic waste across long distances for final disposal.

However, Canada does export municipal solid waste, which contains plastic waste, to the United States for final disposal. Bill C-204 would prohibit trade in this type of plastic waste for final disposal to the United States. Stopping trade of municipal solid waste to the United States will have economic and environmental repercussions in Canada. This, colleagues, is an area of this bill that the Senate should examine closely, with an eye to giving it sober second thought.

Bill C-204's narrow focus on final disposal was also raised during debates in the other place and at the Standing Committee on Environment and Sustainable Development in March of this year. In particular, the issue of recycling was discussed by both environmental and non-governmental organizations and industry, albeit from different perspectives. Mr. James Puckett of the Basel Action Network, who appeared as a witness before the committee, stated that:

> . . . the biggest global problem, which Mr. Davidson and others are hoping to address with this bill, will not be addressed, because the bill currently only looks at exports for final disposal, which is landfilling or incineration. The bill currently does not address the heart of the problem, which is exports for recycling.

On the other hand, Canadian industry sent written submissions to the committee regarding the importance of trade in recycled plastics and the negative consequences Bill C-204 could have on recycling efforts in North America.

Honourable senators, the Basel plastic waste amendments place new controls on certain plastic waste destined for final disposal and recycling, aiming to allow free trade in valuable, clean, easy-to-recycle plastic waste only. These controls have only been in place since January of this year, and the work continues to ensure that trade in controlled plastic waste has been consented to.

Respectfully, that is why Bill C-204 misses the mark. It comes at a time when new controls have been put in place following the bill's introduction and which are designed to address the challenges posed by exports of plastic waste globally.

In addition, the bill's proposed Schedule 7 also presents some challenges that are more technical in nature for our consideration. Bill C-204 defines "plastic waste" as "any type of plastic listed in Schedule 7" of the bill. There are 32 entries — 31 proposed by the House sponsor of the bill, and one entry adopted at the committee stage in the other place.

I would like to highlight a few problems associated with the proposed Schedule 7, some of which were raised before the Standing Committee on Environment and Sustainable Development's study of Bill C-204.

First, the plastic waste amendments to the Basel Convention include what is likely a broader scope of "plastic waste" than what is listed under Schedule 7. In addition, Bill C-204 proposes a more stringent control for exports destined for final disposal only. This discrepancy between Basel-controlled plastic waste and plastic waste listed in Schedule 7 would be confusing for businesses, create overlapping regulatory regimes and introduce operational challenges for exporters.

• (2050)

Second, four substances under Schedule 7 are not commonly considered to be plastic. Ethylene, for example, is a gas at room temperature and used as a feedstock. It seems that a properly designed schedule is fundamental to the proper functioning of Bill C-204, but as it is currently written the schedule may also create confusion and operational challenges. While the bill proposes to allow the Governor-in-Council to amend this schedule, I would encourage us to carefully consider the proposed Schedule 7 and its implementation challenges.

I would also like to note some of the enforcement challenges that could be associated with Bill C-204. First, if enforcement officers were to inspect the shipment, laboratory testing could be required to determine whether an item contains a substance that is on the list. Laboratory testing is expensive, time-consuming and creates logistical challenges for the Canada Border Services Agency and port authorities because containers cannot remain in a port for extended periods of time.

In addition to challenges associated with enforcing the prohibition proposed in this bill, there could also be impacts on provincial and territorial waste management systems. The legislation could strain intergovernmental relationships because an immediate plastic waste export ban runs counter to the federal government's collaborative approach to working with provinces and territories on achieving zero plastic waste and transitioning to a circular economy for plastics. Unilateral federal action without sufficient consultation could have unforeseen consequences on these initiatives, including complicating efforts to achieve zero plastic waste. For example, it could affect the transition to expanded and improved extended producer responsibility regimes.

Honourable senators, the Government of Canada is also working closely with provinces and territories through the Canadian Council of Ministers of the Environment, or CCME. In 2018, the CCME approved a strategy on zero plastic waste, followed by a two-phase action plan that is being jointly implemented. This plan involves facilitating consistent, extended producer responsibility programs across the country to make companies responsible for collecting and recycling the products and packaging they place on the market.

Prior to adopting measures proposed under Bill C-204, consultation with provinces and territories to understand the potential implications on their waste management systems would be needed. Bill C-204 seeks to assist in addressing a complex global challenge. In any environmental problem that is transnational, complex and involves many players, the problem must be considered from multiple angles.

In summary, the government has already begun to take action to address problems caused by plastic waste exports when it strongly supported the adoption to the plastic waste amendments of the Basel Convention, when it ratified the amendments in 2020 and now by implementing through its regulations. Bill C-204 has a narrow focus on final disposal, while our current domestic regime addresses both recycling and final disposal. Moreover, the proposed Schedule 7 contains technical challenges and some entries that would not be commonly understood to be plastic.

Finally, there are practical implementation challenges associated with the bill. One of these is significant. The prohibition, as proposed in Bill C-204, would likely result in prohibiting the export for final disposal of all municipal solid waste to the United States to the extent this waste contains items on Schedule 7 of the bill. In turn, this is expected to impact provinces, territories and municipalities by increasing pressure

and costs on waste management systems, giving greater volumes of municipal solid waste that will be needed to be landfilled in Canada.

Honourable senators, these are just some of the issues that I wish to highlight and that I hope will be the subject of a rigorous and thorough study by our Senate's Energy, the Environment and Natural Resources Committee. Thank you for your kind attention.

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

(Motion agreed to and bill read second time, on division.)

REFERRED TO COMMITTEE

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

(On motion of Senator Martin, bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.)

STUDY ON MATTERS RELATING TO HUMAN RIGHTS GENERALLY

THIRD REPORT OF HUMAN RIGHTS COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE ADOPTED

The Senate proceeded to consideration of the third report (interim) of the Standing Senate Committee on Human Rights, entitled *Forced and Coerced Sterilization of Persons in Canada*, tabled in the Senate on June 3, 2021.

Hon. Salma Ataullahjan moved:

> That the third report of the Standing Senate Committee on Human Rights tabled on June 3, 2021, be adopted and that, pursuant to rule 12-24(1), the Senate request a complete and detailed response from the government, with the Minister of Health being identified as minister responsible for responding to the report, in consultation with the Minister of Indigenous Services and the Minister for Women and Gender Equality.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

FOURTH REPORT OF HUMAN RIGHTS COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE—DEBATE ADJOURNED

The Senate proceeded to consideration of the fourth report (interim) of the Standing Senate Committee on Human Rights, entitled *Human Rights of Federally-Sentenced Persons*, tabled in the Senate on June 16, 2021.

Hon. Salma Ataullahjan moved:

> That the fourth report of the Standing Senate Committee on Human Rights tabled on June 16, 2021, be adopted and that, pursuant to rule 12-24(1), the Senate request a complete and detailed response from the government, with the Minister of Public Safety and Emergency Preparedness being identified as minister responsible for responding to the report, in consultation with the Minister of Justice and Attorney General of Canada, the Deputy Prime Minister and Minister of Finance, the Minister of Indigenous Services, the Minister of Crown-Indigenous Relations, the Minister for Women and Gender Equality and Rural Economic Development, as well as the Minister of Diversity and Inclusion and Youth.

The Hon. the Speaker pro tempore: Do you have a point of order, Senator Martin?

Hon. Yonah Martin (Deputy Leader of the Opposition): No. I was going to take adjournment.

Some Hon. Senators: Question.

The Hon. the Speaker pro tempore: It is moved by the Honourable Senator Martin, seconded by the Honourable Senator Batters, that further debate be adjourned until the next sitting of the Senate. All those who oppose the motion please say "no."

Some Hon. Senators: No.

Some Hon. Senators: Question.

The Hon. the Speaker pro tempore: Those in favour of the motion to adjourn the debate and who are in the Senate Chamber will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: Those opposed to the motion and who are in the Senate Chamber will please say "nay."

Some Hon. Senators: Nay.

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

• (2100)

And two honourable senators having risen:

The Hon. the Speaker pro tempore: I see two senators rising. Do the government liaison and the Opposition Whip have agreement on the length of a bell?

Senator Seidman: Now.

Hon. Jane Cordy: Your Honour, would you clarify the motion?

The Hon. the Speaker pro tempore: It was moved by the Honourable Senator Martin, seconded by the Honourable Senator Batters, that further debate be adjourned until the next sitting of the Senate.

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Batters	Gold
Black (*Ontario*)	Griffin
Boehm	Harder
Boisvenu	Klyne
Boniface	LaBoucane-Benson
Bovey	Loffreda
Boyer	MacDonald
Busson	Manning
Cotter	Martin
Deacon (*Nova Scotia*)	Marwah
Deacon (*Ontario*)	Mockler
Dean	Ngo
Dupuis	Patterson
Forest	Seidman
Francis	Smith
Gagné	Wallin
Galvez	White—34

NAYS
THE HONOURABLE SENATORS

Bernard	McPhedran
Campbell	Moodie
Cordy	Pate
Coyle	Ravalia
Duncan	Saint-Germain
Forest-Niesing	Tannas
Lankin	Wetston
McCallum	Woo—16

ABSTENTIONS
THE HONOURABLE SENATORS

Ataullahjan	Mégie
Bellemare	Simons—5
Cormier	

(*At 9:13 p.m., pursuant to the orders adopted by the Senate on October 27, 2020 and December 17, 2020, the Senate adjourned until 2 p.m., tomorrow*.)

APPENDIX

DELAYED ANSWERS TO ORAL QUESTIONS

FOREIGN AFFAIRS

HUMAN RIGHTS IN SRI LANKA—CREMATION POLICY

(*Response to question raised by the Honourable Mohamed-Iqbal Ravalia on February 9, 2021*)

Canada has long advocated for the global protection of freedom of religion or belief.

As a member of the Core Group responsible for United Nations Human Rights Council resolutions on Sri Lanka, Canada has consistently expressed concern over the targeting of minorities. At the Council's forty-fourth session (June 2020), the Core Group reiterated that extraordinary measures to tackle COVID-19 should not be used to roll back human rights.

At the Council's forty-sixth session (February-March 2021), Canada's Minister of Foreign Affairs highlighted Sri Lanka's deteriorating human rights situation, and the Parliamentary Secretary to the Minister of Foreign Affairs stated that Sri Lanka's forced cremation policy would fuel further divisions. Through Core Group efforts, the Council adopted a new resolution which advances accountability, enhances United Nations' monitoring of the human rights situation, and urges Sri Lanka to foster freedom of religion or belief.

Although Sri Lanka has revoked its policy of forced cremation for those deceased from COVID-19, Canada will monitor the implementation of new burial measures to ensure that the rights of religious minorities are respected, consistent with World Health Organization guidelines.

EMPLOYMENT AND SOCIAL DEVELOPMENT

FUNDING FOR EQUITABLE LIBRARY ACCESS

(*Response to question raised by the Honourable Pamela Wallin on March 16, 2021*)

The government supports the principle that everyone should have access to information and reading material. That's why we signed the Marrakesh Treaty and established a Working Group comprised of disability organizations, including CELA and NNELS, and the publishing industry to develop a long term strategy on production of alternate format materials in Canada.

The Transition Strategy for the Production of Alternate Format Books includes measures to broaden access, including funding towards building capacity with publishers, technological innovations, and transitional funding to not-for-profit organizations. Budget 2019 proposed $22.8 million to support the Strategy's goal of books being "born accessible".

The 2020 Fall Economic Statement proposed $10M to support this transition. The funding will provide CELA and NNELS with support over four years as the publishing industry takes a more active role in books being published in accessible formats. In addition, another $1M (2021/22) for both organizations was announced to address the effects the pandemic has had, and the need for access to print materials as individuals are more isolated.

(*Response to question raised by the Honourable Judith G. Seidman on March 16, 2021*)

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(*Response to question raised by the Honourable Patricia Bovey on March 17, 2021*)

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TRANSPORT

RESTORATION OF AIR SERVICE

(*Response to question raised by the Honourable Judith Keating on March 17, 2021*)

Transport Canada

The government is mindful of the devastating impacts of COVID-19 on the Canadian air sector and Transport Canada is committed to work with air sector partners to support its recovery. As announced on November 8, 2020, the Government of Canada is developing a package of assistance for Canada's airlines, with strict conditions to protect Canadians and the public interest.

The agreement with Air Canada announced on April 12, 2021, is a key milestone in ensuring the existence of a robust Canadian air transport sector that connects Canadian communities. As a result of this agreement, access to Air Canada's network will be restored to all regional communities where service was suspended due to COVID-19, including Bathurst, Fredericton and Saint John.

On March 24, 2021, WestJet announced plans to restore services in June to both New Brunswick airports that lost service, Fredericton and Moncton.

Furthermore, as stated in the Fall Economic Statement, the government will work to ensure that Canadians have reliable and affordable regional air services that contribute to equity, jobs, and economic development. On March 18, 2021, the Regional Air Transportation Initiative (RATI) was launched with the goal of providing support over two years to help ensure that regional air connectivity is maintained.

HEALTH

FUNDING FOR TREATMENT CENTRE

(*Response to question raised by the Honourable Dennis Glen Patterson on March 26, 2021*)

On August 14, 2019, the Government of Canada acknowledged the findings of the Qikiqtani Truth Commission and apologized to Qikiqtani Inuit for past wrongs.

Canada also committed $20 million to the Qikiqtani Inuit Association to support delivery of programming to promote Inuit culture, healing and well-being. This funding included $5 million over two years (2019-20 and 2020-21) for early program design and delivery as well as $15 million in grant funding as an investment in the Qikiqtani Inuit Association's investment fund to support ongoing program delivery. All of this funding has been delivered to the organization.

These programs are being delivered in a self-determined manner by the Qikiqtani Inuit Association directly to Qikiqtani Inuit.

In addition, at the time of the apology, a Memorandum of Understanding was signed by the Minister of Crown-Indigenous Relations and the President of the Qikiqtani Inuit Association, committing to continued collaboration to implement Qikiqtani Truth Commission recommendations.

Productive discussions between Crown-Indigenous Relations and the Qikiqtani Inuit Association continue.

FOREIGN AFFAIRS

BUDGET 2021

(*Response to question raised by the Honourable Marilou McPhedran on April 20, 2021*)

Canada is deeply concerned by the situation in Yemen, including the deterioration of modest gains made in recent years, and the humanitarian impact on civilians, particularly women and children.

Canada has provided over $295 million in humanitarian funding since the start of the conflict in 2015 to support food assistance, clean water and sanitation, shelter, protection and health care, including sexual and reproductive health services. This includes $69.9 million in 2021.

For example, in 2020, Canada's support helped the UN World Food Programme provide food and nutrition assistance to 14.8 million of the most vulnerable people in Yemen, including children, which is almost half of the Yemeni population.

Canada has also provided over $22 million in peace and security assistance in Yemen to support the UN-led peace process. We call on the parties to engage in negotiations to reach a peaceful solution to the conflict.

While Budget 2021 does not include Yemen-specific funding, it did include an additional $165 million in humanitarian assistance which will be used to respond to humanitarian crises based on needs across the globe, including in Yemen.

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