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Tuesday, May 10, 2022

The Honourable PIERRETTE RINGUETTE,  
Speaker pro tempore

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## THE SENATE

Tuesday, May 10, 2022

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

Prayers.

Thank you. *Meegwetch.*

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

### SENATORS' STATEMENTS

#### ONTARIO POLICE MEMORIAL CEREMONY OF REMEMBRANCE

**Hon. Gwen Boniface:** Honourable senators, I rise today to pay tribute to Ontario's fallen police officers. On Sunday, May 1, the Ontario Police Memorial Ceremony of Remembrance took place at Queen's Park. The annual ceremony is held to honour the lives of police officers who have paid the ultimate price. Every year I rise in this chamber to join them.

Today, I would like to take a moment to remember three officers who were killed when they were off duty simply because they were police officers.

In November 1984, Constable Vernon Miller was shot in the back and killed while in a restaurant on his lunch break in the town of Matheson in northern Ontario. The 17-year OPP veteran was 38 years old. He is remembered for his friendly nature and always looking for the good in people. He was the epitome of community policing. He left behind a wife, three children and a devastated community that has never forgotten him. A hockey arena in town is named after him.

Corporal William F. McIntyre was in his twelfth year of service when he was killed in his own home on April 21, 1984. Bill joined the OPP in 1972 and worked in five detachments before moving on to undercover work. He was one of the best in that difficult and dangerous part of police work. I must also add that he was a lovely person. He was just 33 years old. His death was believed to be connected to his undercover work. His case has never been solved.

On May 31, 1997, Constable Thomas Coffin was killed by a man he had arrested for impaired driving weeks earlier. Constable Coffin was ambushed while off duty in a local bar. Tom was an avid athlete, and he coached the Penetang Kings Junior C Hockey club. His young players were devastated. At the time of his passing, Tom was only 32 years old. He left behind three small children. A park in beautiful Penetanguishene is named after him.

Colleagues, sadly, once a police officer's shift ends, the dangers they face do not. The threats to those who serve and protect are not limited to the hours they are active on duty. Vernon Miller, Bill McIntyre and Thomas Coffin paid the ultimate price as police officers. These circumstances were devastating for all of us who served with them.

Today, I ask you to remember them, their families who had to go on without them and the communities that remain deeply affected by their murders.

### VISITORS IN THE GALLERY

**The Hon. the Speaker pro tempore:** Honourable senators, I wish to draw your attention to the presence in the gallery of guests from Queen's University: Mark Green, Provost and Vice-Principal (Academic); Kanonhsyonne Janice Hill, Associate Vice-Principal, Indigenous Initiatives and Reconciliation; Craig Leroux, Director, Government and Corporate Relations. They are the guests of the Honourable Senator Harder.

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

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

### QUEEN'S UNIVERSITY

**Hon. Peter Harder:** Honourable senators, it gives me great pleasure to welcome representatives from Queen's University to our chamber today.

Queen's is a leading university, with more than 27,000 students from across Canada and 126 countries around the world. I am pleased to count myself, along with Senators Moodie, Lankin and Black, among its global network of over 150,000 alumni.

As one of Canada's leading research institutions, Queen's produces highly skilled graduates across a range of professions and disciplines and is a leader in groundbreaking research. That includes research like Professor Cathleen Crudden's work, supported by a \$24-million grant from the New Frontiers in Research Fund, to develop new coatings that could stop our bridges from rusting or be used to revolutionize medical instruments for fighting cancer.

• (1410)

As colleagues will know, the Senate Prosperity Action Group recently published its report on sustainable and inclusive prosperity. I can tell you that Queen's University exemplifies how Canada's university institutions are *Rising to the Challenge of New Global Realities*. In fact, just two weeks ago, the *Times Higher Education* Impact Rankings placed Queen's seventh in the world out of 1,500 institutions for advancing the UN's Sustainable Development Goals, the second year in a row that Queen's has been recognized in the top 10 in the world.

I encourage all members of this chamber to join us later this evening for Queen's official reception, starting at 5:30 p.m. at the Metropolitan Brasserie. Once again, we welcome Queen's University and offer our best wishes for a successful day on the Hill.

#### VISITOR IN THE GALLERY

**The Hon. the Speaker pro tempore:** Honourable senators, I wish to draw your attention to the presence in the gallery of Joe Dietrich. He is the guest of the Honourable Senator Black.

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

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

#### GREEN LEGACY PROGRAMME

**Hon. Robert Black:** Honourable senators, I rise today to highlight Wellington County's Green Legacy Programme.

In 2004, the Green Legacy Programme was a simple idea in my home community to plant 150,000 trees to celebrate Wellington County's one hundred and fiftieth anniversary. I'm proud to share that today, this initiative has become the largest municipal tree-planting program in North America. I myself have been using the Green Legacy Programme since its inception, during which time I have planted thousands of trees on my property. This year, I planted 250 trees, with another 25 or so to go next weekend, and then I'll be done. If you're interested in seeing this program in action, you can find photos of this season's trees on my social media.

At this time I'd like to take this opportunity to extend my sincere congratulations to Wellington County and the Green Legacy Programme on reaching an amazing milestone of 3 million trees distributed, free of charge, to county residents and community groups since it began 18 years ago. Through education and involvement in the program, the people of Wellington County have contributed to increasing our county's forest cover to a healthy level and creating a green infrastructure, which will ensure an ongoing environmental benefit and help the county to adapt to climate change.

In fact, the Green Legacy Programme caught the attention of the United Nations. In 2010, the program was recognized under the Billion Tree Campaign for their help in fighting climate change.

At this time, I would also like to thank the team behind the program, including county councillors who annually commit funds: Rob Johnson, program manager, and his staff; and the many volunteers who pack trees throughout the winter in preparation for distribution at the Bradford Whitcombe Green Legacy Tree Nursery, located in Puslinch, Ontario, and the Northern Green Legacy Tree Nursery, located in Damascus, Ontario. Their efforts to help make Wellington County greener are truly making a difference.

In Canada, we are lucky to have a robust tree canopy, not only in rural communities but also in towns and cities. Trees provide beauty and shade for communities and improve water, soil and air quality, supporting natural resource conservation and increased wildlife habitats. According to Natural Resources Canada, our forests have already moderated climate change by absorbing about one quarter of the carbon emitted by human activities such as burning of fossil fuels and changing of land uses over the past four decades.

Honourable colleagues, there's a popular Chinese proverb that says, "The best time to plant a tree was 20 years ago. The second best time is now." We know the environment remains a significant political, social and economic issue that involves all levels of government. Tree planting is an easy and effective way to improve our environment from coast to coast to coast.

This weekend, for your information, I planted a tree for each of you, having planted 89 trees this Saturday. If you come for a visit, I'll be happy to show you your tree. With that, I encourage all of you to consider taking the time to plant a tree or trees, whether it is through a municipally organized program like Green Legacy or on your own. We can all contribute to the fight against climate change.

Thank you, *meegwetch*.

#### VISITOR IN THE GALLERY

**The Hon. the Speaker pro tempore:** Honourable senators, I wish to draw your attention to the presence in the gallery of Yifeng Wei, Assistant Professor, University of Alberta Department of Psychiatry. She is the guest of the Honourable Senator Kutcher.

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

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

#### MENTAL HEALTH

**Hon. Stan Kutcher:** Honourable senators, I rise today to build on the insightful comments made by our colleagues Senators Marshall and Boehm last week in drawing our attention to Mental Health Week and to the good work being done by the Senate Mental Health Advisory Committee.

I would also like to acknowledge last week's work by Senator Ravalia in the Mental Health in Primary Care web series. Certainly, there is much to be done to improve outcomes for Canadians living with mental health challenges and many areas of concern that need to be addressed. When faced with such a big challenge, it can be overwhelming, and the default consideration can be to walk away from the whole thing. When I feel that way, I remind myself of the Biblical story of David and Goliath.

The Israeli army saw a big giant and thought, "What a huge giant. We can't win." And they ran away. David thought, "What a huge target. I can't miss." And he was right. That is also the way with the challenge of addressing mental health and mental illness. It's such a big target, we can't miss, but we need to be

focused. David didn't hurl hundreds of ineffective projectiles at Goliath, hoping that one would hit and stick. He launched a specific and effective one, and that is what we need to do.

In my opinion, the foundation piece for improving both mental health and mental illnesses is mental health literacy. The *Mental Health Handbook for Parliamentarians and Staff* is an example of this. Your office should have received copies in both official languages last week. I hope that you will take the time to read it, encourage your staff to do the same and share it with others.

Today, I acknowledge a team of Canadian researchers, educators and clinicians who are national and international leaders in mental health literacy. Their work is focused on improving mental health literacy in primary, junior high, secondary and post-secondary schools. Also under way is a collaborative project that will create school-based interventions for Indigenous young people. Included in their work is a certified teacher training program that can be used across Canada during pre-service teacher training or as professional development for active educators. This work is supported by extensive, robust research, not just in Canada but in countries around the globe.

Some of the leaders responsible for these innovations include Dr. Yifeng Wei, who is here from the University of Alberta; Mr. Andrew Baxter of the Alberta Health Services; and Dr. Wendy Carr of the Faculty of Education at the University of British Columbia. They, along with their collaborators from coast to coast, are working hard at creating, implementing and scaling up this mental health literacy foundation.

Please join me in acknowledging this good work and in encouraging them to see, like David saw, that while the challenge is huge, they can't miss. Thank you, *wela'liog*.

[*Translation*]

### NATIONAL NURSING WEEK

**Hon. Marie-Françoise Mégie:** Honourable senators, in recognition of National Nursing Week, let's salute the courage and determination of nurses and the important role they play in promoting the health and well-being of people in Canada and all over the world.

This year's theme, #WeAnswerTheCall, aims to recognize their daily efforts. These people work tirelessly in Canada's hospitals, long-term care facilities and public health facilities to ensure the safety of our fellow Canadians. Over the last two years, they have worked long hours on the front lines of the pandemic, putting their own health at risk and coping with physical and mental exhaustion.

Many of them work behind the scenes, for example in contact tracing, policy development and finding solutions to public health issues. Every day, nursing staff continue to take care of the most vulnerable in our society, to administer vaccines and boosters, and to work hard to keep us safe.

The government recently announced a process to appoint a Chief Nursing Officer for Canada, who will make sure that the voices and perspectives of nurses are heard. Let's commend this initiative.

[ Senator Kutcher ]

Honourable colleagues, as we recognize National Nursing Week, please join me in honouring Canada's nurses. Thank you.

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

• (1420)

[*English*]

### VISITORS IN THE GALLERY

**The Hon. the Speaker pro tempore:** Honourable senators, I wish to draw your attention to the presence in the gallery of scientists participating in the Science Meets Parliament program.

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

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

**The Hon. the Speaker pro tempore:** Honourable senators, I wish to draw your attention to the presence in the gallery of His Excellency Andreas Norlén, Speaker of the Parliament of the Kingdom of Sweden, and his delegation.

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

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

[*Translation*]

### ROUTINE PROCEEDINGS

#### LEADERS' DEBATES COMMISSION

2019-20 DEPARTMENTAL RESULTS REPORT TABLED

**Hon. Marc Gold (Government Representative in the Senate):** Honourable senators, I have the honour to table, in both official languages, the Departmental Results Report of the Leaders' Debates Commission for 2019-20.

[English]

## BILL RESPECTING REGULATORY MODERNIZATION

SECOND REPORT OF FISHERIES AND OCEANS  
COMMITTEE TABLED

**Hon. Fabian Manning:** Honourable senators, I have the honour to table, in both official languages, the second report of the Standing Senate Committee on Fisheries and Oceans, which deals with the subject matter of those elements contained in Part 7 of Bill S-6, An Act respecting regulatory modernization.

### FISHERIES AND OCEANS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO DEPOSIT  
REPORT ON STUDY OF THE IMPLEMENTATION OF  
INDIGENOUS RIGHTS-BASED FISHERIES ACROSS CANADA  
WITH CLERK DURING ADJOURNMENT  
OF THE SENATE

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

That the Standing Senate Committee on Fisheries and Oceans be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate, no later than September 16, 2022, a report relating to its study on Indigenous rights-based fisheries, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Senate.

## QUESTION PERIOD

### JUSTICE

MEDICAL ASSISTANCE IN DYING

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

Leader, in April, CTV News reported that:

A 51-year-old Ontario woman with severe sensitivities to chemicals chose medically-assisted death after her desperate search for affordable housing free of cigarette smoke and chemical cleaners failed . . . .

CTV also reported last month that a 61-year-old woman suffering from mental and physical problems following a car accident chose a medically assisted death last October. As well, a 31-year-old woman is nearing final approval for medically assisted death to escape what she described as abject poverty.

Leader, a few years ago when you spoke to Bill C-7 in this place, you said:

Bill C-7 strikes a reasonable balance between the rights of individuals to seek access to MAID and the safeguards necessary to protect the most vulnerable in society. . . .

Leader, do you still believe that? If so, can you explain how those safeguards have failed these three women?

**Hon. Marc Gold (Government Representative in the Senate):** Thank you for your question, colleague. The stories you told are tragic and our hearts go out to the families who have suffered.

I still believe that the bill we passed did strike a reasonable balance. I am encouraged as well by the work of the Special Joint Committee on Medical Assistance in Dying to seek improvements to the law. I'm confident that we in the Senate and our colleagues in the other place will continue to work to ensure that the law continues to strike the appropriate balance.

**Senator Plett:** Leader, in November of 2020, Krista Carr of Inclusion Canada warned us that, "Our biggest fear has always been that having a disability would become an acceptable reason for state-provided suicide."

Sadly, Senator Gold, one of you is right. One of the women I mentioned earlier suffered from chemical sensitivities that research shows could have been addressed. Another couldn't find affordable housing and received little to no help, so she has opted for medically assisted death.

Senator Gold, do you recognize that helping these women to live was proving difficult, so helping them to die was easier? Will you admit that the so-called safeguards in MAID that you argued would protect the most vulnerable in society are, in fact, doing nothing of the sort?

**Senator Gold:** Thank you for your question. The short answer — and I will be brief, as I've been recommended to be — is no, I do not agree, senator.

**Hon. Yonah Martin (Deputy Leader of the Opposition):** Honourable senators, my question for the government leader also concerns medical assistance in dying.

On April 13, when testifying before the Special Joint Committee on Medical Assistance in Dying, Ms. Abby Hoffman, Executive Advisor to the Deputy Minister of Health, admitted that the government has not really begun consultations with Indigenous communities on the changes to the MAID regime in Canada. Bill C-7 received Royal Assent on March 17, 2021 — more than a year ago.

Senator Gold, why has your government once again failed to consult Indigenous communities regarding its planned changes to the MAID regime?

**Senator Gold:** Thank you for your question. I will certainly make inquiries to better understand the substance of your question.

The changes that may occur to the MAID regime will be a function of the work of the special joint parliamentary committee and whatever legislation is introduced — legislation which, of course, we will have a role to review and oversee.

**Senator Martin:** Leader, in accordance with Bill C-7, your government has set up a panel of experts to recommend protocols, guidance and safeguards for requests for medical assistance in dying by persons who have a mental illness. These individuals will be eligible for MAID in March of 2023, as you know.

Ms. Hoffman told the committee that the expert panel's recommendations would be made public sometime later this month.

Senator Gold, how do you explain that the expert panel will make its recommendations on MAID for persons with a mental illness without any input from Indigenous communities?

**Senator Gold:** Again, thank you for your question. I repeat that I will make inquiries to understand the sources that fed into the expert opinion. I have every assurance that I'll have answers that I can provide in a timely fashion.

## INFRASTRUCTURE

### INFRASTRUCTURE PROJECTS

**Hon. Mary Coyle:** Honourable senators, my question is for the Government Representative in the Senate.

Senator Gold, Infrastructure Canada introduced a Climate Lens tool in 2018 that set clear reporting requirements and enabled the estimation of expected reductions in greenhouse gas emissions for federally funded infrastructure projects.

• (1430)

However, the Commissioner of the Environment and Sustainable Development in the Office of the Auditor General found in their recent report that Infrastructure Canada had “. . . let go of too much.” They had weakened those reporting requirements when they updated the Climate Lens tool in March 2021. This means there is no longer accurate and reliable information on which to assess and report on those government-funded infrastructure projects, neither in terms of climate resilience nor greenhouse gas emissions.

Senator Gold, could you tell us how the Minister of Intergovernmental Affairs, Infrastructure and Communities plans to address this serious gap in reporting requirements, and how the government will ensure that federally funded infrastructure projects align with Canada's net-zero targets and its newly released Emissions Reduction Plan? Thank you.

**Hon. Marc Gold (Government Representative in the Senate):** I thank the senator for the question. The government is committed to investing in infrastructure that will help us get to net zero, and is committed to working with the provinces,

territories and Indigenous communities to ensure that clean energy can circulate and be used in Canada rapidly and efficiently.

Regarding the specifics of your question, colleague, I will make inquiries with the government and report back to the chamber in a timely manner.

**Senator Coyle:** Senator Gold, we know that the requirements of the newer program, the Green and Inclusive Community Buildings program, are an improvement over the relaxed climate lens that I referred to earlier, which is known as “Climate Lens 2,” but the weakened climate lens 2 still applies to the three older infrastructure programs that remain active.

Senator Gold, the Auditor General's office indicates that it is not too late to fix the weakened climate lens. Could you tell us when that adjustment will be made? Thank you.

**Senator Gold:** Thank you for your question. I will certainly add this to my inquiries to which I referred, but I take this opportunity — and thank you for providing it to me — to remind the chamber that the report of the Auditor General was unique in the sense that it was promulgated and published during the process through which the government is working on its plan and its implementation. That has given the government the ability to make the course adjustments as necessary to take into account the very valuable input of the Auditor General.

Thank you for your question. I will get back to the chamber with an answer as soon as I can.

[*Translation*]

## PUBLIC SAFETY

### FIREARMS REGULATION

**Hon. Julie Miville-Dechêne:** Senator Gold, two years ago, the government banned 1,500 different models of assault-style weapons in Canada. It was a good measure. Not surprisingly, gun manufacturers have already started to circumvent the rules. The group PolyRemembers recently exposed several manufacturers who are selling new assault-style weapons in Canada, which are often easily modifiable to increase magazine capacity but are exempt from restrictions.

In 2019, New Zealand resolved this issue by banning semi-automatic centre-fire rifles and shotguns. In 2020, former public safety minister Bill Blair said he intended to address regulatory gaps to prevent this circumvention.

Will the government act soon to close these loopholes in its assault weapons regulations?

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

The government is working very hard not only to implement additional regulations to ensure that loopholes are closed or eliminated altogether, but also to introduce a firearms bill. As soon as it is ready, it will be announced publicly.



**Senator Miville-Dechéne:** I will take note of your answer. However, I will say that, having researched the number of modified firearms on the market in Canada, I have reason to believe that there is an urgent need for action, and the most important thing we can do is tighten up the regulations. If I understand correctly, that could be done this very day without even having to introduce a bill.

As you said, another approach is to buy back assault weapons, which we are still waiting for. New Zealand had a successful mandatory prohibited weapons buyback in 2019 that resulted in the buyback of 50,000 weapons. If New Zealand can do it, why can't Canada?

After two years, the government can't just keep saying it is working on the matter, so I would like to see signs of tangible progress.

**Senator Gold:** Thank you for the question, Senator.

I fully understand the urgency, the frustration and the importance of this issue. That said, you need to understand that cabinet committee discussions are confidential. I'm not in a position to answer your question, except to say once again that the government is taking this very seriously and will be making announcements soon, I hope.

## FOREIGN AFFAIRS

### CANADA-AFRICA RELATIONS

**Hon. Amina Gerba:** My question is for the Government Representative in the Senate.

Senator Gold, Africa is a large market that is being connected under a continental free trade area, worth a combined \$3 trillion in GDP. It will be the largest free trade area in the world. Africa represents 1.2 billion consumers. It is estimated that, in 2050, one in four people will live on the African continent, which will be the youngest continent in the world. Africa consists of 54 countries that have an important voice in international strategic entities and alliances.

Canada's failure to obtain a seat on the UN Security Council is without a doubt linked to the lack of support from African countries. Today, Russia has managed to circumvent part of the international sanctions imposed on it because the majority of African countries abstained from condemning the invasion of Ukraine, and some of them even refused to apply the sanctions.

Senator Gold, is the Government of Canada aware of Africa's strategic importance?

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

The Government of Canada does recognize the strategic importance of Africa. As you know, Canada and Africa have enjoyed a significant relationship for quite some time. For example, the recent visit of the Parliamentary Secretary to the Minister of Foreign Affairs to Senegal and Nigeria in April also

helped strengthen these ties. In Dakar, he met with key government representatives to discuss Canada-Senegal relations and the priorities of the African Union.

**Senator Gerba:** I understand, Senator Gold, that the Government of Canada is currently making efforts to reach out to Africa, but what is the Government of Canada doing in concrete terms to rally Africa to its cause within international entities?

**Senator Gold:** Thank you for the question.

As I mentioned, the Parliamentary Secretary to the Minister of Foreign Affairs recently went on a visit to Africa. In Nigeria he met with parliamentarians to discuss trade, the repercussions of COVID-19 and the invasion of Ukraine, as well as the importance of ties between our peoples.

The Government of Canada remains determined to develop these important ties with our African partners and to continue building on its commitments with respect to regional priorities and international issues.

[English]

## JUSTICE

### IMPACT ASSESSMENT ACT

**Hon. Scott Tannas:** Honourable senators, my question is for Senator Gold. Just a few minutes ago, the Court of Appeal of Alberta struck down Bill C-69, the Impact Assessment Act. The justices said it was "... a breathtaking pre-emption of provincial legislative authority."

• (1440)

Senator Gold, in your role as either government leader or a constitutional expert, I wonder if you could tell us what you think happens next.

**Hon. Marc Gold (Government Representative in the Senate):** Thank you for your question. I will answer as government representative. The short answer is that the government is reviewing the opinion provided by the Court of Appeal of Alberta. It will be considering its next steps, including a strong consideration of an appeal.

Let me say a few words, because this is an important issue with which we're all engaged as parliamentarians. The Impact Assessment Act was designed to reflect the needs and values of Indigenous people, the public and investors so that they could have confidence that project decisions were made in their interests and that Canada can thrive on sustainable development. The government worked with provincial and territorial governments when developing the legislation to ensure that their views were considered and that jurisdictional responsibilities were respected while working toward the common goal of meeting the needs of Canadians. Whether it is safeguarding our natural environment, creating economic opportunity, protecting our health or preserving the culture, heritage and rights of Indigenous people, the Impact Assessment Act requires a holistic

consideration of a project's impacts. Working collaboratively with provinces supports a single impact assessment process for major projects that considers all project impacts.

For these reasons, honourable senators, the government remains committed to the implementation of the federal impact assessment process. The Government of Canada will continue to work with Alberta and other jurisdictions toward effective and efficient project assessments.

Finally, I return to the court's decision. Honourable senators, here perhaps you will allow the constitutional lawyer in me to slip into my answer. The decision of the Court of Appeal of Alberta is advisory in nature. As such, honourable senators should understand that the act and the regulations remain in force.

## FOREIGN AFFAIRS

### AFGHANISTAN CRISIS

**Hon. Marilou McPhedran:** Honourable senators, my question is to Senator Gold, the Government Leader in the Senate. Senator Gold, my question is about implementing Canada's feminist foreign policy through humanitarian aid to Afghanistan. As I think you know, since August of last year I have worked with civil society and governments to try to assist Afghan women at high risk to get out of their country to relative safety. The World Food Programme and UNICEF tell us that we can expect over 1 million Afghan children to die of malnourishment in the coming months.

My question is about the proud moment last year when Canada promised over \$56 million in humanitarian aid to be delivered inside the country of Afghanistan, but I'm advised by the Afghan Women's Organization and others with direct communication lines into Afghanistan that it is not at all clear what is happening to that \$56 million. Has it been expended? And if it has, has it been on humanitarian aid to those at risk in Afghanistan — women and girls in particular? Canada shut its embassy and Canadian officials were among the first to flee, so it is hard to get accurate information. Can the Government of Canada answer these concerns from civil society and provide details about more than \$50 million in humanitarian aid?

**Hon. Marc Gold (Government Representative in the Senate):** Thank you for that question and for underlining the unacceptably tragic situation affecting women in Afghanistan under the Taliban.

As you point out, it is very challenging to work in that environment, and Canada continues to work with many human rights organizations and women's organizations to do its best. I don't have the specific answer to your question. I will certainly make inquiries, colleague, and get back to you as soon as I can.

**Senator McPhedran:** Senator Gold, is Canada doing what most other donors around the world are doing? Other donors are creating exemptions and other workarounds to allow the delivery of their humanitarian aid directly into organizations in Afghanistan without going through the Taliban. Are we doing the same thing?

[ Senator Gold ]

**Senator Gold:** Again, I will add that to my inquiries. The Government of Canada does not recognize the Taliban as a government, and therefore I assume that that extends to the work that they are doing to try to ensure that humanitarian assistance is provided to the people. I will make those inquiries and report back.

## IMMIGRATION, REFUGEES AND CITIZENSHIP

### REFUGEE PROCESSING BACKLOG

**Hon. Salma Atallahjan:** Honourable senators, my question is for the Government Leader in the Senate. Senator Gold, last week we learned that a Saskatoon resident has been trying for 19 years to bring his parents, who fled from Afghanistan to Pakistan when the Taliban took over in the late 1990s, to Canada.

There was some progress last July: They rented a house for a year, furnished it and they have been paying for an empty house since. His parents, who now live in a refugee colony, have repeatedly sold everything every time there was a movement on their file. Senator Gold, this is not an isolated case. The family has been trying to reunite for over 19 years, well before COVID-19, and has been repeatedly let down by Immigration, Refugees and Citizenship. What is being done to ensure that applications do not fall through the cracks?

**Hon. Marc Gold (Government Representative in the Senate):** Thank you for your question. The government is well aware of the challenges in the application process. It is doing what it can to welcome those families to be reunited and refugees to arrive. The department has made some considerable progress, but is very aware that the challenges remain and is working as hard as it can to address them.

**Senator Atallahjan:** Senator Gold, there were over 110,000 refugee applications yet to be processed by April 26, and many applicants live in horrible conditions, often in a refugee colony, while they await a decision from the IRCC. These delays are putting LGBT refugees' lives at risk on a daily basis and greatly affecting their mental health. To make matters worse, they are often persecuted by other refugees and the police. Senator Gold, these vulnerable refugees live in constant fear for their lives. Why is your government not doing more to help them? How much longer do they have to wait?

**Senator Gold:** The government is doing everything that it can to help them, and regrettably it is taking far longer than any of us and anyone in the government would want. I can assure this chamber that the government continues to be focused on this and doing the best that it can.

## HEALTH

### COVID-19 PANDEMIC—VACCINE MANDATE

**Hon. Denise Batters:** Senator Gold, last week the Trudeau government ended several federal COVID-19 aid programs with Deputy Prime Minister Freeland saying, “. . . the time for extraordinary COVID support is now over.”

I can tell you some other extraordinary measures that are no longer needed, Senator Gold, like taking someone's job and benefits away because they can't or won't get a vaccination, or preventing a Canadian citizen from being able to board an airplane or train and move freely inside the borders of their own country. Senator Gold, I have asked you twice before when Prime Minister Trudeau would lift his federal vaccine mandates. You didn't have an answer so I will ask you again, hoping that the third time is the charm. If the Trudeau government now admits that extraordinary measures are no longer needed to assist Canadians with COVID, when will you also end the extraordinary and punitive federal vaccine mandates?

**Hon. Marc Gold (Government Representative in the Senate):** Thank you for your question. Not to disappoint you, Senator Batters, but you may not be pleased with my answer.

There is a difference between recognizing that the enormous amount of financial support to individuals and businesses that were necessary to get Canadians through the pandemic may no longer be necessary and that focus must now properly turn to strengthening the economy going forward and ensuring that we address the important issues with which we are confronted like affordability, inflation and the like. There is a difference between that decision and the decision to take a prudent and cautious approach for public health considerations. At such time as the government decides, as it has on regular occasions in the past months, that certain rules are no longer needed, those announcements will be made public.

**Senator Batters:** Senator Gold, you would think that having a job would help with affordability.

Canada's Chief Public Health Officer, Dr. Theresa Tam, stated that Canada is experiencing "decreasing transmission in many areas." She says waste water levels are "showing signs of a potential plateau."

• (1450)

The provinces have dropped their mandates. Our allies around the world have done the same. The Trudeau government has ended assistance programs for COVID-19, and yet you refuse to even create a plan to lift these unnecessary federal vaccine mandates. Why?

**Senator Gold:** The government continues to assess the needs for these mandates and what adjustments need to be made, and as I said, we'll continue to be guided by not only public health considerations but what is in the best interests of Canadians.

## EMPLOYMENT AND SOCIAL DEVELOPMENT

### PORT OF MONTREAL

**Hon. Frances Lankin:** Honourable senators, my question is to the Government Representative in the Senate. Senator Gold, I want to return to the matter of the back-to-work legislation for the longshore workers' strike at the Port of Montreal. We know at the time — I highlighted this in my question last week — that the minister said this was literally a matter of life and death — that's relating to COVID measures at the time and COVID

provisions that might need to transit through the port. If I may, I will quote one of our fellow senators at the time, Senator Michael MacDonald. I pay tribute to him on this. He said:

We were repeatedly told that we have to pass this legislation because of the COVID situation. . . . this is a false flag. . . . COVID fearmongering is not a valid or compelling argument. . . .

I wouldn't have used the word "fearmongering" myself. I think it was a very tense time for government decision making at all orders of government in Canada, but I note that we know at the time that workers were committed to move any of the provisions. We know that the labour department did an audit and counted only five containers of COVID-related products. We know that there were no vaccines contained in those containers, and we also know that the CEO refused to make public the actual number of masks and syringes withheld by the port "due to confidentiality required."

So the argument shifted to the impact on the economy, which must also be something that is taken into account when looking at the strike and looking at the abrogation of workers' rights under the Constitution and Charter of Rights of this country.

I want to read to you another departmental note and the advice that was given. It says:

The full shutdown of the port prevents the movement of \$270 million of cargo per day. It is important to recognize that this is the value of goods being delayed and does not translate into direct permanent loss.

It goes on to suggest that the diverted freighters and containers went to Halifax, Saint John and Hamilton with a week's delay.

Senator, I would like you to inquire of the government to review all of this documentation and to provide to both the other place and to this Senate Chamber the answer to how these facts amount to sufficient reasons to meet the test of a section 1 abrogation of workers' constitutional right to freedom of association.

**Hon. Marc Gold (Government Representative in the Senate):** Thank you. I will certainly make inquiries.

Colleagues, the issue of whether the justification, which was multifold and included economic considerations, did or did not pass a test was, first, one that we assessed as parliamentarians and decided in light of the legislation and the progressive elements in the back-to-work legislation as sufficient to pass a Charter test. It is also the role of the courts to so assess.

I would remind colleagues that, first, this back-to-work legislation was an absolute last resort. The government did not take it lightly. Secondly, as colleagues know, the Port of Montreal is Canada's second-largest container terminal. It handles 35 million tonnes of cargo representing \$40 billion worth of goods a year. The work stoppage had the potential to cause severe and lasting damage to our economy. It was highlighted by the declaration provided on behalf of the Chamber of Commerce of Metropolitan Montreal.

The damage to the economy was estimated, through the modelling, to be somewhere between \$40 million to \$100 million per week. There was a judgment of the government, supported in Parliament, that the legislation was essential to safeguard the public interest. To the extent that a court would disagree, we would, of course, respect the decision of the court, but I think the government remains satisfied that it had met the standard under the Charter.

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[*Translation*]

## ORDERS OF THE DAY

### BUSINESS OF THE SENATE

**Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate):** Honourable senators, pursuant to the order adopted December 7, 2021, I would like to inform the Senate that Question Period with the Honourable Ginette Petitpas Taylor, P.C., M.P., Minister of Official Languages and Minister responsible for the Atlantic Canada Opportunities Agency, will take place on Wednesday, May 11, 2022, at the later of the end of Routine Proceedings or 2:30 p.m.

[*English*]

### CUSTOMS ACT PRECLEARANCE ACT, 2016

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 Gold, P.C., for the second reading of Bill S-7, An Act to amend the Customs Act and the Preclearance Act, 2016.

**Hon. David M. Wells:** Honourable senators, I rise today to speak on Bill S-7, An Act to amend the Customs Act and the Preclearance Act, 2016. In my remarks today, I will address several issues related to this bill. First, I think it is important to review the government's rationale for the legislation and to understand that this bill has come to Parliament very late, with the result that there is a legal gap in Canada's border enforcement. Secondly, I want to touch on some of the serious questions and challenges that arise from certain provisions of this bill. Finally, I would like to comment about the way in which the legislation has been brought forward and what, I think, this reveals about the very serious problem we have with the government's reactive approach to policy-making.

[ Senator Gold ]

Unfortunately, colleagues, this bill fits a pattern. The pattern is that of a government that is both highly reactive in its policy-making and extremely slow in its policy implementation.

First, let me address government's arguments in relation to the purpose of the bill. The government's arguments were presented by Senator Boniface here last week. In her remarks, Senator Boniface reviewed the fact that Bill S-7 arises from a decision rendered by the Alberta Court of Appeal in October of 2020 finding that examination procedures used by the Canada Border Services Agency, or CBSA, when it comes to the content of personal digital devices was unconstitutional. These devices were, until recently, examined under the terms of paragraph 99(1)(a) of the Customs Act. The court's reason for striking down this provision of the act in relation to personal digital devices was that the act itself imposed no limits on such examinations.

For many years, CBSA officers have been using section 99(1)(a) of the Customs Act and its definition of "goods" to incorporate personal digital devices.

As Senator Boniface pointed out, digital devices have the ability to hold documents which might contain an individual's entire life history and include the most private information about any person.

The Court of Appeal found that although persons crossing international borders must have a lower expectation of privacy than is normal in a free and democratic society, the scope of information that border officers have access to when examining personal digital devices suggests that some reasonable limits are required.

Senator Boniface quoted the Court of Appeal decision as follows:

We are mindful that protecting the privacy interest in an individual's personal electronic devices while recognizing the need for effective border security will involve a complex and delicate balancing process. It will be up to Parliament, should it choose to do so, to devise a new approach that imposes reasonable limits on the ability to conduct such searches at the border.

Colleagues, this is what we are doing today with this bill.

While the court referenced the fact that Parliament must decide whether it wishes to enact a law on this matter, the reality of our political system is that it is up to government to bring forward legislation to address the legal gap that has resulted from the Court of Appeal's decision.

In this regard, we should be under no illusion that we do now, indeed, have a significant legal gap. That is because, although the decision of the Alberta Court of Appeal is only applicable to Alberta, the Ontario Superior Court has now also ruled that the same section of the Customs Act is unconstitutional, thereby extending this legal limbo to Ontario.

• (1500)

Colleagues, here I think it is important to note the nature of the cases that have triggered these rulings in both Alberta and Ontario. Each of these cases involved the importation of child pornography. I know that every senator in this chamber will agree that these offences are among the most disgusting and dangerous crimes which can be perpetrated. They are also crimes which prey upon the most vulnerable and innocent in our society.

In her remarks, Senator Boniface stated:

It is imperative that we take this incongruity seriously in the meantime. I implore you, colleagues, not as the sponsor of this bill, but someone who was involved in law enforcement for a long time, to prioritize Bill S-7 for our consideration. We can't let this incongruity stand for a day longer than necessary for two reasons. First, training modules can't occur for CBSA officers until the finalized version, and the finalized wording, of the bill passes through Parliament. Second, and most importantly, each day that passes from here on out can be used by those actors seeking to import obscene materials, such as child pornography, into Canada.

Naturally, I agree with that, colleagues. I think we all do you. However, I must point out that the court gave the government 18 months to respond to its ruling. It initially gave the government 12 months and then extended it for another 6 months. Yet, we now have a situation where Senator Boniface first spoke to the bill on behalf of the government on the very day that the court's extension of the provisions of paragraph 99(1)(a) of the Customs Act expired. How does this happen? In fact, I approached Senator Gold two days prior, noting that the expiry was on our doorstep. Colleagues, I'm just the critic.

In my view, there is no excuse for this. There is particularly no excuse for this given the fact that what the government is now proposing to legislate in Bill S-7 is — to use Senator Boniface's own words — already being done. What Bill S-7 does is take the previous internal policies of CBSA when it comes to the examination of personal digital devices and proposes to put them into law. Somehow, doing this took 18 months and counting.

In relation to this, I, again, want to quote the Alberta Court of Appeal:

We are mindful that protecting the privacy interest in an individual's personal electronic devices while recognizing the need for effective border security will involve a complex and delicate balancing process.

There is not any complex and delicate balancing process at all in Bill S-7. Instead, what we have is merely a cut-and-paste of the existing internal policy of CBSA into law. That's what I was told in the departmental briefing and in the critic's briefing.

This is extremely unfortunate because there are very serious privacy concerns which are at play here, and I will highlight a few. First, there are the legal criteria that will be used to justify the initiation of an exam of a personal digital device. The threshold for that will be there must be "a reasonable general concern." That's a quote, colleagues: a reasonable general concern. CBSA briefing notes state that "a reasonable general concern" could be triggered by a multiplicity of indicators or such concern could be triggered by one more significant indicator. No specific contravention is required. The concern need only relate to a contravention of legislation related to the import or export of goods.

This means that the term "reasonable general concern" could, in fact, mean almost anything. Each of those words reasonable, general and concern are the lowest possible bar you can come up with. If the CBSA officer said a traveller looked nervous, that would be grounds for a full search of a device — not just for the bad guys, but for every Canadian who is subject to a secondary search. During debate last week, our colleague Senator Busson stated that "... it worries me that this bill will create difficulties for border officers to search questionable personal digital devices ..."

Yet, our colleague Senator Simons stated:

I'm worried that might open the door for searches that are more aggressive than they were under the regime of regulations that border agents were using beforehand.

In fact, colleagues, it wasn't even under regulation, it was simply policy and there were no controls or protections for Canadians whatsoever.

Senator Omidvar stated that if a reasonable general concern is to be triggered by the behaviour a border officer notices, that is "... hugely subjective."

I would agree with that since it is made all the more subjective because the triggers could be multiple indicators, which are not defined for us. Or it could be a single indicator, again, not defined. Or as one of our colleagues correctly stated in the briefing, it could be racial profiling. It could be nothing. Colleagues, if a Canadian is pulled in for a secondary search, it could be for no valid reason.

What is contributing to the confusion is the fact that, as Senator Simons correctly argued, there is no precedent in Canadian law for the legal use of the term "reasonable general concern." The government has rejected the idea of employing the more familiar legal term of "reasonable grounds to suspect" by arguing that this term is not appropriate for the border context. Here, I think we need to understand the specific legal arguments. The fact that the Alberta Court of Appeal apparently declined to impose a threshold of "reasonable grounds to suspect" in its ruling may support that argument. What we need to understand as legislators is precisely why that is the case and why the simple

codification of CBSA's policy is the best approach. We have had no explanation from the government on that important point and the question was asked directly to them. We can't really be sure about what the term "reasonable general concern" actually means. As I said earlier, "He looked nervous" could be enough.

This issue will be examined in committee if we were to conform to the court's guidance to "... devise a new approach that imposes reasonable limits on the ability to conduct such searches at the border." Reasonable limits, colleagues. Reasonable limits, the court said. Reasonable general concern is, in fact, no limits. I believe that government has actually not engaged in such an exercise in drafting this bill, having pulled it directly from their policy. It will be up to Parliament; it is up to us, colleagues, to fill the void, all the while, operating under the pressure of the gap in law that the government has created by waiting more than 18 months.

In relation to the examination of personal digital devices at the border, there are fundamental questions as to how exactly officers will perform these examinations. We are told that the examinations will be determined by regulations — regulations which we have not seen and will not create.

Colleagues, as you know, legislation like Bill S-7 allows regulations to be made, but we will not have a say in those regulations because our role is simply to make the law that permits regulations to be made. Therefore, it is our duty to ensure fairness to Canadians in the question of searches while permitting the necessary searches to take place where warranted. And this must be greater than reasonable general concern.

In relation to these regulations, the government has indicated just two things. First, that when the officers examine personal digital devices, they will be obligated to take notes during such examinations. Second, that these examinations will be limited to material that is present or stored on devices at the time that an individual is crossing the border.

At this point, we know very little about the tangible protection that note taking will provide and how the limits imposed on material that a border officer may examine on a personal digital device will be governed. Will it include simple links to a website or files stored on the cloud, which, of course, would not be resident on a digital device?

What we want, in this context, is it to provide border officers with sufficient capacity to intercept obscene or otherwise illegal materials but, at the same time, give Canadians the assurance that their privacy will not be compromised where there are absolutely no grounds. That is the balance we have to strike.

In that context, I was told in the critic's briefing that CBSA officers that search a personal digital device must first turn off mobile connectivity — or as it is more commonly called "put in airplane mode" — so that there is no access to material that might be simply accessed via the web and not stored on the device. Colleagues, if it's stored and accessible on the device, it's fair game. Indeed, that is what I was told.

• (1510)

Colleagues, here is a personal story. I was stopped at the border a number of years back. In fact, in filling out the customs form, I said I had \$1,000 worth of goods. I knew the limit was \$800, so I went in and said I want to pay the taxes and duties on the additional amount. I went in for a secondary search. They asked for my phone, and I gave them my phone. They asked me to unlock it, and I unlocked it. They searched through my Visa statements. I wasn't aware of the policy, and I have no reason to be aware of the policy. Ignorance of the law is no excuse, but perhaps ignorance of CBSA policy. The CBSA officer went through my Visa statements and asked, "Where did you buy this? What is this? What is that charge?" So that was a violation of my privacy. They didn't tell me that they had to turn it to airplane mode, which, of course, they didn't do. I don't think they do it in the majority — perhaps all — of the cases.

I asked Senator Boniface after her speech whether it would be appropriate for CBSA officers to also advise travellers to shut down their connectivity. Of course, I wasn't advised. This might improve the confidence of travellers that their privacy is being protected, but also ensure that illegal material stored on the device is accessible by CBSA officers.

Senator Boniface suggested that we look into this at our committee study, and I believe we need to do just that because it is a critical element. We need to be sure that the regulatory process will be transparent and provide Canadians with the assurances to which they are entitled.

There are other questions on the provisions of this bill that need to be asked. One of the measures incorporated in the bill is a decrease in the maximum fine for interfering with a CBSA officer conducting such a search. Colleagues, it is proposed in the bill that it drop from \$50,000 to \$10,000 for a summary conviction, and from \$500,000 to \$50,000 for an indictable offence.

I am not sure how a significant reduction in fines for the smuggling of child porn serves to protect children who are subject to these heinous abuses. In fact, I'm not sure what this provision has to do with any of the purposes of this bill. Colleagues, if anything, offences for crimes such as this should be stronger, not weaker.

In the Senate, we have witnessed a pattern on numerous bills that have come before us with sudden, proclaimed urgency, often arising from last-minute panic associated with poorly thought-out measures or looming deadlines. Colleagues, we saw it more than a year ago on the bill for offshore health and safety. The government had five years to implement offshore health and safety regulations. They sought two additional years and were granted them in a budget implementation act. Then in Senator Ravalia's bill, which was obviously introduced in the Senate, they sought two more years. We said "no," and told them to do it in one year. That was passed unanimously in committee, in this chamber and in the other place.

We are clearly seeing the looming deadline in relation to this bill. In fact, the deadline has passed. I have not heard any argument that such an approach was unavoidable in this case. I don't want to get too far off topic, but, colleagues, we have become so used to this occurring that many of us scarcely blinked when we learned that — by the way — today is the deadline.

The Court of Appeal of Alberta signalled 18 months ago that it expected a very different approach from the government. To reiterate, the court said:

We are mindful that protecting the privacy interest in an individual's personal electronic devices while recognizing the need for effective border security will involve a complex and delicate balancing process.

Colleagues, I couldn't agree more. It now falls to us in Parliament, as the court said, to devise an approach that imposes limits on the conduct of searches at the border but at the same time ensures that our border is protected.

Colleagues, we have seen that this cannot include loose definitions such as “reasonable, general concern” that have no basis in Canadian law and even less so in practice. Thank you, colleagues.

**Hon. Gwen Boniface:** Thank you, Senator Wells. I think you raised important questions, particularly around timing. I share some similar concerns in terms of this bill. Also, you didn't mention — but I think you are aware — that it was denied referral to the Supreme Court. What it leaves for customs officers is inconsistency across the country. From my perspective, it's so important to have a pan-Canadian perspective — one that we can make well known to our U.S. counterparts and others.

While we are frustrated, perhaps, with the speed with which the bill was put before the Senate, for the sake of those officers trying to do their work, would you agree with me that we should do a thorough review but not slow it down intentionally because of our displeasure with the government?

**Senator Wells:** Thank you, Senator Boniface. This won't be slowed down by anyone near me or who might be advised by me. I think this needs to be done as soon as possible, and with a rigour that protects Canadians.

**Hon. Lucie Moncion:** Senator Wells, you did speak a little bit about airplane mode. I don't know if your phone is different from mine, but switching to airplane mode is just the flick of a finger. However, border officers can also flick it off. Then airplane mode is off, and they can go through your phone. You didn't touch a lot on this. As critic of the bill, I would like to hear from you on this.

**Senator Wells:** Thank you, Senator Moncion. You're correct; it's easy to do. Unlocking a phone is easy to do — the facial scan or, on some, the thumb print or simply the password.

From my understanding — and I think it was in Senator Boniface's second reading speech, and indeed in one of the two briefings I had from departmental officials — you are required to give your password to unlock the phone. That is a requirement. If you choose not to give the password, then CBSA has the right to hold the phone and unlock it in whatever ways they unlock phones.

I can't remember the exact term, but CBSA told me that their policy was that they would only search it in non-connectivity mode. I call it airplane mode, and, yes, it's easy to switch it off. If they do that, then obviously they would be violating their own policy, as they did in my case. In fact, I didn't even put it in airplane mode because I didn't know that was a choice I had. I think it's a fundamental right, and Canadians should be told that they have a choice, certainly if it's under policy. If it's under law, they may not have that right.

You're right that taking it off airplane mode is simple, but their policy — and this is what they told me — is that their searches can only be conducted without connectivity. Taking it off airplane mode is very simple, and perhaps if we make an amendment to the bill, it will be in law that they have to be informed. I think that would be an amendment that would be worthy of consideration for the protection of the rights of Canadians.

**Hon. Bev Busson:** Senator Wells, when you gave your speech with regard to this legislation, you talked about the delay that the government put forward and also, I think, used the words “despicable” and “disgusting” to talk about some of the crimes that we're talking about here today.

I think the principle of “better late than never” might apply in this case. Although you say there is a difficult balance to be found, wouldn't you agree that this legislation ought to be forwarded immediately to the committee so they can discuss and debate this balance, accepting that in the gap are, as you called them, innocent victims who are the subject of this whole discussion?

• (1520)

**Senator Wells:** Thank you, Senator Busson. You make an excellent point. This needs to be law as quickly as possible. I don't want to say it could have been done 18 months ago, but it should have been done long before now, and I see no reason to delay the process of sending it to the committee.

Obviously, we all have a right to speak on it and that could take time. I don't know if any of my colleagues that sit with my caucus are going to speak on it. I don't think so — I haven't been given any indication — but let's get it to committee and give it the scrutiny that it deserves. It's an important issue. It's not something trite. It's a serious issue that worst-case scenarios happen. I have no reason to want to delay it or to see it delayed.

**Senator Busson:** Senator Wells, you discussed the issue around having your iPhone searched in the past and they found some Visa records. I would like you to comment whether you felt absolutely violated when they found these Visa records in your iPhone. And how do you feel when they go through your entire luggage?

**Senator Wells:** Senator Busson, I live a boring life, so while I did feel some violation of my privacy — it was my bank statements; I do my banking on my phone, so there was that feeling of violation — but I also thought that this is the process that a free country has. Also, I had nothing to hide.

In fact, on the claims form I said I have higher than the amount. In a public position such as ours, we don't need to sneak around and try to get around the law because the headline isn't that some guy gets around the law, it's that a senator gets around the law, or tries to.

I felt violated years ago. In the 1970s, I had a car and it was parked in my driveway and the door was locked. I got up in the morning and my car had been broken into, and my cassettes had been stolen. They weren't 8-tracks; they were just the regular old-fashioned cassettes.

A couple of weeks later, I came out to my car again and one of the cassettes was on the passenger seat. So they had returned one of the cassettes.

**An Hon. Senator:** They didn't like that tape.

**Senator Wells:** Hang on. That might be true. That's when I felt violated, when I was targeted with a specific act for nothing that had reasonable grounds. They didn't come to steal anything. They already did that. The violation that I felt was when there was no reasonable grounds to do it, and I think that's the crux of this debate.

**Senator Oh:** They couldn't find a player.

[*Translation*]

**Hon. Renée Dupuis:** Senator Wells, in your speech, you stated that Bill S-7 introduces a new criterion. That is the case.

You referred to the comments of other senators who criticize this bill for introducing a new concept. Wouldn't you say that the study you would like a committee to carry out — and I believe it is important to carry out this study — should not focus on whether a new concept is being introduced?

The problem is not that this is a new concept, because it was the Court of Appeal itself that introduced it. When the Court of Appeal states that the existing concept may be too strict for the situation we want to address, the legislator could favour a less-strict concept that creates fewer obligations for customs officers.

The fact that it is a new concept is therefore to be expected, but shouldn't we focus instead on whether the concept chosen by the government in its bill is legally appropriate for the situation we want to address?

We should also not be engaging in scare tactics. As new concepts are often introduced into new laws, should we not instead determine whether this concept chosen by the government is appropriate in the context we want to cover in this bill?

[*English*]

**Senator Wells:** Senator Dupuis, you're absolutely right, that's what the Court of Appeal said. The new concept chosen by the government is "reasonable general concern," and that's what I have issues with because, to me, there is no limit to what might trigger a search. We're supposed to be given comfort by the fact that we are told they'll take notes. Well, the notes will be there to protect CBSA, for sure; they won't be there to protect the individual, in my opinion. They will say the person looked nervous or that it didn't appear that he was from Canada or whatever. He was sweating and fidgety.

I think that the bar of reasonable general concern — which, exactly as you said, is the new concept presented by the government, which, I guess, follows advice from CBSA — is too low for the protection of the individual's privacy rights that every law-abiding Canadian should be afforded.

**Hon. Paula Simons:** Would the senator take a question?

**Senator Wells:** Yes.

**Senator Simons:** Thank you very much. It's so difficult to talk about issues of child pornography because it is such a grotesque and exploitative crime. Online child sexual abuse is a scourge in Canada. There is no one in this chamber who is in favour of it.

What I am concerned about is a question of balance and volume. Every day in this country, thousands of pieces of child pornography are bought and sold and traded online. The amount of it available online is practically infinite.

Yet over the last five years, from May 5, 2017, to May 5, 2022, Canada Border Services Agency seized 392 examples of child pornography at the border that came in on digital media, some on cellular phones and computers but others on hard drives, USB sticks, CDs and DVDs, that kind of thing. That's 392 seizures in five years, not all of which are on phones and computers. Probably the minority are on phones and computers. I'm not sure.

It seems to me that we are potentially breaching the civil liberties of every international traveller for the sake of stopping a very small hole in the dike, while over here millions of pieces of child pornography are coming over the internet. I want you to tell me whether you think the abridgement of our civil liberties is sufficiently balanced given the minute amount of child pornography that is actually being detected in this way.

**Senator Wells:** That's an excellent question. In the old days, if you wanted to import child pornography, which we all agree is heinous, you had it in a folder or binder or album or a magazine, something like that. But now you're right, the vast — and I can't say vast enough — majority is stored not on the pages of a book; it's stored online, in the cloud, in attachments to things only accessible through the internet.



There is a way to stop people coming across our border with images that we're talking about stored on their digital devices. That is to search everyone and give CBSA the right to have full access to all of the devices. We know that's not reasonable. That's like saying we know we can stop car accidents on the highway by having a five-kilometre-an-hour speed limit. It's not practical. The liberties that we have, that right to privacy, which is fundamental to our society and is fundamental in Canada, is a strong one.

• (1530)

The need to stop this material coming across the border is also strong, but you are right. It is a finger in the dike because you can put your finger in the dike and the water still flows over the top of it. That is what is happening. I'm really just thinking about Canadians coming in, not others. Obviously, that is not as strong a concern as I have for the rights of Canadians to privacy. I think striking at that balance is important but not the lowest bar possible that has been called "reasonable general concern."

You make an excellent point. We are looking at the nickels and dimes when there are dollars flowing in.

**Hon. Salma Ataullahjan:** Senator Wells, did you know that even if you have your phone on airplane mode without the location on they will know where you have gone and how long you've spent at various locations?

**Senator Wells:** Yes, I know a lot of that is tracked and stored. I know all of what we do geographically is tracked and stored. Having it on airplane mode or non-connectivity, if that is the policy, is a reasonable policy. Of course, you have to declare where you are coming from. It may seem obvious from your boarding pass, but I am aware other information can be gathered from your personal devices without connectivity.

**Hon. Ratna Omidvar:** Would Honourable Senator Wells take another question?

**Senator Wells:** Of course, senator. I would be glad to do so.

**Senator Omidvar:** Senator Wells, in truth I should have asked this question to the sponsor of the bill but I missed my time. I am forgetting exactly what happened, but perhaps you can help me to understand this.

With these new added authorities to search based upon reasonable general concern, what does the bill say about oversight of the CBSA officers, or do we simply have to wait for the independent oversight bill that is expected sometime?

**Senator Wells:** That is a good question. It is a paragraph that I had in the speech but I took it out because I wanted to concentrate on the substance of the bill. The question of oversight of CBSA, which is lacking, wasn't part of the bill.

Perhaps that question could be asked at committee when witnesses come from CBSA or perhaps Senator Boniface might know more about it at third reading. That is a good question and it is important.

**Hon. David Richards:** Senator Wells, I'm wondering about a "reasonable indicator." Do you have any idea what that might be? It is a very subjective thing by border guards. Running into them in Norway and Spain, I know what it can be like. Sometimes they are not very objective. What would be a reasonable indicator in your mind in Canada?

**Senator Wells:** Senator Richards, I wish I knew. I know in Senator Boniface's second reading speech last Thursday she noted that these officers are professionals. They have experience. They know how to pick up cues.

I have no experience. I do not know how to pick up these cues. You might have someone who has not shaved in three days, has not had a shower in four days, does not dress well and they could be fine, upstanding citizens having a bad week; or you could have members of the clergy coming through with their collars on; or you could have fine, upstanding, apparently well-shaven and well-bathed people who come in who could have the worst kind of stuff on their devices. I do not know. There are professionals who do know. I am not one of them.

(On motion of Senator Dalphond, debate adjourned.)

[Translation]

## ECONOMIC AND FISCAL UPDATE IMPLEMENTATION BILL, 2021

### SECOND READING

**Hon. Clément Gignac** moved second reading of Bill C-8, An Act to implement certain provisions of the economic and fiscal update tabled in Parliament on December 14, 2021 and other measures.

He said: Honourable senators, I am pleased to rise today as sponsor of Bill C-8, An Act to implement certain provisions of the economic and fiscal update tabled in Parliament on December 14, 2021 and other measures.

This speech today is my first official speech in the Senate since I was sworn in last November. I would therefore like to take a few minutes before I get into the substance of this bill to talk about why I joined the Senate and to share some of my thoughts on the state of our country's economy.

First of all, it seems that global crises trigger in me an irresistible desire to travel to Ottawa to work on behalf of Canadians. In fact, I first came to work in the national capital at the onset of the 2008-09 financial crisis. I came here in September 2008, during a time of global financial devastation caused by the bursting of the U.S. housing bubble, to meet with Kevin Lynch, who was then the clerk of the Privy Council. I let myself be talked into leaving my job as chief economist for National Bank to become a special adviser at the Department of Finance.

[*English*]

Guess what? I have never regretted it. On the contrary, I felt a lot of satisfaction even if the days could be as long as the crisis was serious.

What a privilege for me to rub shoulders on a regular basis with the Minister of Finance at that time, the late Honourable Jim Flaherty; the Governor of the Bank of Canada at the time, Mark Carney; and the current Governor of the Bank of Canada, Tiff Macklem, then associate deputy minister in the Department of Finance.

What an honour to have also been designated by the Privy Council Office as Canada's official representative on one of the four G20 working groups created at the Washington G20 Summit. I therefore want to take advantage of this forum to publicly thank the former Prime Minister of Canada, the Right Honourable Stephen Harper, and the Honourable Jim Flaherty for their confidence in me and this unique opportunity to represent Canada during the early work for the G20 leaders' summit.

[*Translation*]

Honourable senators, I was working as a portfolio manager and the chief economist at the Industrial Alliance Financial Group when the global health crisis struck in the spring of 2020. This crisis and its unprecedented impacts on public finances once again awakened in me an irresistible desire to come to Ottawa, but how could I do it this time?

My charming wife, Jocelyne Duval, my life partner for over 45 years, and our three children convinced me to apply to be a senator by completing the well-known application form on the Senate website, because there were three openings to fill in the Quebec region.

I was so happy and proud when I got the long-awaited phone call from the Prime Minister of Canada in June 2021 telling me that I had been selected by the Independent Advisory Board for Senate Appointments to serve as a senator for Quebec. I would like to thank the Right Honourable Justin Trudeau for his trust in me and for this unique opportunity to be back here with you and to serve Canadians. I would also like to thank my three references, Sophie D'Amours, Rector of Université Laval, Rémi Quirion, Chief Scientist of Quebec, and the Honourable Jean Charest, former premier of Quebec, for supporting my candidacy and submitting their letters of recommendation to the Independent Advisory Board.

• (1540)

Honourable senators, I also want to thank all of you for your warm welcome here in the Senate. The welcome speeches of the leaders of the four recognized groups in this chamber, as well as the speech given by Senator Marc Gold on my swearing-in day, will be forever etched in my memory and I thank them for that. I wish to give special thanks to my esteemed sponsor, Senator Dennis Dawson, for his wisdom and his valuable help since my appointment to the Senate.

[ Senator Gignac ]

Honourable colleagues, I very much believe in the value of the Senate as a component of our Parliament and a counterbalance to the House of Commons in protecting the rights of minorities or under-represented groups in our society. Although our primary responsibility is to provide sober second thought on government bills, I am excited at the idea of introducing my own legislative initiative some day.

[*English*]

In the meantime — and to be perfectly honest — I'm not yet very familiar with all the procedures prevailing here in the upper chamber. Despite my experience as a politician for nearly four years at the National Assembly of Québec, I realize that there is still a lot to learn. This is, no doubt, partly why I agreed to sponsor Bill C-8. After all, as the old saying goes, "You learn to swim by jumping into the water."

[*Translation*]

Personally, I very much believe in the idea of this second chamber being organized in a non-partisan way, independent from the governing party. As I mentioned to Canada's Prime Minister, the Right Honourable Justin Trudeau, during our phone conversation last summer, I would definitely not be here with you if not for the reform in 2015.

Since I already had parliamentary experience at the National Assembly, I did not feel like getting back into partisan debates. Honourable colleagues, after just a few months with you, I prefer by far the generally serene and respectful tone of the debates that are held in this chamber to those we see in the other place, as they say. This can be perfectly illustrated by a simple comparison of the two chambers of Canada's Parliament with regard to the nature of the questions asked of the various government ministers.

Speaking of independence from the executive branch, let me also publicly express my support for my colleague, Senator Marshall, regarding the need to eventually review the short deadlines imposed on the Standing Senate Committee on National Finance when approving the government's main and supplementary estimates. We really feel like we are being rushed. Having just a few days in a Senate committee to approve tens of billions of dollars in government spending, in my view, is simply unreasonable and disrespectful of our mandate to give sober second thought to public finances.

As a member of the steering committee of the Standing Senate Committee on National Finance, my colleague knows that she can count on my support to come up with constructive, non-partisan solutions to better fulfill our role as senators.

[*English*]

I strongly believe in teamwork and count on your collaboration to help me as I assume my new responsibilities. As the well-known expression goes, "What you see is what you get." Therefore, I ask that you not be shy about making suggestions to me in order to improve myself in the discharge of my duties.

[*Translation*]

Honourable senators, I know the bar is set high for me as a new senator from Quebec and the eleventh representative of the district of Kennebec. Indeed, my predecessor was the Honourable Serge Joyal, with whom I had the opportunity to exchange a few words just after my appointment and whom I salute in passing.

Let me be clear. While I am honoured to succeed him as the representative of this senatorial division in Quebec, I would never presume to replace him in this chamber, since I have neither his legal skills nor his mastery of public speaking. Nevertheless, inspired by his 2005 book entitled *Protecting Canadian Democracy* and by his actions to protect the rights of minorities and defend the French language, I will strive to contribute, constructively and in my own way, to the work of the Senate.

Colleagues, I am not a public health expert, and I will not predict how long this pandemic is going to last or how many potential additional variants might emerge. Throughout my career as an economist, I was always more interested in the health of our public finances and how our central banks set their monetary policies. I am certain that, on that point, no one will be surprised to hear me say that I am publicly very critical and vocal these days about how our central banks have behaved in the wake of this pandemic to control this rising inflation.

The Bank of Canada and its counterpart, the U.S. Federal Reserve, kept their foot on the gas far too long with their quantitative easing in 2021. What is more, last summer they misread the situation with their so-called transitory inflation, and most importantly, they were late getting into gear early this year with interest rate hikes. As illustrated by the sharp drop in financial markets since the beginning of the year, we are witnessing a loss of investor confidence in our central banks' ability to counter inflation without causing a recession. I do not wish to lend credence to all the decisions made by our various levels of government in Canada, but our central bank's primary responsibility is to maintain price stability, not fight against social inequalities. Traditionally, fiscal and taxation policies are much better placed than monetary policy to target an inclusive recovery.

Before I dive into Bill C-8, I would like to speak to that as a public finance expert, because I have participated in almost every Finance Canada budget consultation of the country's chief economists since 1995.

That was a tradition started by the Right Honourable Paul Martin in his day. I imagine some of you might be concerned about the new fiscal and budgetary initiatives in Bill C-8, the December 14 fall economic update legislation. That is completely natural and understandable. After all, Canada's COVID-19 Economic Response Plan resulted in record-setting budget deficits and a spectacular increase in the federal government's debt over the past two years.

Like the former governor of the Bank of Canada, Stephen Poloz, I don't really think you can accuse a firefighter of using too much water to put out a fire. All Western governments had to engage in massive spending and run up huge deficits to prevent the rapid contraction of the economy in the spring of 2020 from

deteriorating into an economic depression similar to the one in the 1930s. In addition, because the federal government has far more financial flexibility than the provinces, it's not surprising that the federal government played that leadership role and supported Canadian businesses and workers. Make no mistake, this was only possible because previous governments had spent the past two decades getting the country's fiscal house in order.

What is the current situation today? It is fair to say that the debt-to-GDP ratio deteriorated during this pandemic, increasing from approximately 30% to 46.5% as of March 31 of last year.

• (1550)

Based on the figures recently released by the Parliamentary Budget Officer, we can see that federal debt servicing today represents 7 cents for every dollar of budgetary revenue, compared to 15 cents per dollar before the 2009 financial crisis, which is far from the 48 cents per dollar in the early 1990s.

I remember that in 1995, Canada ran the risk of being placed under the supervision of the International Monetary Fund when there was talk of a potential crisis. Following these events, former minister of finance Paul Martin took the situation in hand. Standard & Poor's, the U.S. credit rating agency, has reaffirmed Canada's AAA rating. Canada is one of the few G7 countries to have maintained this excellent rating.

[*English*]

Dear colleagues, I am of the opinion that Bill C-8 will be useful and will make a difference for many Canadians. Otherwise, I would not have agreed to sponsor it.

Obviously, you can count on my vigilance as an economist and a non-partisan senator who is independent of the political power in place to keep an eye on things in the years to come. After all, before embarking on new social programs or national guaranteed income programs, this country needs to accelerate wealth creation and to seriously address the causes of low levels of business investment if we are to realize our energy transition goals.

This should be a guiding principle for our leaders to follow. We must avoid transferring to future generations the burden of the present generation's consumption of public goods and services.

Like all senators in this chamber, I too am in favour of a fairer and more inclusive society. There is no doubt that this chamber will have to consider bills along these lines in the coming months and years.

On the other hand, if we lose sight of wealth creation, we may one day not have enough wealth to distribute, and we may face harsh criticism from our children and grandchildren. I think the experience of Greece is a lesson for everyone here.

[*Translation*]

Honourable senators, I will now begin the second part of my speech, which focuses more specifically on Bill C-8, a bill to implement the measures in the economic and fiscal update tabled in December as well as other specific measures.

The majority of the fiscal or budgetary initiatives in Bill C-8 are a result of the COVID-19 Economic Response Plan. These are targeted measures to help the provinces, farmers, businesses and workers.

The bill also includes a previous commitment by the federal government to try to curb real estate speculation by foreign buyers. Over the next few minutes, I will do my best to simplify the often-opaque language used in this bill.

Honourable colleagues, I would like to talk about the four amendments that Bill C-8 proposes to make to the Income Tax Act.

First, as we all know, it has been established that adequate air ventilation and filtration is important to reducing the spread of COVID-19. Providing a refundable tax credit to small businesses would enable them to invest in better air quality. In order to encourage small businesses to invest in air ventilation and filtration, Bill C-8 proposes to introduce a 25% refundable tax credit on eligible expenses made for improving air quality, which would help increase outside air intake or improve air cleaning and filtration in commercial buildings.

Eligible businesses would receive the tax credit for eligible expenses up to \$10,000 per location, with a spending ceiling of \$50,000 for all eligible locations. In the spirit of encouraging businesses to act quickly, the tax credit could be claimed on eligible expenses made between September 1, 2021 and December 31, 2022.

Second, Canada's vibrant rural and northern communities face unique challenges when it comes to their economic growth and resilience. The remoteness of many northern communities makes travelling costly for residents, including essential travel for the purposes of education and medical care. Right now, northern residents who are not receiving employer-provided travel benefits cannot deduct travel expenses under the deductions for northern residents. As a result, they are not receiving the same favourable tax treatment as those who receive employer-provided travel benefits. Bill C-8 proposes to amend the Income Tax Act and the Income Tax Regulations to expand access to the travel component of the northern residents deductions to individuals who do not receive employer-provided travel benefits.

Third, during the pandemic, Canada's teachers showed a lot of resilience and supported initiatives to ensure that their students continued to receive a high-quality education. Often those efforts included purchasing school supplies out of their own pockets. In order to support teachers and early childhood educators, Bill C-8 proposes to amend the Income Tax Act and the Income Tax Regulations to increase the refundable eligible educator school supply tax credit from 15% to 25%. This will enable teachers to claim the cost of the supplies they use when they teach outside of school. Some electronic devices will also be added to the list of

eligible expenses. The enhancement of the tax credit will provide significant support to teachers and early childhood educators so that they can help children learn in today's difficult educational environment.

Fourth, recognizing that a large number of farmers use natural gas and propane as part of their operations, Bill C-8 proposes a refundable tax credit to return fuel charge proceeds to farming businesses in provinces in which the federal fuel levy applies, namely Ontario, Manitoba, Saskatchewan and Alberta, starting in fiscal year 2021-22. We estimate that for 2021-22, farmers will receive \$100 million from the fuel charge. Refunds in future years would be higher, as the carbon tax increases.

[English]

Colleagues, Bill C-8 also proposes several other important measures to address pressing issues. For example, housing affordability has become an important concern in Canada, with house prices surging in most parts of the country. Bill C-8 proposes to introduce a new underused housing tax act that would impose a new 1% tax on owners of Canadian residential property in certain circumstances, effective in respect of the 2022 calendar year.

This new tax will ensure that non-resident, non-Canadian owners, particularly those who use Canada as a place to passively store their wealth in housing in Canada, pay their fair share of Canadian tax.

• (1600)

Beginning in 2023, certain owners of residential property in Canada would be required to file a return for the prior calendar year in respect of each residential property they own. In this return, owners may be eligible to claim an exemption in certain circumstances, such as where the property is rented out on a long-term basis or is occupied by its owner as their primary place of residence.

It should be noted that Canadian citizens, permanent residents of Canada and certain Canadian entities would not be subject to the tax, nor would they be required to file annual returns.

[Translation]

The Canada Emergency Business Account (CEBA) was essential to many small businesses that were struggling financially because of the pandemic. This account provided interest-free partially forgivable loans to nearly 900,000 businesses.

In January, the government extended the repayment deadline to qualify for partial forgiveness for CEBA loans from December 31, 2022, to December 31, 2023, for all eligible borrowers in good standing. Small businesses were eligible for an interest-free loan of up to \$60,000, \$20,000 of which can be forgiven if the loans are repaid by December 31, 2023, at the latest.

Bill C-8 would provide for a six-year limitation or prescription period for any amounts owing with respect to a loan provided under the program, which will help guarantee that CEBA loan recipients are treated consistently no matter where in Canada they live.

This limitation period is harmonized with other COVID-19 support programs, such as those set out in the Canada Recovery Benefits Act. Furthermore, the bill stipulates that any debt accrued through CEBA can be deducted from amounts owed or offset by them under the Income Tax Act.

Setting a six-year limitation period would ensure that CEBA loan holders are treated consistently, regardless of where they live in the country. The proposed limitation period would provide maximum leniency to small businesses that could be challenged for repayment of their CEBA loans.

[*English*]

Earlier, I spoke about the importance of proper indoor ventilation in reducing the spread of COVID-19. Bill C-8 proposes a \$100-million top-up of the Safe Return to Class Fund to provinces and territories to support ventilation improvement projects in schools.

This \$2-billion fund has helped provinces and territories work alongside school boards to meet the health and safety needs of their students to support in-person learning during the pandemic.

The top-up to the fund continues this support by specifically targeting ventilation-related improvement projects to reduce the spread of the virus in schools. Provinces and territories will have reasonable flexibility to spend their allocation on ventilation-related improvement projects that reflect their schools' needs.

Examples of improvement projects include repair or replacement of heating, ventilation or air conditioning units; increasing maintenance of existing systems to ensure optimized operation; or other improvements that bring in more outdoor air or result in cleaner air, such as the installation of operable windows or portable air filtration units.

Funding will be provided to provinces and territories based on proposals outlining the overall costs of each jurisdiction's proposed projects up to their maximum allocation.

[*Translation*]

Colleagues, I'm quite sure I don't need to remind anyone that vaccination is one of the most effective ways of protecting ourselves, our families and our communities against COVID-19. Similarly, requiring proof of vaccination has helped increase the safety of indoor spaces, public gatherings and travel.

All provinces and territories have undertaken significant work to ensure that Canadians have access to standardized Canadian proof of vaccination and that it is consistent with proof of vaccination requirements in all regions of the country. In that regard, Bill C-8 proposes to provide the Minister of Health with legislative authority to make payments totalling up to

\$300 million to the provinces and territories to help with the costs associated with implementing COVID-19 proof of vaccination programs in their jurisdictions.

In addition, considering the significant expansion of provincial and territorial testing and control programs, including providing tests directly to Canadians, demand for rapid tests has increased in response to outbreaks and the arrival of the new Omicron variant last fall. These initiatives have led the way towards a further increase in large-scale testing in critical settings such as schools, shelters and long-term care facilities, as well as the introduction of screening to support vaccine mandates.

As case counts rose in August 2021, governments started implementing additional screening programs, including programs in schools, and stepping up serial testing for symptomatic and asymptomatic individuals in the workplace. The increased demand is due to specific factors, such as keeping schools and workplaces open, support for outbreak and resurgence management, including the risk of resurgence due to increases in indoor activities and gatherings over the holidays, and support for government and private sector vaccine mandates and personal risk management. To enable that, some provinces started distributing tests to the general public.

Bill C-8 would allocate an additional \$1.72 billion to the Minister of Health to purchase and distribute rapid antigen tests to the provinces and territories and to workplaces.

[*English*]

Finally, colleagues, one other item in the bill that I would like to mention is Bill C-8 also seeks to amend the Employment Insurance Act to avoid penalizing seasonal workers who would have qualified as seasonal Employment Insurance claimants under the seasonal worker pilot project but, as an unintended consequence of the timing of the pandemic income supports, could not benefit from the program.

[*Translation*]

Honourable senators, the measures proposed in Bill C-8 that I talked about represent important changes that will help the provinces and many Canadians get through this pandemic and will also help the economy recover.

In closing, I would like to thank the Deputy Prime Minister and Minister of Finance, the Honourable Chrystia Freeland, and the Government Representative in the Senate, Senator Gold, for giving me this opportunity to sponsor Bill C-8.

Honourable senators, above all, I want to thank you for your indulgence, understanding and flexibility today in allowing me to share my motivation for becoming a senator before addressing Bill C-8 in greater detail.

Thank you. *Meegwetch.*

[*English*]

**Hon. Elizabeth Marshall:** Honourable senators, I would like to start off by thanking my colleague for his comments on the bill and also congratulating him on his maiden speech. I look forward to working with him, not only on the Senate's Finance Committee but also on the Banking Committee.

My role today is that of the critic of Bill C-8, An Act to implement certain provisions of the economic and fiscal update tabled in Parliament on December 14, 2021 and other measures. This bill received first reading in the other place on December 15, and it received third reading on May 14. The Standing Committee on Finance in the other place held three meetings on this bill. I want to take you back to a question that I had asked Senator Gold about the bill to make sure that the Finance Committee in the Senate would be able to study the bill in the same amount of detail as they were allowed over in the other place.

• (1610)

Honourable senators, the fall fiscal update is usually delivered mid-year — we've been getting one a year — and is followed by an implementation bill. Last year, Bill C-14 implemented the provisions of the previous year's fiscal update.

Regarding the bill that we're talking about today, there are seven parts to it. I'm going to speak to each part and just provide some preliminary comments prior to it being studied by the Finance Committee.

The first part of the bill, as my honourable colleague mentioned in his speech, amends the Income Tax Act and the Income Tax Regulations to introduce two new refundable tax credits. The first one is for eligible businesses on qualifying ventilation expenses incurred to improve air quality, and the other one is to return fuel charge proceeds to farming businesses in backstop jurisdictions. Backstop jurisdictions are the provinces that haven't implemented a carbon tax system of their own. Those would be Alberta, Saskatchewan, Manitoba and Ontario.

In addition, Part 1 of the bill also expands two other programs: It expands the travel component of the Northern residents deduction, and it also expands the school supplies tax credit that increases from 15% to 25%. It's also a refundable tax credit and expands the criteria for eligibility.

The second part of the bill is the enactment of the underused housing tax act. I consider this the major part of the bill. It's going to implement an annual tax of 1% on the value of vacant or underused residential property directly or indirectly owned by non-resident non-Canadians.

I'm going to talk a little bit about the act and the provisions of it, but I just want to warn my colleagues that the act is quite complex. I've gone through it, and I think I've correctly extracted certain aspects of the bill. I just want to relay them to you and then point out a few issues with regard to the bill.

[ Senator Gignac ]

As I say, it's the most complex part of Bill C-8, and it's really a standalone act. It's over 90 pages long. I think it should have been tabled as a separate bill and not part of an omnibus bill, because everything else in the bill is costing the government money. This is the only part of the bill that's a revenue-imposed initiative, so because of the length and complexity of the bill it really should have been studied as a standalone bill.

Government initially announced its intention to implement the tax in its 2020 Fall Economic Statement. At the time, the government announced it was targeting the unproductive use of domestic housing owned by non-resident non-Canadians to remove those assets from the domestic housing supply. Then Budget 2021 provided more details and proposed a national 1% tax on vacant or underused housing. It also announced a consultation process to provide stakeholders with an opportunity to comment on the parameters of the proposed tax. The consultation period ran last year from August 6 until December 2.

The Minister of National Revenue is responsible for the proposed act, and it will consist of 40 sections. When it is enacted, it's going to come into force, or deemed to have come into force, on January 1, 2022. The proposed act sets out rules to establish an owner's liability for the tax. It also establishes reporting and filing requirements. It provides for administration and enforcement provisions similar to other taxation legislation. It also makes consequential amendments to a number of other acts, like the Financial Administration Act.

Generally speaking, the act proposes to impose an annual tax of 1% on the value of residential property located in Canada that is owned, directly or indirectly, by persons who are neither citizens nor permanent residents of Canada, unless the owner is able to claim one of the exemptions permitted under the act. Specifically, the act does not apply to an excluded owner or an individual who qualifies for one of the several exemptions under the act.

The act provides for a number of excluded owners, the primary one being a person who is a Canadian citizen or a permanent resident, unless that person owns the property and is acting in their capacity as a trustee of a trust or as a partner in a partnership.

The definition of "excluded owner" is presented in such a way in the bill that other individuals or other groups of individuals can be included or excluded from the tax by simply changing the definition of "excluded owner."

As I previously mentioned, the second category of individuals who may not have to pay the tax are those who qualify for an exemption. There are a number of specific exemptions listed in the legislation, but the two that I think will probably be the most commonly used will be the following: properties that are used as a primary residence by the owner or the owner's immediate family and properties that meet the qualified occupancy of a period of 180 days.

In summary, the proposed act imposes a tax on every person who, on December 31, is an owner of a residential property in Canada unless they can meet one of the definitions of "excluded owner" or they can claim one of the several exemptions.

The term “residential property” is also defined in the proposed act, and it includes numerous types of properties, such as a detached house, a duplex, a triplex, a semi-detached house, a row house and a condominium. The government has really scooped everybody and everything up.

So every owner, other than an excluded owner or an owner who can claim one of the exemptions, is liable for the tax of 1% on either the fair market value or the taxable value of the property, multiplied by that person’s ownership percentage. The act also defines the terms “fair market value,” “taxable value” and “ownership percentage.”

As I’ve said, the proposed act itself is quite complex, and while I’ve tried to give a general overview of the act, it is tax legislation. Anyone who thinks they are impacted by the legislation should obtain professional tax advice and not rely on what I’m saying here today.

The Finance Committee of the House of Commons studied Bill C-8 and the proposed underused housing tax act. One of the issues discussed at the committee was the objective of the program. Is the objective to raise tax revenues, or is the objective to make vacant and underused housing available for use?

During the Finance Committee meetings in the other place, the emphasis was on the tax as a source of revenue. However, when the government announced its intention to implement the tax in its 2020 Fall Economic Statement, the emphasis was on targeting the unproductive use of domestic housing, which removes those assets from the domestic housing supply.

Finance Canada officials indicated during meetings that they were unsure of the impact of the unused housing tax because there is a lack of information on vacancy rates for the housing market. However, they estimated that the tax will raise about \$735 million in revenue over the next five years. Budget 2021 also estimates that the annual revenues to be collected over each of the next four years will be about \$700 million. The Parliamentary Budget Officer estimates that the tax will raise about \$600 million over the next five years, with estimated revenues of \$130 million in this fiscal year. However, the Parliamentary Budget Officer stressed the uncertainty of some of the assumptions used to calculate the estimate.

At a recent meeting of the Senate Banking Committee, Peter Routledge, Superintendent of Financial Institutions, told the committee that there are about 250,000 households being created every year in Canada, compared to approximately 200,000 to 210,000 houses being completed every year, so there is a mismatch between supply and demand. It remains to be seen whether the 1% unused housing tax will result in more houses being available to address that shortfall.

Stephen Poloz, former governor of the Bank of Canada, told the committee that municipal regulations were to blame for shortages of available housing. Specifically, government rules are what stand in the way of the private sector solving many of our problems.

Several other issues regarding the unused housing tax were raised during meetings of the Finance Committee in the other place. For example, why is the tax rate 1%? Why is it not 2% or

0.5%? Has there been any analysis of the possibility of retaliation by other national governments? For example, many American citizens own property in Canada, and a tax on their property may result in the imposition of taxes on the property Canadians own in the United States.

• (1620)

Another issue is that if the government’s trying to identify extra tax revenues, why not improve the money laundering regime and the tax evasion regime in this country? Another concern that was raised is why the federal government is straying into property taxes, which is the domain of municipal governments.

The underused housing tax is also causing concern with Canadian homeowners. A recent report funded by CMHC recommends the implementation of an annual deferrable progressive surtax on home values starting at \$1 million. Despite the assurances of the Minister of Housing that the government is not looking at charging capital gains or any surtaxes on primary residences, homeowners were concerned to learn through media reports that CMHC is tracking millions of mortgage holders to identify homeowners with more than one property, raising the possibility that the unused housing tax may in future be applied to second residences owned by Canadians, such as summer cottages.

I’m now going to leave Part 2 and get into Part 3 of the bill. Part 3 provides for a six-year limitation or prescription period for the recovery of amounts owing with respect to a loan provided under the Canada Emergency Business Account. The Canada Emergency Business Account, or CEBA, is a loan program put in place during the pandemic, and these loans were paid out by Export Development Canada under section 23 of the Export Development Act. Eligible businesses that applied before June 30, 2021, were offered loans of up to \$60,000, and these loans are interest-free until December 31, 2023. But an annual interest rate of 5% will take effect on January 1, 2024. If at least 75% of the loan amount is repaid by December 31, 2023, the remaining balance will be forgiven. For loan amounts over \$40,000, at least 50% of the loan expansion must also be repaid for loan forgiveness to apply.

Clauses 41 to 43 of Bill C-8 establish the limitation of prescription periods to recover money owing under a CEBA loan: six years from the date of default. The date of the default is the day on which the person making the claim first knew or ought reasonably to have known that the default had occurred. The six-year period resets every time the borrower acknowledges their debt, for example, by promising to repay the outstanding balance or by making a payment. I had thought that the six-year limit was a bit generous, but apparently that is quite a common time frame within the federal government. The length of the limitation of prescription period of six years is similar to other loan and repayment periods, such as those established under the Canada Student Financial Assistance Act.

Part 4 of the bill authorizes the Minister of Finance to make payments of up to a \$100 million to the provinces and territories out of the Consolidated Revenue Fund for the purpose of supporting ventilation improvement projects in schools. The maximum payments for provinces or territories are stipulated in

the bill itself. Officials indicated that the amounts stipulated in the bill are based on a flat amount of \$500,000 for each province and territory, plus a per-child allocation for each child 14 to 18 years of age within that province or territory. The funding will be provided to each province and territory, which will be responsible for disbursing the funds.

Part 5 of the bill authorizes the Minister of Health to make payments up to \$300 million to the provinces and territories out of the Consolidated Revenue Fund for the purpose of supporting their COVID-19 proof-of-vaccination initiatives. The amount of payment received by each province or territory is to be determined by the Minister of Health. No other information was available regarding provincial or territorial requirements to access the funding or how the funding will be allocated. Officials have indicated that negotiations with the provinces and territories are ongoing and include issues of accountability, how much funding will be allocated to each province and territory, and how the funding will be accessed. As indicated in the bill, the intent is to establish and maintain a proof-of-vaccination program while proof of vaccines is required.

Part 6 of the bill, and specifically clause 46, authorizes the Minister of Health to make payments of up to \$1.7 billion out of the Consolidated Revenue Fund for the purpose of covering any expenses incurred on or after April 1, 2021, in relation to COVID-19 tests. As a result of an amendment proposed by the Finance Committee of the House of Commons and accepted by the House, Bill C-8 now includes an accountability clause requiring the minister to report every three months on the total amount paid under the act, the number of tests purchased and how they were distributed.

While Bill C-8 is requesting \$1.7 billion relating to COVID-19 tests, two other bills have provided money for COVID-19 tests. Bill C-10 provided \$2.5 billion for COVID tests, and the Appropriation Bill for Supplementary Estimates (C) provided \$4 billion.

In a recent report, the Parliamentary Budget Officer said that the \$4 billion provided by the Appropriation Bill for Supplementary Estimates (C) is a duplication of the funding being requested through Bill C-8 and provided by Bill C-10. This raises a question: Why is the government requesting money for the same initiative twice? If Parliament approves the same funding twice, will there be an extra \$4 billion available to be spent on some other unknown project? Officials have indicated that the \$2.5 billion approved by Bill C-10 has been frozen by Treasury Board. In addition, all but \$6 million of the \$1.7 billion in this bill has been frozen.

The Standing Senate Committee on National Finance, in its recent report on Supplementary Estimates (C), expressed concern over duplicate budgeting of this initiative. Specifically, the committee said that government should end duplicate funding requests, as it lacks transparency.

Part 7 of Bill C-8 amends section 12 and Schedule VI of the Employment Insurance Act to specify the maximum number of weeks for which Employment Insurance regular benefits may be paid to certain seasonal workers in regions with very seasonal

economies. Under the EI program, regular benefits are available to eligible persons who lose their job through no fault of their own and are able and available to work.

Honourable senators, this concludes my comments on the second reading of Bill C-8. I look forward to the study of the bill by the Standing Senate Committee on National Finance. Thank you.

[*Translation*]

**Hon. Éric Forest:** Colleagues, I would first like to thank Senator Marshall for her speech and her comments, which are always relevant. I would also like to congratulate our colleague, Senator Gignac, on his maiden speech in this chamber. His experience will allow him to make a very valuable contribution to the Senate and to the Finance Committee.

I would like to speak briefly today on Bill C-8 to express my discomfort with the tax on underused housing. I would first like to point out that the bill to implement the economic update and budget tabled last fall contains several measures that I deem to be essential. I am thinking in particular of the northern resident tax deduction and the fuel charge refunds for farmers, although this does not apply in Quebec, which is exempt from this charge because of its own carbon pricing system.

Of course, I also support increasing the Canada Emergency Business Account, which saved many businesses during the pandemic by providing over \$49 billion in interest-free loans with partial write-offs.

Finally, as you know, in eastern Quebec, as in many regions of Canada, there are several seasonal industries. I think it would be important for the government to renew the flexibility of Employment Insurance so as not to penalize seasonal workers. These transitional measures are essential, but I must say that this patchwork tinkering with the program frustrates me. I look forward to the end of the government consultations on EI reform so we can finally have a modern EI system that affords proper coverage to seasonal workers and self-employed workers, as well as other workers in precarious situations.

Allow me to digress for just a moment. I noted with interest that Senator Bellemare recently introduced Bill S-244 to strengthen social dialogue by establishing an employment insurance council where EI contributors could sit down as equals and discuss the level of coverage they wish to have. This proposition is a nice contribution to the debate and I urge you to consider it.

Coming back to Bill C-8, my problem is with Part 2 of the bill, which seeks to enact the underused housing tax act. Essentially, the government would implement an annual national tax of 1% on the value of vacant or underused residential property owned by non-resident non-Canadians. I share the objective sought by the government to reduce housing prices in this manner to make housing more accessible to Canadian residents. My problem is the way the bill is going about it. First, there is the regulation of housing law. That is a provincial jurisdiction that falls under private law, specifically, property and civil law, and, more generally, social policies and local affairs.



• (1630)

Furthermore, to penalize a practice that is deemed to be undesirable in the housing sector, the government is imposing a punitive tax on the value of the property. It is an area of taxation that, by mutual agreement, had always been reserved for local authorities or local governments. I would like to quote constitutional expert Patrick Taillon on this aspect of the bill:

I see two possible scenarios. The first is to frame the measure as a way of regulating housing law, which would likely make the measure unconstitutional because it goes beyond the jurisdiction of Parliament.

The essential character of the bill, its pith and substance, is provincial.

That is the most logical way of framing the measure. Ultimately, only the courts can confirm that interpretation of the situation, after the fact, and if they do, it will automatically lead to the nullity of the measure.

Otherwise, the second scenario, or possible interpretation, is to conceal the true character of the measure behind the tax penalty associated with this federal regulation of housing law. To do so would be to claim that this is merely a tax, setting a dangerous precedent. Introduced without the benefit of co-operative federalism, the measure would likely upset the delicate fiscal balance of the Canadian federation.

[English]

In other words, if the bill is interpreted as a new tax, the bill will be unfair. Without negotiations and the co-operation with the provinces, a federal property tax compromises our fiscal balance. Since Confederation, the property tax has been a local and provincial tool. It's not a good idea to borrow this tool from local authorities.

[Translation]

As you know, history has taught us that once the federal government wades into an area of taxation, it never leaves. Senators will recall that, during World War I, corporate income tax was supposed to be a temporary measure. The same thing happened during World War II, when personal income tax was to be short-lived. You know as well as I do that these areas of taxation are still the purview of the federal government, even though its tax base is far greater than that of the provinces, which are grappling with exponentially huge health care costs.

I appreciate that the underused housing tax does not represent a significant source of revenue for the government. I object more to the principle of it. I have a hard time imagining how the federal government can meet its objective without interfering in an area of taxation that is already too narrow to meet the needs of municipalities, which have been handed an increasingly long list of responsibilities over the years.

As you know, it is well documented that municipalities rely on property taxes. Cities in Quebec draw nearly 70% of their revenue from property taxes, according to a 2018 estimate by UMQ. This reliance is exacerbated by the dematerialization of the economy. Online shopping, remote work and Airbnb-type

short-term rentals all contribute to a loss of commercial spaces and a shrinking municipal tax base. Municipalities' reliance on property taxes has adverse effects in terms of real estate development, which is often done at the expense of the environment, wetlands and agricultural areas.

I fear that by acting like a pickpocket, the federal government is depriving municipalities of revenue sources and accelerating the fiscal imbalance phenomenon I described earlier. In fact, the underused housing tax act does the exact opposite of what the municipalities were asking for in the municipal white paper presented 10 years ago by the Union des municipalités du Québec. At the time — and it is still the case — they called for tax and financial reforms to allow them to diversify municipal revenue sources. This request was based on the idea that the municipality is the most appropriate political body to meet the needs of citizens at the local level.

Furthermore, in this capacity, municipalities should have the jurisdiction and authority necessary to respond to the present and future needs of their citizens, the discretion to make decisions in the local public interest, and the means to put in place to respond to those needs. They should also have the autonomy to establish and finance these measures. Another thing they need is for higher levels of government to refrain from dipping into their local sources of revenue.

Ultimately, the UMQ hoped to obtain new sources of independent funding to allow municipalities to move away from property taxes. No one ever imagined that the federal government would dip into the tax base normally reserved for municipalities. The Union des municipalités du Québec wrote to Minister Freeland on April 19 to express its opposition to the federal government's proposal to impose a tax on the value of underused residential buildings.

I would like to quote the letter:

On the one hand, the proposed tax would set an unfortunate precedent, given that property taxes represent the only significant source of independent revenue available to municipalities.

On the other hand, municipalities already have a competent and efficient bureaucracy to administer property taxes. Duplicating this bureaucracy would represent additional costs for Quebec and Canadian taxpayers, at a time when municipalities are already facing recruitment difficulties in several areas. This measure would exacerbate this concrete issue that is affecting many municipalities.

According to the UMQ:

It would be more appropriate for the federal government to use tools other than property taxes to positively affect the housing market. Such tools could include increased investment in social and affordable housing, as was the case in the 2022-23 budget.

To conclude, I believe that the federal government is playing a very dangerous game by intruding into an area traditionally reserved for local governments. Even if the courts were to rule that the bill is valid, there is a risk that the federal government would compete with the very modest fiscal capacity of municipalities. We cannot forget that. At the very least, the federal government must have an ongoing conversation with the provinces on this issue and consider other more respectful and effective ways to address the country's significant housing shortage.

[English]

At the very least, I invite my colleagues who will study this bill in committee to seriously consider this issue which calls into question the foundations of fiscal federalism in the country.

Thank you, *meegwetch*.

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

[Translation]

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

**Hon. Senators:** Yes.

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

**Hon. Senators:** Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Gignac, bill referred to the Standing Senate Committee on National Finance.)

[English]

### FEDERAL FRAMEWORK ON AUTISM SPECTRUM DISORDER BILL

THIRD READING—DEBATE ADJOURNED

**Hon. Leo Housakos** moved third reading of Bill S-203, An Act respecting a federal framework on autism spectrum disorder, as amended.

He said: Honourable senators, I would like to reserve the right to speak later on third reading given the fact that I am the sponsor.

[ Senator Forest ]

• (1640)

**Hon. Jane Cordy:** Honourable senators, I rise on behalf of Senator Wanda Thomas Bernard to deliver her debate on Bill S-203, as she could not be with us today. She has spoken on autism spectrum disorder on a number of occasions in the Senate.

Honourable senators, I rise today in support of Bill S-203, An Act respecting a federal framework on autism spectrum disorder. This bill will call on the federal government to prioritize a national framework and develop a national autism strategy that will create long-term solutions for autistic people in Canada regardless of where they reside.

Today, I would like to share some of the impactful witness testimony heard during committee that has strengthened the bill, and I hope it will help this bill to be passed. I will also share the importance of reframing disability and autism with a strengths-based perspective and the importance of additions to the bill, such as intersectionality and inclusion.

During the committee stage of this bill, we heard essential testimony from self-advocates. Vivian Ly, the co-founder and organizing member of Autistics United Canada, reminded us that the phrase “nothing about us without us” is not just a saying; it is a call to action. This call to action is meant to be taken seriously and practised by consulting autistic people and including them in all stages of policy development. Senator Petitclerc added an observation that captures this call to action by urging the involvement of autistic people in the framework's development stage.

Self-advocates gave compelling testimony and urged senators to consider using a strengths-based model for the bill. Vivian Ly informed the committee that the way language is used in this bill is based on a deficit model of disability. They shared that autistic people are not suffering because of autism; they are suffering because of “. . . systemic ableism and a lack of access, acceptance and supports.”

We must shift away from the deficit model towards a strength-based model that affirms and supports autistic people while addressing the systemic issues. These lessons are important for the upcoming development of this framework.

They are also an important reminder to shift our mindset for any future legislation we develop in the Senate that impacts autistic people or other people with disabilities.

Although I supported this bill in its essence to create a national framework, I believed that it needed to be more inclusive. We heard many times from witnesses that a challenge with legislation like this is that autistic people are a very diverse group, and it can be difficult to find the balance of making changes without excluding part of the group.

Inclusivity and intersectionality were important additions that ensure particular attention is paid to create equitable access to services for autistic people with unique cultural, linguistic and regional needs, while steering clear of being

overly prescriptive. This addition should guide the development of a framework that considers the barriers faced by autistic people who experience intersecting oppressions such as racism, homophobia, transphobia and sexism. Some people at risk of falling through the cracks are Indigenous peoples, especially in the North, or francophone Canadians who require services in French. I believe the changes made at the committee stage account for this diversity and will ensure that more autistic people benefit from the development of the national framework.

In addition to an amendment specifically indicating the necessity of consulting with Indigenous communities, some of the other promising changes made at the committee stage are ensuring:

. . . sustained, accessible and culturally relevant resources, available online and elsewhere, on best available evidence-based information to support autistic persons, their families and caregivers, including information on effective treatments and ineffective or harmful treatments . . .

Honourable senators, when I reflect on the rigorous process my family has gone through to secure a continued support network for my grandson, I saw just how easily people can slip through the cracks without adequate support. I know from experience the constant energy it requires to monitor the services available and to adapt the plan as challenges arise. Not every autistic person experiences the same level of support my grandson has received. That is why I continue to stress the importance of ensuring this national framework is as inclusive as possible and considers all the barriers this diverse group of people experience.

I am very hopeful for the future. Between this framework and the recent announcement of Canada's first accessibility commissioner, there are positive changes coming for people with disabilities in Canada.

Bill S-203 has the capacity to create enormous strides for autistic people in Canada, and I support the adoption of this bill with the amendments and observations made in committee.

Thank you, *asante*.

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

**Hon. Kim Pate:** Honourable senators, I would like to thank Senator Housakos and all of the committee members who studied this bill.

The autism framework proposed by Bill S-203 includes as one of its principles the provision of equal access to medical and financial supports. This bill would require the government to implement an autism framework including financial support for autistic persons and their families and support for caregivers of autistic persons. Poverty is a barrier to meaningful access to services, promoting injustices and inequalities that prevent too many people living with autism from thriving.

Testifying before the Social Affairs Committee, as Senator Wanda Thomas Bernard just mentioned via Senator Cordy, Vivian Ly of Autistics United Canada noted that 25% of autistic people in Canada live below the poverty line. In identifying a status quo of "state-sanctioned poverty and violence" against autistic people and others with disabilities, that creates a "school-to-institution pipeline and a school-to-prison pipeline" for too many economically marginalized youth whose families navigate barrier after barrier while trying to secure adequate care.

I want to dedicate the rest of my words today to Bev and her 4-year-old son Weston. Bev's daily efforts to address systemic barriers starkly illustrate the observation of Autistics United Canada at committee; namely that siloed supports for those with autism and their supporters are wholly inadequate to redress the intersection of systemic ableism and economic marginalization.

Bev is a 39-year-old Métis woman born and raised in Saskatoon. She describes herself as a proud mother to seven beautiful children, aged 4 to 21, and *kookum* to a 1-year-old grandson.

This is what she had to say:

I am a survivor of child abuse, sexual abuse, [the] foster care system, juvenile incarceration, prostitution, domestic violence, drug addiction, I am an ex-gang member and have served time in a federal penitentiary. . . . I have survived intergenerational trauma. . . .

I was fortunate to have met a support system that believed in me, that wrapped me in services, held my hand and helped me face my insecurities.

I am currently employed at Métis Nation Saskatchewan as a Systems Support Navigator. I am also in my first year of studies at the First Nations University of Canada taking the Indigenous Social Work program. . . .

I am no stranger to advocacy, to demanding that my community be treated like humans. Fighting a system that is stacked against Indigenous, vulnerable, marginalized peoples and the voiceless.

. . . [W]hen I found myself fighting for answers, demanding treatments for my son, I did not know that I was going to be not only his mother but also his advocate and his voice. His quality of life depends on me. . . . Each path I went down, I was hitting barriers, meant for me to give up and surrender and accept that my son didn't deserve proper treatment and therapies . . . because I come from poverty, we continue to receive mediocre care. I cannot accept this.

• (1650)

Weston was born on October 22, 2017, a preemie baby he thrived and excelled in his little milestones. At 35 weeks, Weston came home. . . . [A]t eight weeks old, he contracted a virus. I remember calling 911 at lunchtime because he had stopped breathing.

. . . It seemed as though almost every week or two we were in the emergency room with Weston having troubles breathing[;] each visit to the hospital we were given the same treatment, a combination of inhalers and steroids and sent home.

[When he was] 10 months . . . [a] specialist realized that Weston's lungs were full of fluid. . . . Weston underwent surgery . . . [He] was on a feeding tube for four months and had a nebulizer and oxygen at home. Weston was drowning every time he drank or ate.

. . . I became more concerned when Weston was just a little over a year old and was not making any types of baby noises or trying to say any words. . . . [W]hen he played, he would line his toys up in a very particular order. When he ate, he did not like any of his food touching. . . . Weston was having meltdowns if a routine wasn't followed or if we did something sporadically or spontaneous. By a year and a half, he was not making any eye contact with anybody, chose to play by himself, and did not like certain lights, noises, and places.

It took almost 2 years on a waiting list to be seen by the specialists at the Alvin Buckwald Center. By then, COVID was here. . . This meant that all appointments had to be done over virtual video calls.

In February 2021 Weston was diagnosed with Global Developmental Delay, Autism Spectrum Disorder (ASD) and he remains non-verbal.

Let me enumerate just a few of the barriers to adequate resources and care for Weston:

Being a single mom with four children at home, working full-time. . . and attending university full-time, I am stretched paycheque to paycheque. . . . I cannot afford the \$125-\$350 an hour to seek private therapists for Weston. The recommended therapy time is 2 hours a week x 52 weeks. And currently there are waitlists of 6-36 months. Weston is currently in need of a behaviour intervention specialist; this can cost upwards of \$500 per visit.

I cannot access services for Weston through Autism Services because I need to complete a parenting intervention program. Currently they are only offering this program during daytime hours at three hours a day for 6 to 12 weeks. . . . I cannot budget to lose three hours a week of work. . . . I was told that I need to prioritize my son, that if Autism Services means that much to me, I will find a way to make it work. I felt like I was [failing] . . . my son by not being able to commit to that parenting program.

Weston is a "runner" meaning he will run in any open space. I currently rent a home on the corner of a very busy street. I applied to the Jordan's Principle to have a fence installed around the front of my home for the safety of my son and was denied. I put an appeal in in July 2021 and I am still waiting for a response. . . . [Weston] is currently enrolled in

Project Lifesaver, a program that put a GPS monitor on Weston so he can be tracked by the Saskatoon Police Service if he were to go missing.

In October . . . Weston really needed to see a dentist. But because he would not sit in a dental chair and have a check up completed, I was told the only way he was able to have his teeth checked and fixed was to have him sedated and have dental work done that way. The catch was that I had to pay \$3000 upfront for them to book the appointment. . . . I was at work . . . in tears after I got off the phone with the dental office and had no idea how I was going to help my son. My boss . . . overheard the conversation and started a GoFundMe page [and raised \$3500] to have my sons' teeth fixed. . . . The total was \$3990. I still owe \$440 for this visit for Weston. I am told that because Weston will require sedation for all dental work, that each visit will cost \$3000. This is outrageous.

Weston is diagnosed with aspiration, meaning that when he swallows, fluid enter his lungs . . . which causes aspiration pneumonia and resulted in dozens of admissions to the hospital. There are no supports in place to assist with purchasing special bottles, cups and dishes to assist with his aspiration.

Because Weston has a very hard time eating . . . I am currently purchasing protein powder, [many] . . . vitamins, . . . and probiotics to help him try to be healthy. He is also lactose intolerant. There are no services in place to help with the increase of money needed to purchase these items.

Weston is diagnosed with auditory processing disorder. At first, we were told he was hearing impaired [and] . . . we had to purchase \$3000 hearing aids. . . . [A]fter multiple appointments and no improvements I requested a follow up hearing test. I was told that this would take 18 to 24 months, so I paid for a private hearing test. . . . [W]e found out that . . . he can hear[;] he just cannot process the words or sounds we are making. Saskatchewan does not have any therapies that specialize in this disability for young [children].

Weston has been to 4 early learning centres in Saskatoon and was asked to leave all 4 centres due to insufficient staff to provide adequate care.

In 2021 I organized a fundraiser for Weston to allow us to purchase an IPAD and app program to help Weston with communication through pictures. This fundraiser raised \$1200. I rely on YouTube and self-taught techniques to teach Weston.

Weston is currently attending a special-needs preschool . . . but with no access to a special needs kindergarten in the fall. I am being told that he will have to attend regular kindergarten classes with the hope —

— the hope, honourable colleagues —

— that we get connected with an educational assistant.

I have also been told that if Weston is not fully toilet trained, he will not be allowed to attend school at all.

Honourable senators, some of you will remember Bev. Bev was the one who coordinated the Faceless Doll Project that was donated to all of you. Bev is a smart and tenacious woman. Her challenges navigating disparate and inadequate systems are grossly unfair and highlight the urgent need for comprehensive economic, social and health supports that are accessible to all.

During committee study of Bill S-203, Autistics United Canada called for “cross-disability supports and services, and universal, equitable access to financial security, basic needs, housing, employment, education and health care,” naming in particular:

. . . basic income, universal pharmacare, housing-first policies and full compliance with the UN Convention on the Rights of Persons with Disabilities.

The government has committed to implementing the Canada disability benefit, a form of guaranteed livable basic income for persons with disabilities. It has committed to implementing the Calls for Justice of the National Inquiry into Missing and Murdered Indigenous Women and Girls, including Call 4.5 for a national guaranteed livable basic income. These are the sorts of financial supports that Bill S-203’s proposed framework must incorporate if it is to make a difference for Weston and too many others.

Bev’s tenacity is remarkable. She proudly describes her son:

Weston is the sweetest, most observant, and kindest little boy. I have learned from Weston the true meaning of patience, understanding and I have a whole new perspective on how I view the world by watching through my son’s eyes.

Weston . . . is beautiful inside and out.

And I want you all to know that.

I honestly feel that my son does not get to have the opportunity to access services, programs, and therapies because I am low-income. He, unfortunately, has a mom that cannot give him a privileged life with unlimited resources and money to access [what he needs, let alone] the best of the best. Being an Indigenous woman brings so many barriers, we have faced racism, discrimination, and a lack of empathy during this journey. But I refuse to give up.

Colleagues, this bill is just one step, but without equitable access to all necessary supports, we risk continuing to leave behind those who need it most. Let’s not fail Bev and Weston and too many others.

*Meegwetch.* Thank you.

(On motion of Senator Patterson, debate adjourned.)

• (1700)

## FOOD DAY IN CANADA BILL

### THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Black, seconded by the Honourable Senator Downe, for the third reading of Bill S-227, An Act to establish Food Day in Canada.

**Hon. Rose-May Poirier:** Honourable senators, I rise today at third reading of Bill S-227, An Act to establish Food Day in Canada. I thank the Standing Senate Committee on Agriculture and Forestry for their due diligence on this very important bill. As I said in my second reading speech, I fully support Senator Black’s bill in establishing a food day in Canada. It is a great opportunity to share with Canadians the crucial role our local food sector plays in our everyday life. Whether it be fisheries, blueberries, apples, potatoes and more, they are a staple of our daily diets.

Colleagues, as you may recall in my second reading speech, I highlighted the cultural importance of local food. Please allow me to share with you some of the food initiatives from around the country in order to showcase how, as a society, we hold local food at high value.

In British Columbia, a clear-cut example is the Penticton Farmers’ Market in the Okanagan Valley. It is one of the most farm-to-city markets. Every vendor is required to make, bake or grow their products locally. They are part of a growing movement in B.C. that works to protect and enhance local and small-scale food systems. And I do have to mention the Granville Island Public Market, which serves as a local food market but also is a major tourist attraction.

As well, the farmers markets across the country are leading the way for local food security in our country. In Ontario alone, there are 180 member markets, and since 1991, Farmers’ Markets Ontario has been leading the way, advocating for markets with municipalities and potential funders to help ensure the health and sustainability of the markets and supporting the growth of farmers’ markets for the benefit of local farmers, local food and Ontario consumers.

Of course, every summer we see a host of festivals to celebrate food, such as Alberta on the Plate, the St-Albert Curd Festival in Ontario, the Grand Falls Regional Potato Festival in New Brunswick and so on. There are also important local food initiatives such as the Canadian Food Focus, an outreach initiative led by Farm & Food Care Saskatchewan. They host farm tours, community events, online activities, classes and seminars as well as share our Canadian food and farming stories,

explore how food is grown and raised, share recipes and provide useful advice from experts to help people make confident food choices. Their goal is to improve food literacy and to build trust in Canadian food chains from farm to plate.

A concrete example I need to share, colleagues, is Little River Polyculture in Bathurst, New Brunswick. They are a locally owned microgreen polyculture that offers fresh products year-round to their community. They grow various greens for restaurants and residents: arugula, sunflower, peas, broccoli and the list goes on. Not only do they help in providing fresh and healthy products, but they recently set up the first hydroponic system at the local high school. The students are learning how to grow salad for their salad bar thanks to a local food initiative. Local food producers like Little River Polyculture become important social engineers for our communities.

The reason I am sharing the various markets and festivals, honourable senators, is to demonstrate that, with Bill S-227, these events won't be happening separately from each other. Once a year, they will be linked through food day in Canada. We could maybe see further collaboration between various local and provincial food markets and festivals on the national level. Maybe there is a collaboration already that I am not aware of. But in a vast country like ours and with the social and cultural importance of food, they will all be celebrated jointly on one day.

Furthermore, before I finish, I do need to say a few words on the importance of food security. I trust food day in Canada will also be an opportunity to further the conversation on food security in our country and how local food can help us tackle the issue of hunger. In a country as plentiful as ours, we must strive to do better in reducing and eventually eliminating hunger. For example, according to Statistics Canada, in fall 2020, 9.6% of Canadians reported having experienced some food insecurity in their household in the prior 12 months. It is lower than the estimate of 12.6% from 2017-18, but I think almost 1 out of 10 Canadians reporting having experienced some food insecurity is still too high. Just here in Ottawa, the demand for food banks went up 20% in March 2022 compared to March 2021. That is significant, honourable senators, and it is important for a day like food day in Canada to celebrate local foods but also to recognize what more can be done to help those in need.

In a time when inflation is on the rise at the rate of 8.7% more for food purchased from stores on a year-over-year basis in March, everyone is feeling the tightening of the wallet due to inflation. Prices for dairy products and eggs rose 8.5% while butter grew at 16%, cheese at 10.4% and milk at 7.7%. Food day in Canada would be a great opportunity to have a conversation about food security in a time of rising inflation. I'm not an economist or a food policy specialist, but I am from a rural community, and in my experience, whenever a community supports itself through local food markets, the local farmers support the community. Everybody wins by supporting each other.

[ Senator Poirier ]

Honourable senators, as Senator Black said in his third reading speech, Bill S-227 is about people. It is an opportunity to bring people together to celebrate our local food, to show our appreciation to farmers and to say thank you. I support this bill and hope you will join me in supporting the establishment of a food day in Canada. Thank you.

(On motion of Senator Dean, debate adjourned.)

**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—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator McPhedran, seconded by the Honourable Senator White, for the second reading of Bill S-201, 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. Patricia Bovey:** Honourable senators, the following debate is on behalf of our colleague, Senator Wanda Thomas Bernard, who was unable to join us today.

Honourable senators, I rise today in support of Bill S-201, An Act to amend the Canada Elections Act and the Regulation Adapting the Canada Elections Act for the Purposes of a Referendum (voting age). Thank you to our colleague Senator McPhedran and the Canadian Council of Young Feminists for their tireless advocacy on this issue and for bringing this issue to the Senate. Your dedication to young people's leadership and civic engagement is admirable.

Earlier this spring, I had the honour of participating in a virtual round table on voting age and civic engagement with our colleague Senator Clement, the Deputy Mayor of Shelburne, Steve Anderson and representatives from Operation Black Vote Canada. There were Black youth from across the country present for that event. The message I heard was loud and clear; Black youth want the opportunity to engage in the decision-making processes that impact them. Being able to vote sooner would be incredibly empowering and engaging for young Black people looking to make change in their communities. I would love to see a future with more Black leaders in municipal, provincial and federal politics. Creating space for this type of civic engagement early on for youth is a promising start.

• (1710)

During this round table, young people shared their aspirations to be involved in politics after the voting age is lowered. They shared their stories and concerns on big issues like climate

change, poverty, food insecurity, mental health and the impact of the pandemic on youth. Young people are faced head-on with these issues and are well capable to understand the democratic process.

Many of these young people feel disenfranchised because they cannot vote and are very supportive of the recommendation for the voting age to be lowered to 16. They talked about the fact that they are already making decisions in their lives that require responsible and critical thinking, such as driving, working and engaging in sexual relationships. Some of these young people are already stepping up to the plate by being the responsible adults for other family members. They believe that lowering the voting age aligns with their current realities and responsibilities as contributing community members. Senator McPhedran highlighted in her speech the evidence that supports the maturity and responsibility of young people, so I will not speak further on this point.

Black Canadians have historically been pushed outside of political processes since our first arrival in this place we now call Canada. The history of racism, segregation and marginalization has left us feeling unwelcome and disengaged in most public and private spaces. Given this long history, one of my main priorities as a senator has been getting involved in engagement sessions with young Black community members about leadership and civic engagement. I focus on strategies to build brighter, more engaged futures with these young people. Many young people are ready and willing to become strong leaders in their communities and just need an opportunity to be meaningfully involved in our democratic process.

The third pillar of the United Nations International Decade for People of African Descent is development. Given our long history of disenfranchisement from politics, I believe empowering young Black people to become involved in politics is a valuable component of that development. Many young people who attended the round table are already involved in local political campaigns despite being unable to vote for the politicians for whom they are campaigning. The youth in this session expressed frustration that they are not taken seriously because they are not yet of voting age. A lower voting age would give space to these young people to voice their opinions and reflections on critical issues. Making this change would allow young people to have a meaningful impact on their communities and their country.

Honourable senators, I am in support of Bill S-201. After having participated in this valuable round table consulting with Black youth, I have confidence that this bill has the power to mobilize Black youth — an important demographic who is ready to have a say in leadership in their communities. Supporting this bill is supporting a future of strong leadership and civic engagement.

Colleagues, Senator Bernard has thanked me, as she writes, “for generously delivering” her debate on this important issue.

Before closing, I want to add my support to hers of this bill and say that I, too, have done much consultation with young people across the country, in the North and with Indigenous

young people. To Senator Bernard, I say “thank you” for her viewpoint. To Senator McPhedran, I say “thank you.” On behalf of Senator Bernard, I say “thank you, colleagues. *Asante.*”

(On motion of Senator Dean, debate adjourned.)

[*Translation*]

## NATIONAL RIBBON SKIRT DAY BILL

### THIRD READING

Leave having been given to revert to Other Business, Senate Public Bills, Third Reading, Order No. 4:

On the Order:

Resuming debate on the motion of the Honourable Senator McCallum, seconded by the Honourable Senator Pate, for the third reading of Bill S-219, An Act respecting a National Ribbon Skirt Day.

**Hon. Marilou McPhedran:** Honourable senators, as a senator from Manitoba, I acknowledge that I am on Treaty 1 territory, the traditional lands of the Anishinaabe, Cree, Oji-Cree, Dakota and Dene, and the homeland of the Métis Nation.

[*English*]

I acknowledge that the Parliament of Canada is situated on unceded, unsurrendered Algonquin Anishinaabe territory and that we have people joining us from across Turtle Island who are located on both treaty and unceded lands of Canada’s Indigenous peoples.

Colleagues, I rise in support of Senator McCallum’s bill, Bill S-219, and I thank you for allowing me to speak to it at this point.

This is an inspiring step on the long, essential and sometimes uncertain path to reconciliation between nations within the borders of this country. Through this bill, we all have the opportunity to further respect, understanding and education of Indigenous culture and heritage, specifically the ribbon skirt which is a creation of Indigenous women cherished in Indigenous tradition and ceremony.

Today, I am honoured to wear my ribbon skirt, a gift from a wise woman in my life who also gave me the eagle feather that I carried into this chamber for the first time when I was sworn in — the indomitable Leslie Spillett, founding executive director of Ka Ni Kanichihk, which means “those who lead.”

Just a few days ago, we welcomed in this chamber the bereaved family of our beloved Senator Josée Forest-Niesing. Later that afternoon, we heard Josée’s sister talk about how she, Josée’s mother and friends completed the ribbon skirt that Josée began.

Senator Forest-Niesing had told us of being inspired by this bill, crafted, in the words of Senator McCallum, “turned an unfortunate incident into a platform for change through understanding and education.”

We here all know 10-year-old Indigenous student Isabella Kulak, who was so eager to wear her ribbon skirt, gifted by her auntie, to her school’s formal day and was instead shamed and told she should have worn a more formal outfit bought in a store like the other students.

The belittlement of Isabella’s ribbon skirt may seem innocuous or mild when compared to the violent systemic modes of racism and oppression often inflicted upon Indigenous peoples, but it illustrates insidious prejudice and discrimination that Indigenous peoples — so frequently women and girls — have experienced for generations. Senator McCallum helped us better understand how this impacted Isabella and alerted us all to the need for education, respectful listening and greater efforts to seek true reconciliation.

Please allow me to add a few observations of my own.

Agnes Woodward, from Kawacatoose First Nation in Saskatchewan, makes beautiful ribbon skirts made all the more poignant and powerful by how she describes her purpose:

The skirt is mostly about representation, and how Indigenous women choose to represent ourselves . . . That’s why they’re so important today . . . because their voice has been taken away.

• (1720)

Ribbon skirts are traditionally worn for Indigenous ceremonies by women and girls, but they can also be iconic and symbolic, for example, to raise awareness about missing and murdered Indigenous women and girls.

Abigail Echo-Hawk, a Pawnee public health researcher, crafted a ribbon dress out of body bags to draw attention to the disproportional effect of COVID on Indigenous communities. She embroidered her personal mantra, “I am the tangible manifestation of my ancestors’ resiliency,” to highlight her connection to the past and future. Echo-Hawk says that she sews with loving energy:

Each ribbon is prayer. Each stitch is prayer and love and dedication to those people and when you make it, you can’t come from a place of anger, you can’t come from a place of bitterness.

Ms. Woodward made headlines in June 2021 at the swearing in of U.S. Secretary of the Interior Deb Haaland, the first Indigenous person to hold such a position. She wore a beautiful Woodward skirt adorned with cornstalks, stars and butterflies, and was featured in news coverage.

Honourable senators, such a situation could typically be an example of a woman’s skill being belittled by commentary on what she wore, but that’s not actually what happened. Attention was harnessed by this skirt, and the message became one of power and worth.

Ms. Woodward further stated:

The ribbon skirt today reminds me that I have a power and that I carry a responsibility, to teach the future generations that they belong here and that they have the right to take up space however they choose . . . It’s about taking back the shame that I carried as a young girl.

Senator McCallum spoke eloquently and with much wisdom on the concept of “holding spaces,” the creation of safe environments where individuals — youth, in particular — can grow, learn, question and grapple with significant issues in a nurturing and supportive manner.

National ribbon skirt day is one example of this type of “holding space” as the aim is to celebrate identity, autonomy, reclaimed dignity, representation and to challenge outdated ways of seeing, of confronting entrenched stereotyping and prejudices and of reconciling and returning value.

In a work published in the *Girlhood Studies: An Interdisciplinary Journal*, Kari Dawn Wuttunee of the Red Pheasant Cree Nation and the Native Women’s Association of Canada, Jennifer Altenberg, a Michif educator from Saskatchewan, and Sarah Flicker of York University studied the issue of ribbon skirts as a form of cultural resurgence. They found that the act of sewing ribbon skirts brought Indigenous women together intergenerationally — young and old — to reclaim teachings, resist gender-based and colonial violence and reimagine their collective futures. Learning about the historical and cultural significance of ribbon skirts gave girls a stronger connection to their culture, community and each other. Wearing their ribbon skirts became an embodied act of resistance, resilience and self-determination.

These findings speak directly to the concept of positive holding spaces that youth need and deserve. It is important that such space go beyond those who traditionally identify with the ribbon skirt. It can encompass any and all who seek to reclaim value in their identities and cultural pride using regalia, customs and other traditions.

The ribbon skirt is one, poignant symbol of past erasure, racism and colonial attitudes. It is an intersectional symbol of how race, gender and equality have been twisted by colonial means of discrimination, and it can be a catalyst for change.

Now, at Kamsack Comprehensive Institute, the school where Isabella Kulak was shamed for wearing her ribbon skirt to a formal day, a ribbon skirt day is now celebrated on January 4. This year, over 100 students and staff wore skirts, many of which were made at school in the brand new classes on skirt making, beading and drumming that were introduced to respond positively to Isabella’s call for reconciliation, awareness and healing.

Honourable senators, many of us close our speeches with “thank you” in several languages, including *meegwetch*, but often Senator McCallum says — and today Senator Pate said — *chi-meegwetch*. One day, Senator McCallum explained to me that this means “thank you,” but the added meaning is along these lines: Thank you with the intention to carry this forward in a good way.



Senator McCallum has asked us to stand with her and support not only this bill, but to stand with young Isabella and what she stands for — agency, identity, inherent dignity, positive self-affirmation of cultural identity and reconciliation.

On behalf of Isabella, and with visions of positive futures carried by these beautiful ribbon skirts, may I now ask for your support in calling the question on this bill? *Chi-meegwetch*.

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

**Hon. Senators:** Question.

**The Hon. the Speaker pro tempore:** It was moved by the Honourable Senator McCallum, seconded by the Honourable Senator Pate, that the bill be read the third time.

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

**Hon. Senators:** Agreed.

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

[*Translation*]

## CUSTOMS TARIFF

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Housakos, seconded by the Honourable Senator Ataullahjan, for the second reading of Bill S-204, An Act to amend the Customs Tariff (goods from Xinjiang).

**Hon. Julie Miville-Dechêne:** I am speaking today about Bill S-204, An Act to amend the Customs Tariff regarding goods from Xinjiang.

This bill is sponsored by Senator Housakos, and I am the critic. I volunteered because Senator Housakos and I both spoke in this chamber, at about the same time early in the session, about the issue of forced labour and the all-too-common human rights violations. A total of 25 million people are victims of forced labour around the world. We share this grave concern, but we have chosen different ways to respond.

Through Bill S-211, I have proposed a broad, step-by-step approach to combatting modern slavery by requiring companies doing business in Canada to report on the risks of forced labour and child labour in their supply chains. Bill S-211 does not target any particular region of the world, although we know that forced labour and child labour is particularly prevalent in Africa and Asia. That said, no country on the continent is completely free of it, and we have had disturbing cases of forced labour in Canada, notably in agriculture and hospitality, and even among undocumented personal support workers working in Quebec during the pandemic.

Senator Housakos chose a much narrower and more draconian approach. His bill would prohibit the importation of goods manufactured in whole or in part in the Xinjiang region of China.

I agree with my colleague that the human rights violations against Uighurs are extremely serious. These violations have been labelled as “genocide” by the Canadian House of Commons and the British House of Commons, as well as by the European Parliament, the U.S. Secretary of State and U.S. President Joe Biden. I agree with that assessment.

[*English*]

In fact, the treatment of the Muslim Uighur minority by the authoritarian Chinese regime should worry every citizen in the world who believes in human rights. As Joanna Chiu writes in her excellent book *China Unbound: A New World Disorder*:

If its treatment of Uyghurs is any indication, China is willing to criminalize religious practices . . . torture and harass camp inmates, sexually abuse detainees, and illegally harass Uyghurs around the world. But the international community has been slow to respond to the growing humanitarian crisis, raising the troubling question of what the CCP might get away with in the future.

• (1730)

In addition to assimilation and detention camps, there is ample evidence that many Uighurs are forced into labour. The situation is difficult to quantify, as reporters and experts on these issues are prevented from entering facilities in Xinjiang. We must therefore rely on other sources to get a sense of scale.

According to a report by Australian Strategic Policy Institute, more than 80,000 Uighurs were transferred out of the Xinjiang region between 2017 and 2019 to work in Chinese factories. Despite China’s claim that their work is voluntary, abundant evidence shows that their freedom of movement is very limited and that they are under constant extreme surveillance, with their families threatened and at risk of being detained.

[*Translation*]

Some major, well-known brands have been suspected of being connected to supply chains that use forced Uighur labour. The list of suspected products includes cotton, tomatoes, tomato products and polysilicon. These products have a high risk of being tainted by forced labour in the Xinjiang region. This region produces nearly half of all polysilicon, a material used to manufacture solar panels, and nearly 20% of the world’s cotton.

Unfortunately, as Canadian consumers, we all contribute to this exploitation. Cotton clothing labelled “made in China” is found in all of our stores, and this cotton is highly likely to have been harvested in Xinjiang, where more than a half a million Uighurs are reportedly being forced to work. Major brands like Uniqlo, Walmart, Zara and Sports Experts remain silent when asked to account for their actions.

CBC's *Marketplace* uncovered some more alarming news about tomatoes and tomato products that are very likely to be found on our grocery store shelves. Consumers cannot make informed decisions about the tomato products they buy in grocery stores. Well-known brands like Nestlé, Del Monte and Unilever are buying tomatoes from Xinjiang and processing them in a third country, like Pakistan, the Philippines or India, before reselling them.

Other situations around the world are just as appalling, such as children working in open-pit mines or on cocoa or sugar cane plantations, but the fact is that these forms of exploitation are not systematically organized by states. Governments may be often passive or complicit with regard to these situations, but the exploitation of the Uighurs was clearly orchestrated by Chinese authorities.

That is why Senator Housakos introduced his initiative in a very short bill that boils down to one sentence:

. . . the importation of goods manufactured or produced wholly or in part in the Xinjiang Uyghur Autonomous Region of the People's Republic of China is prohibited.

This bill was born of a frustration I share, because our own border officers are not enforcing the existing legislation, which already prohibits goods made by forced labour from entering Canada from any country in the world.

This amendment to our Customs Tariff Act arises from the Canada-United States-Mexico free trade agreement, which has been in force for 22 months now. To date, Canada has seized one single, solitary, shipment of clothing from China suspected of being made by forced labour. By comparison, the United States has intercepted over 1,300 suspect shipments from China within that same time period.

According to the experts consulted by *The Globe and Mail*, Canada has not invested sufficient funding or made enough of an effort to enforce this law, nor has it put enough effort into gathering intelligence to make seizures.

Where Bill S-204 differs from the current law is that it does not propose seizing shipments that simply might contain goods produced using forced labour, but rather all shipments originating from one region, Xinjiang, assuming from the outset that these goods are likely to be the result of forced labour.

It is true that it is very difficult for border officers to distinguish between the two. There is no visible evidence that goods have been produced by forced labour. If the bill passes, it will also be important to ensure that companies, Chinese or otherwise, do not circumvent the law by routing their products through other intermediate countries.

What is interesting about Bill S-204 is that the importer has no way to prove that the seized shipment is not the product of forced labour.

However, on the face of it, such a ban seems contrary to World Trade Organisation rules, which prohibit discrimination and quantitative restrictions.

We could always justify the existence of Bill S-204 by invoking Article XX of the General Agreement on Tariffs and Trade, which allows for exceptions necessary to protect human life or health or public morals, for example, or relating to the products of prison labour.

Bill S-204 would completely ban all products from Xinjiang, so it could be difficult to invoke any exceptions. In this case, it would be up to Canada to prove to the WTO that the ban does not constitute a means of arbitrary or unjustifiable discrimination.

Only one country so far has acted in a way that reflects what Bill S-204 is proposing. In the United States, the Uyghur Forced Labor Prevention Act passed unanimously in the Senate, and the law will be in force at the U.S. border starting in June. The U.S. law includes a presumption that all goods manufactured in whole or in part in the Xinjiang region are inadmissible. The law also states that businesses located elsewhere in China could be blacklisted if they profit from the forced labour of Uighurs. However, unlike Bill S-204, U.S. importers can rebut this presumption by providing clear and convincing evidence demonstrating that their factories and those of their suppliers do not use forced labour. If Bill S-204 included similar relief, it would no doubt be more likely to be deemed compliant with WTO rules.

The U.S. bill generated heated debate between multinationals that rely on China for their supplies, legislators who want the United States to take a firmer stance on defending human rights, and those who are primarily concerned about supply chain disruptions and inflation. Fortunately, defenders of justice and human dignity won the day, for once, against defenders of commercial competitiveness and low prices at all costs.

Human Rights Watch supports the U.S. legislation and considers it to be a powerful new tool for combatting forced labour. The NGO recommends that there be serious consequences for companies that cannot provide transparent information about their supply chains and forced labour in China.

Other countries are looking for measures they can implement at their borders to fight modern slavery.

In Australia, a Senate bill introduced in 2020 sought to prohibit the importation of all goods produced in Xinjiang, similar to Bill S-204. There was no consensus for this Australian bill because it targeted only one region in the world. A new version presently being studied would prohibit the entry into Australia of any goods produced with forced labour, no matter where they come from.

In late April, the British government adopted an amendment to eradicate forced labour from National Health Service supply chains.

In conclusion, I am of the opinion that Bill S-204 should be referred to a committee that can study and amend it, if required, to prevent it from clashing with our international trade commitments.

However, I would add that, at the same time, we should also reflect on the weight we want to give social and environmental considerations in our trade agreements. For decades — and even

today — the economic imperatives of growth, competitiveness and low prices have often outweighed issues of human dignity and sustainable development. Ecological and ethical considerations, which of course include the revolting human rights violations in China, should never be partisan or ideological issues. We must therefore find effective ways to fight for progress. We must not remain passive. Thank you.

• (1740)

**Hon. Leo Housakos:** Thank you for your speech. I'm quite open to the idea of sending this bill to a committee like the Standing Senate Committee on Foreign Affairs and International Trade. I am open to finding a solution to this terrible situation. As you so eloquently said in your speech, the situation in Xinjiang demands draconian measures, and it was sad to see that this chamber chose not to recognize the existence of a genocide in Xinjiang last year. Even worse, it is sad to see that our government will not recognize that fact.

Do you agree that now is the time to act as quickly as possible, as a country and as a government?

**Hon. Julie Miville-Dechêne:** Clearly, that is not really the goal of your bill, Senator Housakos, but, yes, I am one of those who believe that our foreign policy should respond to human rights violations, whether in China or elsewhere. I do not believe in targeting a country purely because of its regime, but I do believe in intervening when it comes to serious issues like human rights violations.

I am one of the Quebec women who supported the mission in Afghanistan. That debate sharply divided Quebec. Many pacifists said no, but I said yes. We had to intervene on behalf of Afghan women. In general, I am someone who advocates for intervention and, given all that we know about the abuses suffered by the Uighurs, we must speak out, especially now that our two hostages are no longer in China. Of course, there are also Canadian interests. I know this is a sensitive issue, but I am one of those citizens who wants Canada to speak out strongly against China.

(On motion of Senator Dean, debate adjourned.)

## POST-SECONDARY INSTITUTIONS BANKRUPTCY PROTECTION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Moncion, seconded by the Honourable Senator Dean, for the second reading of Bill S-215, An Act respecting measures in relation to the financial stability of post-secondary institutions.

**Hon. Yonah Martin (Deputy Leader of the Opposition):** Honourable senators, I rise today to speak to Bill S-215, An Act respecting measures in relation to the financial stability of post-secondary institutions. I would first like to thank Senator Moncion, who introduced this bill. A vibrant, world-class post-secondary education system in Canada is vital to our country's future, to our productivity, to our international competitiveness, to the health of our society and to the success and well-being of our young people.

[*English*]

While the intention of the bill — to ensure financial stability for the post-secondary sector — is certainly laudable, how we accomplish that is, potentially, another matter. The bill asks the minister, in consultation with the institutions themselves — municipal and provincial governments, and groups and associations representing faculty, staff and students — to develop a proposal for federal initiatives to reduce the risk that an institution becomes bankrupt or insolvent; protect students, faculty and staff in the event that an institution becomes bankrupt or insolvent; and support communities that would be impacted by an institution becoming bankrupt or insolvent.

You will not be surprised to learn, mainly because the bill's sponsor mentioned it in detail in her speech, that the immediate impetus for this bill is the situation of Laurentian University in Sudbury, Ontario.

In February of last year, Laurentian filed for protection from creditors under the Companies' Creditors Arrangement Act. It was the first ever publicly funded entity in Canada to do so. In the process, it fired 100 academics, cut 69 programs and, as one observer put it, “. . . shattered what it proudly billed as its tri-cultural mandate by disproportionately cutting back francophone and indigenous offerings.”

As the Office of the Auditor General of Ontario pointed out in its report on Laurentian University:

Until Laurentian's filing . . . the CCAA process had been used exclusively in the private sector. However, there are no restrictions in the act that limit its use by a government-funded and broader public sector institution.

Laurentian University, as the Auditor General of Ontario also flagged, is one of the primary post-secondary institutions serving northern Ontario, a tri-cultural — English, French and Indigenous — and bilingual post-secondary institution. Moreover, it is one of Sudbury's largest employers, so, as Senator Moncion pointed out in her speech, its insolvency issues are devastating for the community. They are also devastating for its student body, 19% of which is composed of French students.

This is a tragedy for the community, and for all staff and students who are a part of the Laurentian community — that we can all agree on.

I believe Senator Moncion's bill has flagged an important issue, but I also believe there is some room for debate around the source of the problem her bill seeks to address, and perhaps even the solution that her bill seems to propose.

In short, things are more complicated than simply a lack of or a decline in government support.

Let me begin with the problem first. In her speech, Senator Moncion placed the source of the problem squarely at the feet of the government. In Laurentian's case, the Ontario government:

Despite the emergence of institutions by and for francophones such as the University of Sudbury, which has clear unified community support, governments have been slow to act.

For example, the Government of Ontario, she continued:

. . . took over one year to intervene in the case of Laurentian University and only intervened because it was compelled to. Laurentian University was losing its operational funding, which would have accelerated the actual bankruptcy. This waiting game lasted a year with the Government of Ontario.

Elsewhere in her speech she pointed out that, over the past 20 years, the portion of funding coming from provincial governments for the post-secondary sector has decreased, and federal funding has been stagnant since about 2008. In real dollars, funding of the official languages and education programs has been in steady decline.

I don't doubt that, but also in decline are the number of francophones living outside Quebec. Statistics Canada projects that if present trends continue, the number of francophones living outside Quebec will decrease from 4% in 2011 to 3% in 2036. This decline will have an impact on funding as well, at least in some provinces. The reason for that is the provincial funding formula for post-secondary education differs from province to province. In Ontario, Saskatchewan and Quebec, core funding is related to enrolment levels.

As *The State of Postsecondary Education in Canada 2021* report notes:

. . . the amount of funding an institution receives is mostly based on the number of students it has in different types of programs. . . .

In the other seven provinces, funding is largely historically-driven: that is to say that what a school receives in any given year for core funding is largely a function of what it received the previous year . . . .

• (1750)

This does not negate the point Senator Moncion is making with her bill: the need for stable funding. But it does illustrate how complicated the situation is, especially when you understand that education is the exclusive purview of each province, as we all know.

So we are getting into jurisdictional issues as well. While there are similarities in the education systems across each province and territory, there are also many differences in legislation, policies and programs, not to mention geography, history, language, culture and the unique needs of the population in each province.

Again, this does not take anything away from Senator Moncion's bill. It may, in fact, reinforce it. But it also hints at the fact that the way forward may not be straightforward.

I would suspect that, at the outset, a federal government initiative in this area might be viewed suspiciously by the provinces and territories who — once the feds start down this road — may well, at the very least, want to add their own particular issues to the agenda based upon those issues I just cited.

Finally, I want to say a word about the specific situation of Laurentian University. As I mentioned before, Senator Moncion was quick to point out the Ontario government's tardy and half-hearted reaction to the university's dire financial situation. This may be true. But the situation was also not so cut and dried, at least according to what I have read.

*University World News*, for instance, reported that Laurentian was plagued by mismanagement for years prior to seeking creditor protection. Also, as a former professor at the university commented, "The university had been so non-transparent with their finances for so long, that it was like crying wolf." As a result of that mismanagement, the university had accumulated a debt of \$322 million.

Furthermore, it did not do itself any favours in this debacle. For instance, in May of last year, according to the *University World News* article, Laurentian requested a loan of \$100 million from the government which, in turn, requested an independent third-party review of Laurentian's finances. The university refused. That obstinacy continues today.

The provincial Public Accounts Committee called upon the Office of the Auditor General of Ontario to look at the university's finances, and its report is less than flattering. After noting that given the level of government funding the university received, there was an expectation of transparency and accountability. The report said:

Unfortunately, our office has been denied access by Laurentian to information we consider absolutely necessary for the conduct of our audit work . . . . In many instances, it has also declined to provide non-privileged information on the basis that to review documents to determine if information is privileged would be too resource intensive . . . . Such a pervasive restriction of our audit work is unprecedented.

The report further noted that the university had created a culture of fear among university staff around interactions with their office.

I do not think the situation of Laurentian University is the best test case of the need for a bill like this. However, as stated earlier, I do worry that some will get their backs up about the jurisdictional issues that a bill like this may raise.

[*Translation*]

Honourable senators, I don't doubt the difficult financial situation in which our universities find themselves, especially in the last two years, because of the pandemic and the drop in international student enrolment. I support the idea of sending this bill to committee where it can be studied in depth. Thank you.

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

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

[*English*]

**Hon. Lucie Moncion:** I have a couple of questions for you.

I want to thank you for the excellent speech. The information that was brought forward is information brought forward after I started speaking on Bill S-215.

There is one situation with the Companies' Creditors Arrangement Act, and the problem is that when you use this act, the larger creditors are the ones who usually get the money and the smaller creditors will not get the money because there is not going to be anything left at the end following the sale of assets, if it goes there.

What has happened — it's the same situation that has happened at Nipissing University, which is the university where I live, and I was on the board of directors at Nipissing. I was there before 2010.

My question is that the deficits that were brought forward at Laurentian were exactly the same as the one at Nipissing, but Nipissing went to the government and Laurentian went to the government — but very late in the game — so the government

did not have enough time to react and within a month Laurentian became involved with the Companies' Creditors Arrangement Act.

I wanted to know if you were aware of that situation because it is in the report that you read. Do you agree with me that when they are a provincial entity and there is the use of a federal law, there could be a constitutional issue, like you said? But someone is paying down the line, and I think that small creditors are footing the bill here. There are a lot of things that I am providing here, but I would like to hear you on these few issues.

**Senator Martin:** Yes, thank you for the added information. Truthfully, I am not an expert in any of these areas. But I am aware of the importance of the institutions and the timing of what happens.

You are right that it seems unfair. The fact that — had there been stronger funding from all levels — they would not have been in this situation. Thank you for adding that bit of information for the chamber.

**Senator Moncion:** Do you agree that using a federal law to correct a provincial problem could be a problem? This is something that we are studying within my office, these jurisdictional issues. But would you agree?

**Senator Martin:** Yes, I agree that there are these challenging factors, and that is why I support it going to committee. I hope that throughout this process what we can also shed light on is the importance of these institutions, as you so clearly demonstrated to us. I do agree with you on that.

(On motion of Senator Smith, debate adjourned.)

(*At 6 p.m., pursuant to the order adopted by the Senate on May 5, 2022, the Senate adjourned until 2 p.m., tomorrow.*)

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