SENATE SÉNAT

CANADA

DEBATES OF THE SENATE

1st SESSION • 44th PARLIAMENT • VOLUME 153 • NUMBER 59

OFFICIAL REPORT
(HANSARD)

Thursday, June 23, 2022

The Honourable GEORGE J. FUREY,
Speaker

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Publications Centre: Publications@sen.parl.gc.ca

Published by the Senate
Available on the Internet: http://www.parl.gc.ca

THE SENATE

Thursday, June 23, 2022

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

Prayers.

SENATORS' STATEMENTS

THE HONOURABLE PIERRE-HUGUES BOISVENU

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, it is common practice to honour special Canadians during Senators' Statements. Well, today, I want to do just that, and recognize and honour one of our very own.

Right here in this chamber there is a senator, a man, a father and a force to be reckoned with when it comes to advocating for the rights of victims of crime. Senator Boisvenu, today I wish to pay tribute to you for your incredible courage to battle for a cause so near and dear to your heart.

Twenty years ago today, our colleague was faced with an unbearable tragedy — a father's worst nightmare. I can't even imagine the emotions you went through following the kidnapping of Julie, and that was sadly just the beginning of this tragedy. The heinous situation worsened with the realization that Julie faced forcible confinement, rape and was eventually murdered by a repeat offender.

Honourable senators, the darkness of these words and actions are heavy, unconscionable and so emotionally charged. But, somehow, Senator Boisvenu found the force and the courage to turn this horrendous tragedy into a fight against violence towards women and to improve and respect the rights of victims of crime.

Senator Boisvenu managed to turn the pain and sorrow that he and his family suffered into a life journey to support others as they struggle with similar horrors. The tremendous pain he and his family have dealt with, and continue to deal with, fuels his relentless dedication and advocacy work.

As he said recently in an interview, Senator Boisvenu has the ability to reach out to families who are victims of crime, including fathers who are going through a wide range of emotions such as anger and despair. Having a common experience of trauma naturally allows him to be able to provide support, which is often desperately needed. This also uniquely positions him with tremendous credibility as a public voice for these families.

He is the founding president of the Murdered or Missing Persons' Families' Association and the force behind the compensation for victims of crime legislation that was adopted in the National Assembly of Quebec as Bill 25. He is also the co-founder of a shelter for abused women, Le Nid, in addition to a camp for underprivileged youth.

The role and public responsibility the Honourable Pierre-Hugues Boisvenu has taken on to fight violence against women have ensured preventative campaigns and impactful and sustainable security improvements not only in Sherbrooke but also on a larger scale.

Senator Boisvenu, I tip my hat to you. Through great adversity, you have made it your duty and mission to relentlessly defend and speak for others.

I know you humbly say that your advocacy work is a way to keep the memory of your daughter Julie alive. Well, Senator Boisvenu, there is no doubt that your daughters Julie and Isabelle have one heck of a father. They chose you well.

Senator Boisvenu, thank you for all that you do.

Hon. Senators: Hear, hear.

[*Translation*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. Joaquim Lopes, member of the Fédération nationale des sourds de France. He is the guest of the Honourable Senator Boisvenu.

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

Hon. Senators: Hear, hear!

• (1410)

[*English*]

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Gina Nagano, Founder and CEO, House of Wolf & Associates Inc. She is the guest of the Honourable Senator Audette.

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

Hon. Senators: Hear, hear!

ZION LUTHERAN CHURCH, LUNENBURG

TWO HUNDRED AND FIFTIETH ANNIVERSARY

Hon. Jane Cordy: Honourable senators, I rise today in recognition of Zion Evangelical Lutheran Church in Lunenburg, Nova Scotia, which is home to the oldest active Lutheran congregation in Canada. On June 13, the congregation celebrated the church's two hundred and fiftieth anniversary. I thank former senator Wilfred Moore for contacting me to tell me about this special anniversary.

Founded by original German settlers who began arriving in Nova Scotia in 1753, parishioners first held church services outdoors in the open air, then later in St. John's Anglican Church before building their own church in Lunenburg. The first Zion Evangelical Lutheran Church was built in 1772 in preparation for the arrival of their first pastor, the Reverend Mr. Friederich Schultz from Germany.

The church and its congregation have a rich history in the community, in a town that has its own long and rich history. The parishioners of Zion Evangelical Lutheran Church helped to shape that history and to help make Lunenburg the community that it is today.

I wish to congratulate Reverend Rick Pryce, parish pastor of Zion Evangelical Lutheran Church, as well all members of the congregation on this joyous occasion of celebrating 250 years of continuous family worship and community goodwill in Lunenburg. I know that the next 250 years will continue to be as successful as the last. My best wishes to the church members and to the community. Thank you.

GREEN FOR LIFE ENVIRONMENTAL

Hon. Robert Black: Honourable senators, I rise today to highlight the GFL Eastern Ontario Waste Handling Facility in Moose Creek, Ontario, that I had the opportunity to visit earlier this month with our honourable colleague Senator Bernadette Clement and municipal representatives of Stormont, Dundas and Glengarry, as well as Prescott and Russell. With my interest and experience in agriculture, I would like to thank Senator Clement for inviting me to accompany her on the tour and for ensuring there were local farmers present during our visit as well.

Honourable senators, GFL Environmental Inc. is a waste management company that provides environmental services to municipal, residential, commercial, industrial and institutional customers, and employs more than 8,850 people across Canada. In fact, the facility in Moose Creek has grown to service over 500 communities, towns and municipalities in the area.

During our visit, we had the opportunity to learn more about their innovative new green initiative that will reduce their carbon footprint while providing a new, renewable energy source to clients in eastern Ontario. This new initiative aims to produce renewable natural gas and create new green opportunities, in addition to those associated with the existing resource recovery operations such as composting and landfill gas-to-energy programs. This opportunity would also allow for greater reduction in greenhouse gas emissions and be a source of renewable energy generation as part of Ontario's transition to a low-carbon economy. However, in order for GFL to realize this new initiative, they have been meeting with the federal and provincial governments to look for financial support.

As an "agvocate," I was excited to learn that GFL and the Township of North Stormont will be teaming up with a third party to bring local agricultural expertise and capital to invest in greenhouse operations to be located at the Moose Creek facility. This initiative would put the Moose Creek facility in a position to provide a low-cost heat source captured from the existing turbines generating electricity and a green substitute for the traditional carbon heat source used now for greenhouses. This is particularly important, as they could then provide a source of local food security for eastern Ontario and the National Capital Region, and reduce dependence on foreign food suppliers while also reducing greenhouse gases through the reduction of long-haul trucking needs.

At this time, I'd like to thank the team at the GFL Moose Creek facility for allowing Senator Clement and me the opportunity to learn more about their operations. I am truly excited to see what comes next for the Moose Creek facility and for GFL across Canada. The work they are doing, especially with regard to reducing greenhouse gas emissions and supporting our agricultural industry, is critical.

Honourable senators, I'd like to highlight that agricultural organizations, and agriculture-adjacent organizations like GFL, are doing their utmost to support Canada's targeted emission-reduction strategies. However, it is imperative that we support them as they make their way to being greener, cleaner and more sustainable all while continuing to feed Canadians and the world.

One way you can continue to support them this summer is by shopping locally, whether that is at a nearby farm or farmers' market. We all enjoy the fruits — or vegetables — of a farmer's labours, so let's be sure to acknowledge the hard work that goes into making a strong food supply chain, from seed to store shelves. Thank you. *Meegwetch.*

Hon. Bernadette Clement: Honourable senators, this month I had the pleasure of visiting an up-and-coming hub of economic activity, a small town on Highway 138 roughly midway between here and Cornwall. Moose Creek packs a bigger punch than you would expect based on its geographic footprint. Locals know it for its quality dress shops, expanding outdoor tourism opportunities and, well, its landfill. I visited GFL Environmental's site in Moose Creek with Senator Black. He has just spoken very eloquently about his area of expertise: agriculture and rural development.

What I would like to focus on today is the good, the bad and the exciting. First the good: This 2,400-acre site with a team of 40 employees is innovating daily. They are using hawks to deter seagulls, using stone dust instead of sand for cover, creating high quality compost from material most of us would dismiss as waste and generating electricity from landfill gas.

The bad: As officials from across eastern Ontario toured windrows of decomposing kitchen scraps and yard debris, staff commented that it seemed as though every apple core came wrapped in its own plastic bag. Plastic seems to contaminate everything.

[*Translation*]

Like the landfill in Cornwall, my hometown, the Moose Creek site is filling up fast because Canadians produce an unbelievable amount of waste. GFL hopes to expand its site to continue serving eastern Ontario and western Quebec.

[*English*]

Everyone should tour a landfill. It becomes an important exercise in self-reflection. We produce all this trash, but we don't want to live next to it. In Moose Creek, there are open lines of communication, and I expect consultation with residents to continue. This project has partnership potential that goes beyond business. The folks I met at GFL are determined to earn the support of both the provincial and federal governments, as Senator Black indicated.

Now for the exciting: GFL Environmental has developed an ambitious plan that would see renewable natural gas produced from landfill gas. The current volume of gas could heat over 11,000 homes, and projections indicate that number could rise to 20,000 by 2045. Local farm digesters would pump renewable natural gas from livestock operations into the grid from a connection point at the GFL site. A greenhouse could be fuelled with green heat.

I believe in this team's ability to garner support to find even more ways to repurpose our waste and to put the little village of Moose Creek on the map as a shining example of innovation, partnership and green investment. Thank you, *nia:wen*.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Sharlyn Ayotte and Peter Speak. They are the guests of the Honourable Senator Patterson.

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

Hon. Senators: Hear, hear!

CHINESE HEAD TAX AND EXCLUSION ACT

SIXTEENTH ANNIVERSARY OF REDRESS

Hon. Victor Oh: Honourable senators, I rise today to commemorate the sixteenth anniversary of the redress of the Chinese head tax and the Chinese Exclusion Act. On June 22, 2006, the Right Honourable Stephen Harper stood before the House of Commons and apologized on behalf of the Government of Canada for these discriminatory laws toward Chinese immigrants. This was an important moment in our history. A moment when grave injustices were recognized and efforts were made to redress and support the healing of those most directly impacted.

It was after the construction of the Canadian Pacific Railway in the late 19th century that the Canadian government established the Chinese head tax, which was soon followed by the Chinese Exclusion Act.

• (1420)

During these dark times in our nation's history, we imposed a head tax and strict regulations to deter Chinese newcomers to Canada. Chinese families became fractured and indebted, and poverty was rampant. This was the only law in our country's history to force a tax based solely on where someone was from.

As Prime Minister Harper said during his apology 16 years ago:

> We have the collective responsibility to build a country based firmly on the notion of equality of opportunity, regardless of one's race or ethnic origin.

This, I believe, is the Canada we all strive for. Although we have collectively experienced peaks and valleys in our pursuit of racial equality, I know we have come a long way toward being a more inclusive nation, and I am optimistic for our future.

Colleagues, in closing, I remind you that Canada would not be the vibrant and prosperous country it is today if it were not for the contributions of the Chinese immigrant community.

On this anniversary, I ask that we all reflect upon the many difficulties Chinese immigrants faced while paving the way for a more tolerant and accepting future. Thank you, *xie xie*.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Kelly Cotter from Glenora Farm, Duncan, B.C. She is the daughter of the Honourable Senator Cotter.

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

Hon. Senators: Hear, hear!

PEOPLE LIVING WITH DISABILITY

Hon. Brent Cotter: Honourable senators, I wish that I were delivering these remarks, at least the beginning of the remarks, on a day other than a day when we are acknowledging Senator Boisvenu's suffering for the loss of his daughter.

I want to speak today a little in the context of being a father. Today, a few days after Father's Day, I am humbled to be grateful. My son Rob and my daughter Kelly, whom you have just met, each in their own way, are heroes to me. I'm reminded of a famous line from a Wordsworth poem, "The child is father to the man," and in its literal interpretation it surely applies to me.

The main focus of my statement today is the subject of people with disabilities from the specific to the general. Many of us — as well as our friends, sons, daughters, parents, people we love — live with disabilities.

One is my daughter Kelly. Kelly lives at Glenora Farm outside of Duncan, a wonderful, welcoming living community. She is not only my daughter, but also my friend and an inspiration to me. In fact, Kelly and her friend Carmen Sutherland are heroes. They face the challenges in their lives, challenges that most of us neither experience nor think about, with courage and optimism. Their commitment to others similarly situated or even more challenged is incredibly uplifting to me, and I am confident that many of you have similar experiences and inspirations.

It is also important to note that many of our loved ones who have disabilities are well supported by us, our families and communities, financially and emotionally. We are not in need of public intervention to help ensure that their lives are fulfilling ones.

This is not the case for many others with disabilities. Indeed, a disproportionate percentage of people with disabilities live in impoverished circumstances and have much less support in their lives than those close to us. The continuation of these circumstances for the most vulnerable of our citizens does us no honour. And it is to this, as much as to any other initiative we will be considering in the coming period of time, that I hope we will turn our minds.

Many of you in this chamber have committed your energies, influence and financial resources in support of people with disabilities. For example, earlier today, at his own expense, the Usher of the Black Rod acquired and presented 25 decorative pillows — some of you have seen these before — to pages and others as an expression of his appreciation for their work on our behalf this past year.

I am hopeful that our energy and influence will continue among us all when, at some point in time, we get to deliberate on a more comprehensive commitment to people with disabilities, the disability benefit bill. This is not a speech about the bill. That will come in the course of time. But I do hope that from time to time in the coming weeks and months, as we enjoy summers of joy and fulfillment in this great country, we give thought to the ways in which we can enrich the lives of those less fortunate than us and open our hearts to their needs. Thank you.

Hon. Senators: Hear, hear.

ROUTINE PROCEEDINGS

SENATE ETHICS OFFICER

2021-22 ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the 2021-22 Annual Report of the Senate Ethics Officer, pursuant to the *Parliament of Canada Act*, R.S.C. 1985, c. P-1,s. 20.7.

SPEAKER OF THE SENATE

PARLIAMENTARY DELEGATION TO THE HELLENIC REPUBLIC AND THE UNITED KINGDOM, APRIL 11-21, 2022—REPORT TABLED

The Hon. the Speaker: Honourable senators, with leave of the Senate, I have the honour to table, in both official languages, the report of the Parliamentary Delegation of the Senate, led by the Speaker of the Senate, that travelled to the Hellenic Republic and the United Kingdom, from April 11 to 21, 2022.

EMPLOYMENT INSURANCE ACT
EMPLOYMENT INSURANCE REGULATIONS

BILL TO AMEND—FIFTH REPORT OF AGRICULTURE AND FORESTRY COMMITTEE PRESENTED

Hon. Robert Black, Chair of the Standing Senate Committee on Agriculture and Forestry, presented the following report:

Thursday, June 23, 2022

The Standing Senate Committee on Agriculture and Forestry has the honour to present its

FIFTH REPORT

Your committee, to which was referred Bill S-236, An Act to amend the Employment Insurance Act and the Employment Insurance Regulations (Prince Edward Island), has, in obedience to the order of reference of June 7, 2022, examined the said bill and now reports the same with the following amendment:

1. *New clause 4, page 1*: Add the following after line 17:

"**Coming into Force**

4. This Act comes into force on the first Sunday that is at least 30 days after the day on which it receives royal assent.";

and with certain observations, which are appended to this report.

Respectfully submitted,

ROBERT BLACK

Chair

(*For text of observations, see today's* Journals of the Senate*, p. 793.*)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

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

QUESTION PERIOD

PUBLIC SAFETY

ROYAL CANADIAN MOUNTED POLICE

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

Leader, the answers provided by you and Minister Blair yesterday, that no pressure was put on RCMP Commissioner Lucki, are difficult to believe because we've all heard it before.

• (1430)

The very morning the SNC-Lavalin scandal broke in February 2019, the Prime Minister stood before Canadians and said the allegations in *The Globe and Mail* are false. It wasn't long before we found out that those allegations were true. The Prime Minister told a powerful woman what he wanted to happen in order to advance his political agenda, regardless of rules, laws or propriety. Minister Wilson-Raybould said no and was fired.

Now we have the same situation, leader, but Commissioner Lucki saw what happened when a woman says no to the Prime Minister. In fact, several women have been tossed aside over the years, and she did as she was asked.

As I said yesterday, Lia Scanlan, the RCMP's former director of strategic communications in Halifax, said in her own testimony, ". . . we have a commissioner that does not push back."

Leader, who is the Gerald Butts in this situation? Who in the Prime Minister's Office spoke with Commissioner Lucki about an active police investigation?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. As I responded yesterday, and as the minister and commissioner responded, there was no interference in the investigation.

Senator Plett: Of course, the question was about who spoke to the commissioner about an active police investigation. The question wasn't about interference. We all know that the Prime Minister says that people feel things differently. When he gropes somebody, they experience it differently than when somebody else does.

The government denies it pressured Commissioner Lucki and she denies she pressured the Nova Scotia RCMP. I will go back to the SNC-Lavalin scandal because it's the same pattern, leader. Jody Wilson-Raybould received a call from the former clerk of the Privy Council telling her the Prime Minister is in that kind of mood. If someone hears their boss is in a mood, they get the message pretty quick.

When Commissioner Lucki hears the Prime Minister and Minister Blair ask for information on an active investigation to help advance their legislation, she gets the message. The Nova Scotia RCMP officials certainly got the message from Commissioner Lucki according to their own words in documents released Tuesday.

Leader, aside from what you're saying, do you agree that this needs to be investigated further?

Senator Gold: No, I do not.

[*Translation*]

PUBLIC INQUIRY INTO PORTAPIQUE SHOOTING

Hon. Pierre-Hugues Boisvenu: My question is for the Government Representative in the Senate.

I too want to ask about the Prime Minister's and the RCMP Commissioner's intervention in the Portapique shooting investigation.

Superintendent Campbell said the Nova Scotia RCMP held back certain details so as not to jeopardize the investigation.

We know that the Prime Minister has an annoying habit of interfering in judicial matters. Case in point — as my colleague, Senator Plett just mentioned — the SNC-Lavalin file, which resulted in the dismissal of a very good justice minister, Ms. Wilson-Raybould. Do you, as a lawyer, believe that political intervention in this matter may jeopardize the investigation and result in the victims paying the price for this foul-up?

Hon. Marc Gold (Government Representative in the Senate): The commission's investigation is under way. It is an independent process initiated by the government.

Senator, I will reiterate that, according to my information, there was no interference in this file. That is the position of the government, the minister and the commissioner. I have no doubt that the commission will continue the important work it was tasked with.

JUSTICE

OMBUDSMAN FOR VICTIMS OF CRIME

Hon. Pierre-Hugues Boisvenu: Senator Gold, I would encourage you to read the order-in-council that created that commission. The government's role is not independent. It is a stakeholder in the commission, as the order states.

I would like to address another issue that also affects the victims of Portapique. Now I understand why the Minister of Justice has not yet appointed an ombudsman for victims of crime. It's because he is afraid that by having an ombudsman in place, these victims will file official complaints.

Here is my question. We have been waiting for nine months for the ombudsman to be appointed. We waited 11 months in 2017. Will the Minister of Justice appoint the ombudsman before June 30, 2022?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. I cannot accept the premise of the specific question, so I will focus on the question. I am told that the government has launched an appointment process for a new Federal Ombudsman for Victims of Crime, and the work to fill the position is ongoing.

In the meantime, senator, the office remains accessible to victims of crime across Canada requesting their services.

On March 29, 2022, the Standing Committee on Justice and Human Rights began its study of the Canadian Victims Bill of Rights. Victims' rights remain a priority for the government. Significant policy and programmatic investments and various law reforms have been introduced since 2015 to address the needs and concerns of victims and survivors of crime.

FINANCE

CANADA'S COMMITMENT TO THE FIGHT AGAINST HIV/AIDS

Hon. René Cormier: My question is for the Government Representative in the Senate. Senator Gold, on December 1, 2020, I moved a motion in this chamber that was adopted that very day. It called on the Government of Canada to increase the total funding for the Federal Initiative to Address HIV/AIDS to $100 million annually. The fact of the matter is that this funding is yet to materialize, or so reports a consortium of community and human rights advocacy organizations, including the HIV Legal Network and the Canadian AIDS Society. Unfortunately, in the meantime we have seen an increase in cases of HIV infection in Canada over the past few years.

Senator Gold, on the eve of the International AIDS Conference, which is being held in Montreal at the end of July, Canada being the host country this year, will the Canadian government finally commit to increasing the funding for the fight against HIV/AIDS to $100 million a year and when will it do so?

Hon. Marc Gold (Government Representative in the Senate): Thank you for the question, senator. The Government of Canada is proud that Canada is hosting the 24th International AIDS Conference, which, as you mentioned, is being held in Montreal from July 29 to August 2, 2022. The government remains firmly committed to end the AIDS endemic by 2030 and to support Canadians living with this disease. I am told that the government is investing $87 million annually to fight HIV and other sexually transmitted and blood-borne infections. The government is also providing $30 million to the Harm Reduction Fund to help prevent and control HIV and hepatitis C. The government continues to work closely with community groups and people with lived experience.

Senator Cormier: Thank you for your response, Senator Gold. Many organizations are calling on the Canadian government to increase its contribution to the Global Fund, which finances initiatives to fight HIV, tuberculosis and malaria around the world. Will Canada use its leadership as host of the International AIDS Conference to increase its contribution to this important fund, especially considering that AIDS is so prevalent in the world and continues to wreak havoc?

Senator Gold: Thank you for your supplementary question. I would like to point out that Canada has supported the Global Fund since its inception and, in fact, is its sixth largest donor. The government remains committed to supporting initiatives to fight HIV. The government also continues to assess numerous investments, and I would be pleased to contact the minister regarding Canada's investment in this fund.

• (1440)

ENVIRONMENT AND CLIMATE CHANGE

CONFERENCE OF THE PARTIES

Hon. Jean-Guy Dagenais: My question is for the Leader of the Government in the Senate. Leader, friends of your Minister of Environment and Climate Change, Steven Guilbeault, agree that the aviation industry's carbon emissions are responsible for 5% to 6% of global warming and that pollution generated by global aviation increases 3% to 4% per year.

The government that you represent never ceases to amaze me with its inconsistent and illogical decisions, as I will explain.

Leader, I would like to know why the Trudeau government will spend no less than $64 million to host, next October, COP15, the United Nations conference on biodiversity, which was to be held in China. It will turn 12,000 to 15,000 environmentalists into global polluters, who are coming from 190 different countries to see Canadian achievements in biodiversity, which could easily be presented on digital platforms.

How can anyone justify such a contradiction on the part of environmentalists, who are shirking their responsibilities in the fight against greenhouse gas emissions?

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

The world we're living in demands that we find a balance between the necessary — existential, even — fight against climate change and the fact that life goes on, and that includes travel to major international conferences.

We should be proud that our country can welcome experts from around the world to share their knowledge and help us move forward. We also recognize that this is not the world of Starfleet Enterprise and people can't just say, "Beam me up." This includes us, as well, since we travel to do our jobs here. Our work comes at a cost and with environmental consequences.

Canada is a leader in the fight against climate change and it is entirely appropriate for us to host such a gathering of experts.

Senator Dagenais: Leader, can you explain how a government that is totally incapable of issuing passports will be able to organize COP15 in just three months, a job that normally takes two years? I hope we won't have to be calling on those same people who are now working on issuing passports.

Senator Gold: Thank you for your question. As I have said many times, the situation Canadians are facing with passports is unacceptable. That is the position of this government, which is doing everything it can to find a solution.

If Canada commits to organizing such an event, I have faith that it will do so capably and with the brio it is known for.

[*English*]

PUBLIC SAFETY

EMERGENCIES ACT

Hon. Denise Batters: Honourable senators, my question is for the Leader of the Government in the Senate. Senator Gold, I want to ask you about the Trudeau cabinet scandal of the week — not this week's scandal involving the PMO coercing the RCMP commissioner's interference in a mass murder investigation for crass political gain. No, I want to ask about public safety minister Marco Mendicino's self-serving habit of playing fast and loose with the facts — specifically, his repeated assertion that the Emergencies Act was invoked at the request of the police. This repeated assertion was flatly denied in testimony by the RCMP commissioner and the current and former Ottawa police chiefs, who all said they did not ask for the act to be invoked.

Senator Gold, I feel for you. Not being a member of cabinet, you are forced to take Minister Mendicino at his word — a word that has time and again proven to be utterly false. As you said at the time, you had no direct knowledge of the Trudeau government's Emergencies Act decision because you don't have the clearance, nor did any of the many senators who relied on the public safety minister's word when debating the serious matter of invoking the Emergencies Act in this chamber.

Senator Gold, Minister Mendicino knowingly misled Parliament multiple times, and that is a resigning offence. When will this minister, who habitually obfuscates, finally do the right thing and resign?

Hon. Marc Gold (Government Representative in the Senate): Thank you for the question, in which there are a lot of assertions and conclusions. It was made clear that Minister Mendicino's remarks were not properly interpreted. It is the position of the government, as it was my position in speaking to the invocation of the act, that it was necessary. It was made clear by the advice that was taken from all quarters that the tools that only the Emergencies Act allowed were necessary to address a serious challenge to our national security and economy.

Senator Batters: Senator Gold, when former attorney general Jody Wilson-Raybould stood up for the rule of law against the wishes of Prime Minister Trudeau, she was not celebrated by your government as a strong woman doing what was right; she was summarily demoted and then booted from the Liberal caucus.

Meanwhile, someone like Marco Mendicino — whose dedication to the facts comes second to his service to the Prime Minister — rises up the ranks from parliamentary secretary to minister.

Senator Gold, since Minister Mendicino won't do the right thing and resign, when will the fake feminist Prime Minister fire this man?

Senator Gold: To the best of my understanding, the Prime Minister continues to have faith and confidence in the minister. That is the full answer that I can provide to your question.

JUSTICE

CANNABIS ACT

Hon. Judith G. Seidman: Honourable senators, my question is for the government leader. Bill C-45, the Cannabis Act, received Royal Assent on June 21, 2018, and came into force on October 17, 2018.

The act requires that, three years after coming into force, the Minister of Health conduct a review on the administration and operation of this act and its impact on public health.

In particular, the review must assess the health and consumption habits of young persons in respect of cannabis use, the impact of cannabis on Indigenous persons and communities and the impact of cultivation of cannabis plants in a dwelling house.

Senator Gold, eight months have passed since the three-year anniversary of the Cannabis Act and the minister has not yet initiated this review. When can we expect this important legislative review to begin?

Hon. Marc Gold (Government Representative in the Senate): Thank you for the question. There is no doubt that a legislative review of this act — or any act — is important. I don't know why a review has not been commenced. I won't speculate in that regard, but I'll certainly make inquiries.

Senator Seidman: Senator Gold, a legislative review was deemed necessary to monitor the impact of this major change in the law and its effects, including any unintended consequences on the health of Canadians.

Frankly, putting these reviews in our legislation is only effective if the reviews are actually carried out. More and more, to my chagrin and disappointment, we discover that they are not.

How can we ensure that this review is conducted as soon as possible?

Senator Gold: I will make inquiries and try to report back. I will use my best efforts to encourage that this process — an important process, as you properly underlined — be commenced.

FINANCE

FUEL TAX RELIEF

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, my question for the government leader concerns the high cost of living.

May's record inflation of 7.7% is the biggest year-over-year increase since January 1983 — almost 40 years ago. Statistics Canada reported that Canadians paid 48% more for gas in May of this year than they did just one year prior.

Many countries have helped their citizens deal with high energy costs. On Sunday, South Korea announced that starting on July 1 and until the end of the year, taxes on gas and diesel will be further reduced to help ease the burden on consumers; a fuel tax cut took effect in Germany on June 1; and the Netherlands lowered their gas tax in April, also through to the end of the year. These are just a few examples, leader.

Canadians are finding it increasingly difficult to make ends meet. The Liberal government could do something about this by providing tax relief on gas. Will you do so?

• (1450)

Hon. Marc Gold (Government Representative in the Senate): The government is very aware, as we all are, of the impact of inflation and the rising cost of living on Canadians, whether it's in gas prices or food, and I've spoken to this many times. The rise in gas prices is caused by several geopolitical events in Europe, as we all know.

The Government of Canada, while it is working on further measures to improve the overall cost of living affordability, it's also clear when we see the situation in which we're living that it is equally important — indeed urgent — that there is a transition to cleaner energy and electric vehicles, as we all know.

The government is working with our international partners to ensure the protection of the world energy supply chain. For the moment, the government has not committed to providing tax breaks at the pump at this juncture.

Senator Martin: Yesterday American President Joe Biden announced his support for a three-month suspension of federal gas and diesel taxes and encouraged U.S. states to remove their own taxes on fuel. President Biden said he supports doing this to give working families some breathing room.

In contrast, our Minister of Finance seems to think she has done enough to fight inflation in Canada and has nothing new to offer families struggling to get by. In the other place on Tuesday, when Minister Freeland was asked to cut taxes at the pumps, she once again did not give a direct answer.

Leader, how much higher does inflation have to go before the Trudeau government will help Canadians having difficulty paying for gas just to drive to work?

Senator Gold: Thank you for your question.

Different governments provide and conclude different policy instruments to address it. President Biden's decision reflects the unique circumstances in which he finds himself in. His party finds itself in a unique situation in the United States.

The Government of Canada is doing many things to help Canadians weather the cost of living, as it did many things to help Canadians in an economic sense get through the pandemic, and it will continue to do so. It will continue to evaluate the levers and policy options that it has, but, as I said, at the moment a decision has not been taken to reduce or temporarily suspend the federal gas tax.

PRIME MINISTER'S OFFICE

MEMBERS OF CABINET

Hon. Donald Neil Plett (Leader of the Opposition): Leader, the Trudeau cabinet currently has a public safety minister who misled Parliament on multiple occasions over why he invoked the Emergencies Act. They have a Service Canada minister giving Canadians seeking a passport some of the worst service imaginable. There's a foreign minister who blames her official attending a party at a Russian embassy on a missed email, a transport minister who blames passengers for the long lineups at our airports and an immigration minister presiding over a backlog of 2.4 million applicants, which must be a record, leader. This is all just in the last few weeks.

Leader, is anyone in the Trudeau cabinet competent at their job? If so, who?

Hon. Marc Gold (Government Representative in the Senate): I take it from your question, Senator Plett, that you're not going to become a donor to the Liberal Party of Canada.

The cabinet of this government is composed of very competent and very dedicated people. I do not accept your characterization of their role in some of the problems — real though the problems are — that face Canadians. It would be invidious for me to single out the many competent members who serve this country well and honourably.

Senator Plett: I have a feeling that would be a pretty short list, and it wouldn't take you very long. Well, it might, because you might not be able to think of any.

Leader, the Trudeau cabinet currently also has a finance minister who offers nothing new to Canadians in dealing with record inflation and who thinks she has done enough, a Minister of Agriculture who charges Canadian farmers a 35% tariff on fertilizer — which hurts them, not Putin — a heritage minister who forces his bill, Bill C-11, through the House in a completely undemocratic process, a House leader who wants hybrid Parliament to remain long after most Canadians have returned to work — in fact, they just passed it again today. To top it all off, we have a divisive, out-of-touch Prime Minister who thinks nothing of interfering with an active police investigation of a mass murder to advance his own political agenda.

Canadians deserve much better than this, leader; don't you agree?

Senator Gold: I do not agree with the characterization of the individuals you mentioned, and so the answer, then, of course, to your question is no, I do not agree.

NATURAL RESOURCES

THE 2 BILLION TREES PROGRAM

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, my next question for the leader concerns the Trudeau government's promise to plant 2 billion trees by 2030. In a delayed answer provided in February, Natural Resources Canada said it was working to establish cost-sharing agreements with each of the provinces and territories, which the department said would be vital to the success of this program.

Leader, the program update that Minister Wilkinson released yesterday says the government is still "moving toward" agreements with the provinces and territories.

Could you make inquiries and tell us which agreements remain outstanding and why? Could you also find out how many trees have been planted through this program to date, broken down by province and territory?

Hon. Marc Gold (Government Representative in the Senate): Yes, I will.

Senator Martin: Leader, as I have raised with you before, this is a significant discrepancy between what your government says this program will cost versus the Parliamentary Budget Officer's estimate. The PBO's cost estimate was $5.94 billion: That is almost twice the amount the government put forward in 2019 of $3.16 billion. Yesterday's program update from Minister Wilkinson used the figure $3.2 billion.

Leader, has your government revised its cost estimate for this program? If so, what is it?

Senator Gold: I'll add that question to my inquiries.

[*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 rule 4-13(3), I would like to inform the Senate that as we proceed with Government Business, the Senate will address the items in the following order: consideration of Motion No. 53, followed by third reading of Bill C-19, followed by second reading of Bill C-28, followed by all remaining items in the order that they appear on the Order Paper.

[*English*]

THE SENATE

MOTION PERTAINING TO THE PROCEEDINGS OF BILL C-28 ADOPTED

Hon. Marc Gold (Government Representative in the Senate), pursuant to notice of June 22, 2022, moved:

> That, notwithstanding any provision of the Rules, previous order or usual practice:
>
> 1. if the Senate receives a message from the House of Commons with Bill C-28, An Act to amend the Criminal Code (self-induced extreme intoxication), the bill be placed on the Orders of the Day for second reading on June 23, 2022;
>
> 2. if, before this order is adopted, the message on the bill had been received and the bill placed on the Orders of the Day for second reading at a date later than June 23, 2022, it be brought forward to June 23, 2022, and dealt with on that day;
>
> 3. all proceedings on the bill be completed on June 23, 2022, and, for greater certainty:
>
> (i) if the bill is adopted at second reading on that day it be taken up at third reading forthwith;
>
> (ii) the Senate not adjourn until the bill has been disposed of; and
>
> (iii) no debate on the bill be adjourned;

4. a senator may only speak once to the bill, whether this is at second or third reading, or on another proceeding, and during this speech all senators have a maximum of 10 minutes to speak, except for the leaders and facilitators, who have a maximum of 30 minutes each, and the sponsor and critic, who have a maximum of 45 minutes each;

5. at 9 p.m. on Thursday, June 23, 2022, if the bill has not been disposed of at third reading, the Speaker interrupt any proceedings then before the Senate to put all questions necessary to dispose of the bill at all remaining stages, without further debate or amendment, only recognizing, if necessary, the sponsor to move the motion for second or third reading, as the case may be; and

6. if a standing vote is requested in relation to any question necessary to dispose of the bill under this order, the vote not be deferred, and the bells ring for only 15 minutes; and

That:

1. the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine and report on the matter of self-induced intoxication, including self-induced extreme intoxication, in the context of criminal law, including in relation to section 33.1 of the *Criminal Code*;

2. the committee be authorized to take into consideration any report relating to this matter and to the subject matter of Bill C-28 made by the House of Commons' Standing Committee on Justice and Human Rights;

3. the committee submit its final report to the Senate no later than March 10, 2023; and

4. when the final report is submitted to the Senate, the Senate request that the government provide a complete and detailed response within 120 calendar days, with the response, or failure to provide a response, being dealt with pursuant to the provisions of rules 12-24(3) to (5).

He said: Honourable senators, I do not intend to participate in the debate. Thank you.

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, I was hoping that I wouldn't be the first one because my notes are set up for debate. Nevertheless, I will try to make some assumptions on what certain people would have said and debate them.

Honourable senators, quite frankly, I was unsure. Senator Gold decided not to take part in the debate, and I was wondering whether I wanted to. I really think both sides of this issue and the motion raised will be presented fairly in our debate today. There are, clearly, a couple of different opinions on whether we should be bringing forward a motion that looks a lot like a programming motion. I'm certainly happy that it doesn't say that it's a programming motion, but I do feel that it is important that some facts be put on the record.

• (1500)

I stress that I do not believe we are creating a precedent with this motion, that we are not changing in any way how the Senate works and what the powers of the opposition as a group and individual senators may be.

Let me start by saying that the motion to limit debate and pass Bill C-28 quickly was adopted in the House unanimously, which is one of the reasons why we also support the motion and will, later today, support Bill C-28.

There was no time allocation in the other place, just an agreement on how to do things properly and quickly, and it was a negotiated agreement accepted by all sides. And that is what I want to stress: This is an agreement that was accepted by all sides.

There may be senators here who have an issue with this agreement and who have an issue with what we are doing, and I have an issue with the way the government has operated on some things, including Bill C-28 and the government not getting it to us in a timely fashion so it could be debated a little bit more thoroughly here and sent to a committee for study. Instead, we had to accept second best, and that was Committee of the Whole with a justice minister who, quite frankly, I do not think gave us the answers we needed.

So the agreement that we reached is something similar to what they have in the House. We reached an agreement on process, not on whether we like the bill. We reached an agreement on process, and all senators who stand to speak to this motion today who are part of a caucus — or we like to call them groups now, or anything else we want to call them — have elected leaders, and they have indeed been elected. Senator Gold has been appointed, but Senator Saint-Germain has been elected by her group. Senator Cordy has been elected by hers, Senator Tannas by his, and I indeed by mine, and I thank my colleagues continually and am continually amazed at their confidence in me. I certainly appreciate it.

This was decided by all of the leaders, and we signed on to this. We all said we have to develop a process. We are here in the final days and the final hours of a fairly long sitting.

Over in the House of Commons, I'm sure the ministers' drivers are at the doors ready to rush them out of town, those who have not left yet, and the rest of the members of all parties are ready to go home.

Tomorrow is Saint-Jean-Baptiste Day, an extremely important day in the province of Quebec, and certainly the fact that it's Saint-Jean-Baptiste Day is an important issue for me. We don't celebrate the same holiday, but we needed to do something to come out of here. We could have done something other than have this motion and come back here next week — at taxpayers' expense — and debated this some more. We wouldn't have gotten anywhere; we wouldn't have changed it. The House has gone home. We could amend it; they wouldn't be dealing with it

and we would be running the risk of horrendous crimes happening across our country. Defences would be mounted because people were intoxicated, and this is not something I want.

I have argued many times in this chamber how the government is bringing us legislation that our government leader here and the government over in the other place are saying is time sensitive when there is nothing time sensitive about it. However, this bill, colleagues, is time sensitive. We need to pass this bill before we rise.

The minister said he was happy with the study, and we had a motion that the Legal Committee will study this, and we will get a report on this and will hopefully improve it, but we need to move forward.

The Senate has adopted similar motions in the past. For example, the MAID and legalization of cannabis bills were negotiated agreements, agreed by all caucuses and group leaders. There was no motion to limit debate or impose the will of the government on the opposition or other senators.

I had a part in negotiating the time frames in those where we changed some of the speaking times to 10 minutes from 15 minutes so everyone could have a say, but we did some limiting, and I believe that is good. I do not want to limit one senator from having his or her say here today, and, of course, we have passed motions that we are sitting until midnight, and that's fine. We will sit here until midnight. We sat late last night, and this is normal.

Motion No. 53 allows Bill C-28 to receive second and third reading on the same day. Again, nothing very unusual about that. Agreeing to forgo the delays stated in the Rules is not something new. There are numerous precedents in our recent and not-so-recent past showing that we have done that. Bill C-28 is not a long and complex bill. It's a very straightforward bill. The issue it touches is technical, but the bill is straightforward. So not having longer delays between first and second reading and then second and third reading is not prejudicial, and there may be senators who say it is prejudicial. It is not prejudicial.

Looking at the number of senators who have expressed willingness to speak on Bill C-28, I don't think organizing the debate the way Motion No. 53 does will take away the right of any one senator to put on the record his or her opinion on the bill and even propose amendments. We have allowed the time. There is nothing in the motion that says we cannot put forward amendments.

The time limit on the motion is that we have to call the question by 9 p.m. tonight and, again, that is not time allocation. When the opposition signs on to a process that the government has brought forward, that cannot be interpreted as time allocation. That can be interpreted as two, three, four or, in this case, five sides getting together and having unanimity. Colleagues, I don't think I'm breaking any confidence here, but we had unanimity on this issue. We had differing opinions on leave, for example, and, of course, leave wasn't granted when Senator Gold brought this forward, and Senator Tannas made that clear.

I'm sorry again if I'm breaking confidence, but I don't think I am. Senator Tannas made it clear to Senator Gold: Bring a motion in such a way that, if you are not granted leave, you have allowed yourself the one-day notice you will need to get this through. We will not hold you up here on Saint-Jean-Baptiste Day. We will not ask you to come back, but don't ask us to give you leave because you know our group, our caucus, is inherently opposed to giving leave, as they have shown. But Senator Tannas was a willing participant and a willing recipient of the concept of what Senator Gold then did.

Today is June 23 — I may be repeating myself here — and tomorrow is a holiday in Quebec. Historically, the Senate does not sit on that day. Prolonging debate on Bill C-28 just for the sake of it would force us to come back for a few days next week at a large cost to taxpayers and is unnecessary.

• (1510)

Lastly, I want to point out that the motion provides for a thorough study of the issues surrounding Bill C-28 by our Standing Senate Committee on Legal and Constitutional Affairs. I already mentioned that. Again, this is something all groups agreed to. Let's make sure the Legal and Constitutional Affairs Committee studies it. They have given Senator Jaffer and her committee a mandate to bring this forward. This is a government motion. This comes from Senator Gold, and I have every confidence in our members on the Legal and Constitutional Affairs Committee that they will do a thorough job of this. It should be made clear that this is a very integral part of the agreement.

So, colleagues, I know there are those — including in my own caucus — who do not want to give in. We do not want to give the government what they want, and that's fair. However, there comes a time when you develop processes, and over the years that I have been involved — Senator Harder will bear witness to this, as will Senator Gold — I have never, when I have made an agreement, agreed that we will pass a bill by a certain time. I have agreed that we will allow the question to be called on a bill by a certain time. That's a distinct difference, and not one leader out of the five of us committed one of you, colleagues, to how you were going to vote.

We only committed that we will do this, that we will do this today and that we will do it in an orderly fashion. We limited some speaking times, but we did not limit the number of speakers, so I encourage everyone to speak. I also encourage that we go through with this. The time will come later in the day when I will be speaking on Bill C-28 and I will make my wishes known on Bill C-28. I will have some things to say, but now we're talking about this motion. I encourage all of us to have our say, but let's move on to the debate on the bill, a very important bill that has received all-party support at the other end, as it should. This is an issue that concerns each and every Canadian. It is time sensitive and has to be passed before we leave here tomorrow. Thank you, colleagues.

Some Hon. Senators: Hear, hear.

Hon. Dennis Glen Patterson: Honourable senators, I rise today to speak to the programming Motion No. 53 that has been introduced regarding Bill C-28, the bill dealing with extreme intoxication leading to a state akin to automatism.

I was first alerted to the potential issues with this bill after the text was tabled last Friday. Over the weekend, the concerns continued to flood in from notable legal minds across the country. This past Tuesday, I sat and listened as senator after senator raised concerns about potential loopholes created by the bill. For me, this is one of those moments where I feel the need to exercise my independence and speak up so that, frankly, I can sleep comfortably at night. I am thankful to be supported by a group that values that type of independence.

As you all know, I summoned up my courage and gave a resounding "no" when the government tried to move this motion with leave yesterday. I want to explain why. Things happen in this place all the time that frustrate one or more of us. For me, I am most frustrated when we seem to shirk our responsibility to carefully review legislation and to ensure we are always representing our regions, minorities and voices that aren't always heard.

I listened carefully to Senator Dasko last night, who told us that Canadians are still not seeing value for money when they look at the Senate. I have been here long enough to see tools like time allocation and programming motions used. In my experience, a programming motion is best used when we have a large, complicated piece of legislation and we need to chart a path forward for it. It's not used to limit debate and skip stages in the parliamentary review process for a bill that, at the time leave was sought yesterday, had not even been introduced yet.

I know that the Canadian Senators Group, or CSG, leadership explored ways to allow more voices to be heard on this issue. We put forward the question of extending the Committee of the Whole. We could have had another 65 minutes after Minister Lametti's testimony to hear from women's organizations and other witnesses who were and are eager to testify about this bill, or it was suggested we could have a short study by the Legal Committee. We had a committee that met last night during the supper break, so it could have happened as quickly as yesterday if there had been support for that but, in the end, those options were all rejected.

Honourable senators, leadership is certainly about standing strong and firm at times. However, it's also, I believe, about demonstrating a willingness to listen and compromise at times. I believe that because of their unwillingness to accommodate these requests and the overall inflexibility of the government, we were put in a position where we would be asked to do everything with leave. That would challenge one or more senators to be the sole reason for us having to sit, for example, on Saint-Jean-Baptiste Day tomorrow or into next week. It is a tactic that forces one or more people to become the "bad guy," and I know how that feels. so often we hold our noses and let things through despite our objections.

I want to clearly thank the leaders for introducing this motion because even though I disagree with it and feel that this is an inappropriate use of an otherwise legitimate tool — in fact, it really skirts around the *Rules of the Senate* — at least, other colleagues and I have the chance to stand up and speak out, as Senator Plett pointed out just now. At least we are ensuring that if we do move forward, it is because a majority of the Senate has agreed that it is appropriate to give expedited passage to this bill without hearing from anyone else but the government and ourselves.

I think that's wrong. I fully recognize that I may stand alone, or virtually alone, in opposing this motion. I felt a bit like David versus Goliath in that respect, the underdog facing an insurmountable obstacle, but as another underdog, namely Rocky Balboa, said, "I stopped thinking the way other people think a long time ago. You gotta think like you think."

Colleagues, I want to give the last word to the women I feel should be part of this debate by reading a letter sent to all senators dated June 21, 2022. By the way, they have been standing by, ready to come here and express their strong concerns, since this bill was rapidly moved through the House of Commons and sent our way.

I see this letter as eloquent evidence in support of my belief that we should not be proceeding with a path forward that does not include them, and it is the main reason that I will vote against this motion. I will let them speak for me because they perfectly reflect my concerns.

Here is the letter:

> I write on behalf of the National Association of Women and the Law (NAWL). Founded in 1974, NAWL is a feminist organization that promotes the equality rights of women through legal education, research, and law reform advocacy. While NAWL agrees that Parliament should act expeditiously to respond to the Supreme Court decision in *Brown*, it is deeply concerned with the seeming rush to pass Bill C-28, amending s.33.1 of the *Criminal Code*, before Parliament recesses for the summer. There was a lack of meaningful consultation prior to the bill being introduced and with the substance of the bill. In the best traditions of the Senate as the house of sober second thought, NAWL asks that Senators take the time to carefully examine the bill and refer it to its Legal and Constitutional Affairs Committee with sufficient time to hear from relevant stakeholders, including women's groups, Crown prosecutors, and medical experts. . . . This is necessary in order for the Committee to consider revisions to problematic aspects of the bill, which we fear will pose nearly impossible hurdles for prosecution of intoxicated perpetrators of violence against women.
>
> I attach our press release that provides some further details of our concerns, particularly with the requirement that prosecutors prove beyond a reasonable doubt both that the loss of control after the consumption of intoxicants was reasonable foreseeability and the foreseeability of harm. We also provide a chart of two alternatives to amend s.33.1, which our criminal and constitutional experts have developed in order to avoid the current weaknesses of Bill C-28. We presented these alternatives to the Department of Justice, in a meeting organized by DOJ lawyers only mere days before the Bill was tabled. As a result, these alternatives did not receive meaningful consideration and we

> cannot discern that they are reflected in Bill C-28 in any way. This is in stark contrast to the early consultation with NAWL before the introduction of the bill inserting section 33.1 into the Criminal Code. NAWL also testified before Parliament suggesting a number of amendments to what became the final text of s.33.1.
>
> The defence of extreme intoxication is one that is almost always advanced by men perpetrating violence against women. Further, men responsible for violence against women are usually intoxicated. Even if it is a high evidentiary bar for a successful defence of extreme intoxication, the real-life impacts of the availability of the defence on charging and prosecution decisions cannot be underestimated. Parliament should act quickly to ensure that accused men who voluntarily become extremely intoxicated before committing gendered violence are held accountable. However, it should not act hastily and entrench a flawed bill into law. NAWL respectfully asks you to take the time to ensure that Bill C-28 will serve justice.

• (1520)

The letter, colleagues, was signed by Dr. Kerri A. Froc, Chair, National Steering Committee of the National Association of Women and the Law and co-signed by representatives of Luke's Place Support and Resource Centre, Women's Shelters Canada, Ending Violence Association of Canada, Canadian Femicide Observatory for Justice and Accountability, Alberta Council of Women's Shelters, Sexual Assault Centre of Edmonton, Barbra Schlifer Commemorative Clinic, Persons Against Non-State Torture, London Abused Women's Centre, Ontario Network of Sexual Assault/Domestic Violence Treatment Centres, Action ontarienne contre la violence faite aux femmes, WomenatthecentrE and Lanark County Sexual Assault & Domestic Violence Program.

I'm happy to let them have the last word in concluding my speech with their fervent desire to be heard.

Thank you, honourable senators.

Some Hon. Senators: Hear, hear.

Senator Plett: I wonder whether the senator would take a question.

Senator Patterson: Yes.

Senator Plett: Thank you, Senator Patterson, for that speech. Let me say at the outset about your analogy of David and Goliath that David was never a minority; he had God on his side. Nevertheless, Senator Patterson, my question really is this: I felt the other day when we passed four government motions in a matter of an hour that I needed to leave and go take a shower.

I suggested to the Leader of the Government in the Senate here a few minutes ago that I needed to wash my mouth with soap after supporting the government. So I take no great pride and pleasure in supporting what I believe has certainly been, even in this particular bill, a shirking of responsibility.

There is a difference here, in my opinion, and I will get to my question immediately. The difference is that this, in my opinion, was not precipitated by the government. It was precipitated by the Supreme Court of Canada. They struck something down. They forced the government to do something and, quite frankly, they forced the government to do something, in my opinion, in too much of a hurry. This is not like a campaign promise that was made two years ago and then two years pass before they come forward with the bill.

Senator Patterson, you alluded to having a couple of suggestions, and they were certainly thought out, about the Legal and Constitutional Affairs Committee having a quick meeting or having a second Committee of the Whole. What would have been the purpose, other than we would have heard some people?

We really didn't have the time to do anything about it, other than what we have done now — voting on a bill, hopefully passing the bill, then having the Legal and Constitutional Affairs Committee do a study, sending a report to the government, having the government respond in a certain period of time and hopefully correct something that indeed is flawed. What could we have done better with the path that you possibly suggested?

Senator Patterson: Thank you for the question, Senator Plett.

Greater legal minds than mine have weighed in on this bill since it was introduced in a hurry in the other place. As I pointed out in the letter I just read, there is a clear concern that the evidentiary burden on the Crown in this bill is too high and that, in fact, there is a risk that this will allow the acquittal of persons who use this defence.

In fact, this association of concerned women's groups has suggested simple amendments that will fix that problem of the evidentiary burden. So that perhaps could have been discussed and considered by our eminently qualified Legal and Constitutional Affairs Committee. We could have had a bill before us and a recommendation on an amendment that would fix that flaw.

Hon. Jim Quinn: Honourable senators, I want to start by thanking Senator Plett for his observations that, as senators, we do have the right to rise, say what we are thinking and what we believe our motivation should be as individuals. I also want to say that I, for one, embrace the independence of this Senate. Although as a new senator, I sometimes observe and I'm not sure how independent we actually are.

With that, I will start my formal comments which are, as I said — although I am new to the Senate — a few observations on what I understand is not an unusual occurrence in December and June. At these points on the parliamentary calendar, we are asked — if not expected — to rush to pass proposed legislation as some matters are deemed to be government priorities and essential at the moment that they are to be considered.

There can be little doubt that some items are essential and must be responded to in a timely manner. We are all aware that we are not the elected representatives of the people of Canada. That privilege belongs to our colleagues in the other place. At the same time, we are parliamentarians. We are expected to play an important role in the legislative process on behalf of Canadians from all regions of our country.

Among other things, we are expected to be a place of sober second thought, to review and add value to government bills and to hear from Canadians through our committee work, which I understand — and I hear on an ongoing basis — is the strength of this institution.

• (1530)

I've said it before, but I believe it's worthy of being repeated today: We've all been appointed, and part of that process is speaking with the Prime Minister. When I had that conversation with the Prime Minister, he acknowledged that I may not always agree with the initiatives of his government but that, as an independent senator, he expected me to participate in debate with the goal of proposing input that I felt would add value to proposals.

He acknowledged that even then I may still not necessarily agree with a given proposal, which he noted is okay, but that, as an independent senator, he encouraged me to do my job of bringing sober second thought to the discussion.

Honourable colleagues, in doing my job I clearly understand that you may not agree with things I bring forward. And that's perfectly fine, because I understand that you, too, are doing the job that you have been asked to do. All I expect, and all that we should expect of each other, is that we continue to respect but not necessarily agree with the views and inputs of others because, at the end of the day, we are all doing the best we can in doing our jobs.

So we are at that time of year, on the eve of rising for summer recess, when there is considerable pressure for us to waive our jobs as senators to study, with sober second thought, legislation that comes from the House of Commons.

With Bill C-28, there are legitimate concerns being raised by numerous individual Canadians, and I have no doubt that all of us in this chamber have had our inboxes inundated with emails from people from across the country with varying views. We are also hearing from various organizations, including women's organizations, that feel that they did not have meaningful consultation in the preparation of this bill. They are also concerned that Parliament is not seriously listening to them, simply because it's June and we are looking to rise for the summer.

I have no doubt, if it were March, that we would go through a more normal process of hearing from witnesses and engaging in debate. I believe debate is so valuable in gaining a better appreciation for the reasoning of honourable colleagues' points of view. In fact, I embrace the value of debate, as I believe it helps each of us to be better informed as we decide, as independent senators, how we will eventually vote on a particular matter.

Here we are today, proposing that we rush through this bill — through all stages in one day. I may be continuing to learn the rules of processing legislation in the Senate, but at this time, with this bill, it just simply seems wrong, especially when we know there are numerous women's groups that have just been referred to. They're asking us to slow it down just a bit so they have the opportunity to be heard on what is truly an important piece of legislation. I, for one, believe that these women need to be heard.

The government could have brought this bill forward earlier or asked us to sit longer to deal with this important issue. If this motion is defeated, what would be the next steps? The Senate and the Legal and Constitutional Affairs Committee could meet next week to be sure that we have heard from stakeholders, such as these women's groups and, I would respectfully add, legal experts.

In fact, I mention this latter group as many of our colleagues are lawyers, and some of them seem to have expressed some concerns with legal implications. I understand that those concerns are connected to a question of if the evidentiary burden is too high and the result could be that the Crown will be unable to secure a conviction. I, for one, would value senators with legal backgrounds having the opportunity to consider this and any other points of law through just a bit more discussion with other legal experts at committee.

Hearing from women's groups and legal experts may result in amendments being proposed, and we would then be collectively in a better position to accept them or not. Passing this motion seems to get things backwards: After having passed the bill and receiving Royal Assent, it's proposed that we then study what will be law later in the fall.

Should we not take that bit of time now to at least hear from the women's groups that have simply asked to be heard and from legal experts so we can have a better understanding of their points of view? I'm not suggesting that Parliament sit beyond the opportunity of having our committees hear from the aforementioned people.

Before closing, I want to say that I respect the work that the leaders do in this chamber, but I also respect the ability, as a member of my particular group, the Canadian Senators Group, to express my independence and be respected by my colleagues. So I thank them for that.

Honourable colleagues, I thank you for allowing me to express my thoughts in this chamber today.

Hon. Frances Lankin: Honourable senators, I appreciate very much being able to participate in this debate, and I thank Senator Plett. I appreciate hearing about the discussions writ large and — not breaking confidence — the discussions of the leadership. I've heard some of these things as other people have been talking in the lead-up to this debate. One of the things that perhaps hasn't been brought out was a clear desire to work through all of the legislation in a way that would bring us to a close today. I truly appreciate Senator Plett and his reference to the national holiday in Quebec tomorrow as one of the things that we traditionally respect, and I respect and agree with that.

I also appreciated his question to Senator Patterson. Senator Plett, I'm not there to say "hear, hear" in person to your remarks across the floor, but I want to say that one of the reasons I appreciate you is that your preambles are almost as long as my mine usually are, and so I feel a little comforted by that.

However, on the serious nature of this motion before us, I share a lot of the concerns that have been raised by my three brother senators. I speak from a different end position, but I share the concerns. I've come to a different conclusion, and I appreciate the opportunity to set that forward and how I worked through the issue.

When we held Committee of the Whole with Minister Lametti, I have to admit that I found that process unusual and one that gave me concern. I would rather have had a short committee process than the Committee of the Whole, but the leaders unanimously agreed with that process and put that forward. And I felt I could glean a lot from that.

Of course, as all of us do, I have reached out and sought other opinions with respect to the actual provisions of Bill C-28. I'm not speaking about that right now, I'm speaking about the motion before us. I have heard views from many women's organizations, pro and con, moving to fix the loophole in the way it has been suggested now or not fixing it now, coming back in the fall with a report after having passed it, and, if amendments are required, seeking to pressure the government to do that or waiting and doing those amendments in the fall.

I've heard from many, so a lot of the views that we are failing to hear, as both previous senators said, have come to us through other routes. That's not as helpful as having an open public record of these, although I know many senators in the debate on the actual bill this afternoon and this evening will put those forward, and we will hear quotes from many of those organizations.

Senator Patterson listed a number of organizations. I know and have worked with those organizations. I know and have worked with the executive directors of those organizations, who are in place today, over the years, and I respect the points of view they put forward, as I do the other organizations that have taken a different position.

I'm aware that after the court decision was released there was a huge response for the government to act quickly. In fact, I believe there might have been a letter — I might have been a signatory to it; I haven't had a chance to go back because we're all very busy at this point in time — calling on the government to act quickly. My recollection is that maybe over 30 senators participated in that call, as well as many external organizations.

One of the reasons I've come to a position in feeling that I can support this motion before us is that the government themselves moved quickly to fix this problem. The question of whether the fix is correct is what we need to examine. But they moved quickly.

• (1540)

I have confidence this particular government wants to fix this. I also have confidence, having seen unanimous consent in the House of Commons, that all the political parties' representatives, duly elected and accountable through elections, believe that a quick move is important. I have confidence in that.

If, over the course of this summer, there is another case that comes forward in which the defence is successful, and it is determined to be because of the provision in Bill C-28 is not adequate, I have confidence that every one of us, every political party and the government of the day will respond again to bring forward a way to fix that. There is a united political, parliamentary, governmental, executive branch resolve to do the right thing here, and I applaud that.

When I learned about the unique solution in the House of Commons, which I learned about during Committee of the Whole, my first reaction was a little bit of outrage. Why didn't I know that coming into this? As I reasoned through it, I brought the temperature down and thought about it over the course of the evening and I applauded the transparency of the minister in telling us that, because it was not information we were aware of. And I know the flurry around the chamber in terms of wondering, "What's this?" was shared by many.

Despite that novel approach — and it's novel in the suggestion of a committee looking at the provision afterward — I felt it was very important that we stay true to the role of the chamber of sober second thought. I had to work through all of my frustrations about the sheer number of Senate bills, the number of pre-studies, the orchestration by the leaders to get us through this work — and I appreciate their work on that — but I had to work through that frustration. Part of that frustration, as we all know, is the end-of-session frustration that comes along.

I had to create nuance in my own mind; I challenged myself to consider nuances regarding the general systemic issues that are brought about by the fact that we have a minority government in the House of Commons and that it takes two parties to dance, that there is an opposition and a government and the time for and the timing of debate on a whole range of things also led to the desire of the government to bring forward Senate bills and pre-studies.

It's frustrating.

But there is nuance between the systemic and the situational. This is situational. I'm not going to repeat Senator Plett's comments about the timing of this court decision and the need to respond. I think it is.

I believed, when I heard about the solution in the House of Commons, that we needed to have the opportunity to review this provision in committee and be able to take account of the report from the Justice Committee of the House of Commons, which will come forward this fall; they have to report by December 31. My understanding was that such was going to be the suggestion to us as well. I protested that in what I hope was a constructive way. You'll see the motion has us taking the opportunity of an extended period of time that would take us through to the end of March, I think it is, so that we can review and have the benefit of the report of the House of Commons.

I also believe that it was incredibly important that there was an accountability exchange with the government, even though I have the confidence that, on this particular issue, they would respond if there were to be a court case or if the reports coming out of the testimony of witnesses and the deliberation of committees demanded that such be the case and they saw the logic of that.

I really believed there had to be an accountability measure. So I suggested — again, constructively, I hope, and I appreciate that the leaders accepted this — that there had to be a response from the government to the report from the Senate and a timeline given for that.

Once again, some people said, "Well, how do we know they'll respond?" They can ignore it; governments of all stripes over the years have ignored those things. If we put forward amendments today, how do we know they would respond? They will sometimes accept amendments and other times not, and all of the situational pressures at this moment will exist with respect to looking at amendments as well.

So I do not like the situation that we're in, but I can see the nuanced difference between the situational matter before us, the procedure that is before us and the systemic issues that we need to continue to deal with and to push back on. I appreciate the leaders who do that; I appreciate the role that Senator Gold fulfills. I know the Government Representative Office pushes back often. I believe the government understands more and more. I also know we're in a minority Parliament. Will the day get better?

I also challenge myself with this: Is this the time to stand up and say "no" like Senator Patterson? He arrived at a decision with respect to leave, and whether he will, in terms of the bill itself, we have to debate this afternoon. We'll deliberate, and I will listen to that. But is this the opportunity to stand up and say "no" and to put it to the government and push back in such a way this isn't dealt with?

I believe that something right now is better than nothing. I would hate if there were a case where a successful defence is mounted, as was in the consideration of the court decision that is before us. I would hate for that to happen, but if there is no provision to fix this it can happen for sure because of the precedent that has been set by the court.

So I believe there are potential problems with this actual wording that may lead to innovative defence strategies that, in the case of significant severe intoxication, may lead to another court case. The chances of that happening over the next few months before this study and work is done — or the next five months until the report comes out of the House of Commons — then the period of our review can be shorter than longer if we choose. I believe that either situation is imperfect. That's the imperfect world we live in.

With respect to the speakers who have gone before me, and with respect to the collective level of concern that we have, we should reassert our role on an ongoing, systemic basis as a chamber that follows the work of the duly elected and accountable politicians in order to provide added value in the spirit of, as the Supreme Court decision said, not competing with the House of Commons but being complementary. This particular motion does the best it can in the situational circumstances in which we find ourselves. One more time, I want to say that I appreciate the very difficult work of the leadership groups to arrive at this approach.

With that, I'll finish my remarks. Thank you very much.

Hon. Mary Jane McCallum: Would Senator Lankin accept a question?

The Hon. the Speaker: Senator Lankin has two minutes left of her time.

Senator Lankin: That's barely enough time, but I will.

Senator McCallum: How do the officials look after the minorities — the people whose votes don't matter because there are not enough of them? They're not a majority. Is it not the Senate that has to look after the minorities, the vulnerable and Indigenous peoples? How will they be looked after with this bill?

Thank you.

Senator Lankin: Thank you, Senator McCallum. I'm not going to speak about the substance of the bill. I believe you're really asking me about the process.

Yes, that is a key job for the Senate. In fact, it is a mandated approach suggested and ruled on by the Supreme Court of Canada in their 2014 decision, without a doubt. I also believe it is the job of the elected politicians in the House of Commons. I also believe it is the job of all people in all orders of government. I don't think we are the only place, but I sometimes think we are the last place. We are certainly, with a constitutional point of view, responsible — it's the Supreme Court point of view — for ensuring constitutionality and compliance with the Charter, for representing the voices of minority groups — in particular, Indigenous peoples — regional voices and technical drafting voices.

• (1550)

Do we have enough time to do all that well and often? No. I'm going to move, again, from the systemic to the situational.

I am a feminist. I am a woman. Many of you know from previous remarks that I am a survivor of sexual assault. I want this law to be right, and I want everybody's point of view to inform it. What will happen now is a stopgap over the summer until this is examined in a different way. I believe that is better than nothing, but I do not at all dismiss the importance that we all place on ensuring that we hear those voices.

We will hear them in a novel way, which will be after this provision but with the opportunity to amend it. Thank you.

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

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: I see two honourable senators rising. The vote will take place now.

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Arnot	Klyne
Ataullahjan	Kutcher
Batters	LaBoucane-Benson
Bellemare	Lankin
Boehm	Loffreda
Boisvenu	MacDonald
Bovey	Manning
Busson	Marshall
Campbell	Martin
Carignan	Mégie
Christmas	Miville-Dechêne
Clement	Mockler
Cordy	Moncion
Cormier	Moodie
Cotter	Oh
Coyle	Omidvar
Dasko	Petitclerc
Dawson	Plett
Deacon (*Nova Scotia*)	Poirier
Dean	Ravalia
Downe	Richards
Duncan	Ringuette
Dupuis	Saint-Germain
Francis	Seidman
Gagné	Smith
Galvez	Sorensen
Gerba	Tannas
Gignac	Verner
Gold	Wallin
Greene	Wells
Harder	White
Hartling	Woo
Housakos	Yussuff—67
Jaffer	

NAYS
THE HONOURABLE SENATORS

Audette	Pate
Black	Patterson
Dagenais	Quinn
McCallum	Simons—8

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

• (1600)

BUDGET IMPLEMENTATION BILL, 2022, NO. 1

THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Moncion, seconded by the Honourable Senator Pate, for the third reading of Bill C-19, An Act to implement certain provisions of the budget tabled in Parliament on April 7, 2022 and other measures.

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, I rise to speak to Bill C-19, "Budget Implementation Act, 2022, No. 1." It feels good to be on the right side of the angels again on this speech.

It actually wasn't a bad experience, Senator Gold, to vote with you. We should try that more often.

Honourable senators, I will not be long on this, I assure you.

Senator Marshall gave an absolutely crackerjack, excellent rundown of the many problems with this bill in her excellent speech. There are many problems, and I think she outlined almost all of them. Thank you, Senator Marshall. She says there are still some to go. She should have briefed me, because I would have pointed the rest out.

I want to take a few minutes to draw your attention to some important observations, because I know you will want to know about them. The bill we are about to vote on stands as a stark example of the incompetence that has dogged this government for the last seven years. You may have missed it in the crush of business recently, but this legislation came to us from the other

place after being amended in 64 different places, including the deletion of 51 clauses. This is unprecedented for a budget implementation act.

This is a 440-page omnibus bill crammed with many measures that should never be in a BIA, as noted by a number of senators. For a while, this government was able to use COVID as a "get out of jail free" card. Their repeated claims that they needed to rush legislation through without adequate oversight and study were made under the shadow of a global pandemic and parliamentarians had little choice but to comply for the sake of public health and economic stability.

Honourable senators, those days are gone. The government can no longer shield itself from its own incompetence by claiming that it is because of the pandemic. The crisis of scrambling to make policy in the midst of an unforeseen global pandemic is behind us. Yet the only evidence that this government has succeeded in moving on this is the fact that they have added chaos to incompetence.

Every direction in which you turn today, you see this government scrambling to contain the consequences of its incompetence which is bursting through the cracks like a dam about to let go.

We have a Minister of Foreign Affairs whose department thinks it's a great idea to send a representative to a party at the Russian embassy. As Russian shells bomb residential neighbourhoods in Ukraine, killing women and children, disrupting global food supplies and threatening world peace, Minister Joly's deputy chief of protocol, Yasemin Heinbecker, joined the festivities at the embassy here in Ottawa. This is incompetence.

Over at Immigration, Refugees and Citizenship Canada, there is a backlog of more than 2.2 million immigration applications, and Minister Fraser has no clue how to fix it — none. Meanwhile, the government promised to help 40,000 Afghans immigrate to Canada. To date, only 10,565 applications have been approved. There is nothing but chaos in this department.

Then there is the debacle of trying to fly anywhere from Canada and finding nothing but chaos at the airports. The transport minister has no solutions to offer and just blames it on out-of-practice travellers. Colleagues, you and I have been travelling. We're not out of practice, and the same chaos affects us as it does anyone else. I don't know who is out of practice here.

Go to a passport office. Chaos ensues there as well. People are camping out and lining up all day long to try to get their passports processed, only to be turned away and told to try again tomorrow. The government is clueless, and Minister Gould has no solution for the mess.

Minister Freeland has out-of-control inflation, colleagues, a budget that is beyond balancing and a debt load that threatens to crush future generations. There is no plan to rein in spending or inflation, which, as you know, now sits at 7.7% — the highest since 1983.

Who was in government in 1983? What was the name of that prime minister?

Under Minister Hussen's oversight as the Minister of Housing and Diversity and Inclusion, the cost of homes has skyrocketed to a place where home ownership is now out of reach for an entire generation. Their only solution? Well, they have none. Chaos reigns.

Meanwhile, Minister Guilbeault has released new emissions targets which everyone knows the government will never hit and which the media has described as hinging on "hopes and miracles."

Minister Mendicino, whose nose is getting longer by the day, is scrambling to explain why he misled Canadians by saying police forces asked the government to invoke the Emergencies Act. And Minister Blair, colleagues, is shovelling as fast as he can to explain why Commissioner Lucki promised to use the mass murders in Nova Scotia to advance Liberal government policy.

• (1610)

Minister Rodriguez is trying to do what no one in any other democratic country has tried to do: control the internet. While Minister Sajjan is just trying to be the first in line at the airports. This is what this government has brought us this session: incompetence and chaos. And in the midst of it all, in the final days of the sitting, the Prime Minister leads by example by jetting off to some faraway land. No one knows where. No sense of responsibility. No sense of urgency. No sense at all; just incompetence. Fiddling while Ottawa is burning.

What did they do today? What's their business before they leave? Bringing in another hybrid motion forever, because there just might be another pandemic on the horizon. This has worked so well; let's bring in another one. Let's add another $2 or $3 trillion to the debt.

Colleagues, we are about to vote on Bill C-19. This bill does not deserve our support or your support. There is, however, a silver lining here, colleagues. There is hope. The Conservative Party of Canada will have a leadership vote on September 10. Our 700,000 members will be electing a leader. There is hope. The saviour is coming. Let's just wait. He will be there.

In the meantime, let's do the right thing — let's throw this budget in the garbage. Let's show the Prime Minister we are independent. Every one of us, we are independent. Some are Conservative independents, some Liberal independents or relative independents or — I still can't understand how you can call yourself Canadian Senators. Canadian Senators are indeed

the only independent senators group. Colleagues, let's show our independence. Let's vote down this budget that does not deserve our vote. Thank you, colleagues.

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

Some Hon. Senators: Question.

The Hon. the Speaker pro tempore: If you are opposed to the motion, please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker pro tempore: All those in favour of the motion, who are present in the chamber, please say "yea."

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

The Hon. the Speaker pro tempore: In my opinion, the "yeas" have it.

And two honourable senators having risen:

The Hon. the Speaker pro tempore: I see two senators standing. Are you calling a vote?

Senator Plett: Yes, we are.

The Hon. the Speaker pro tempore: Do we have an agreement on the time?

Some Hon. Senators: Thirty minutes.

The Hon. the Speaker pro tempore: The whips propose 30 minutes. If all senators agree to 30 minutes, it shall be 30 minutes. If one senator says "no," it shall be an hour. Do we have an agreement on the 30-minute bell?

Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: Thirty minutes it is. Call in the senators.

• (1640)

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

YEAS
THE HONOURABLE SENATORS

Audette	Harder
Bellemare	Hartling
Black	Jaffer
Boehm	Klyne
Bovey	Kutcher
Busson	LaBoucane-Benson
Campbell	Lankin
Christmas	Loffreda
Clement	Marwah
Cordy	Mégie
Cormier	Miville-Dechêne
Cotter	Moncion
Coyle	Moodie
Dasko	Omidvar
Dawson	Pate
Deacon (*Nova Scotia*)	Patterson
Deacon (*Ontario*)	Petitclerc
Dean	Quinn
Downe	Ravalia
Duncan	Ringuette
Dupuis	Saint-Germain
Francis	Sorensen
Gagné	Tannas
Galvez	Verner
Gerba	Wallin
Gignac	White
Gold	Woo
Greene	Yussuff—56

NAYS
THE HONOURABLE SENATORS

Ataullahjan	Martin
Batters	Mockler
Boisvenu	Plett
Carignan	Poirier
Dagenais	Richards
Housakos	Seidman
MacDonald	Smith
Marshall	Wells—16

ABSTENTION
THE HONOURABLE SENATOR

Simons—1

• (1650)

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, I wish to remind you that, pursuant to the order made earlier today, all proceedings on the bill must be completed today. If the bill is adopted at third reading, we will proceed to third reading. If there is a request for a standing vote, the bells will ring for 15 minutes.

Senators can only speak once in proceedings on the bill, and the default time for senators is 10 minutes. The leaders and facilitators have 30 minutes, and the sponsor and critic have 45 minutes.

If we have not completed proceedings by 9 p.m., we will proceed to dispose of all remaining questions at that time without further debate.

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE

Hon. Marc Gold (Government Representative in the Senate) moved second reading of Bill C-28, An Act to amend the Criminal Code (self-induced extreme intoxication).

He said: Honourable senators, I rise today to speak to Bill C-28, An Act to amend the Criminal Code (self-induced extreme intoxication).

This bill responds to the Supreme Court of Canada decisions in *Brown*, *Sullivan* and *Chan*, which address the rare yet serious situations when a person violently harms another while in a state of self-induced extreme intoxication. As you know, the court struck down a Criminal Code provision that had essentially barred the defence of self-induced intoxication.

The legislative response chosen by the government and endorsed by the other place is strictly aligned with the legislative road map provided by the Supreme Court of Canada in *Brown*. In a nutshell, it seeks to ensure that individuals who negligently consume intoxicants, lose control and harm others can be held criminally responsible for those violent acts.

Bill C-28 is a short but important bill. It addresses a pressing and substantial problem in an effective way that guarantees its constitutionality. It is founded on the most basic principles that underlie our criminal justice system in Canada, and it is a responsible contribution by Parliament to the ongoing evolution of Canadian law on criminal liability and intoxication.

• (1700)

In my remarks today, I hope to highlight the underlying role of foundational common-law principles of legal responsibility; the roles of Parliament and the courts and the interaction or dialogue between the two; the impact of the Canadian Charter of Rights and Freedoms; the roles of the criminal bar, prosecutors and defence lawyers; and, at the heart of the matter, those who are the victims of crimes and those who are accused of crimes.

I also hope to address several important concerns that we have heard about Bill C-28 — including questions surrounding effectiveness — and that committees in both the Senate and the other place will be able to delve into further upon Parliament's return in the fall.

Allow me to begin by putting Bill C-28 in its immediate legal and political context.

Since the court's decisions were released just over five weeks ago, many have worried that acts of violence committed while in a state of extreme intoxication may go unpunished.

[*Translation*]

Many organizations have expressed concerns about rulings that could change our way of seeing intoxication and criminal liability. They are concerned about the message that sends to survivors of sexual assault and other violent crimes.

[*English*]

Calls for a swift legislative response were heard and are being answered through Bill C-28 — legislation that the government believes will be not only constitutional but also effective.

[*Translation*]

Honourable senators, let me be clear: Being intoxicated is not a valid defence for a criminal act, such as sexual assault. That was the law before the Supreme Court decisions, it is still the law today, and it will remain the law if Bill C-28 is passed.

As the Supreme Court of Canada stated in *R. v. Bouchard-Lebrun* in 2011, the default in all criminal proceedings is that a person is criminally responsible for their behaviour even when intoxicated.

Extreme intoxication is a rare condition in which the person is unaware of or incapable of controlling their behaviour.

[*English*]

The Supreme Court described extreme intoxication as a state "akin to automatism." In other words, the mind is simply not in control of the body's actions. Generally, where the mind is not in control, an individual cannot be held morally responsible for their actions; and in law, in light of the Charter and relevant court decisions, that individual generally cannot be held legally responsible.

Our criminal law's treatment of intoxication was initially inherited from the common law of England. The *Majewski* decision of the United Kingdom House of Lords determined that self-induced intoxication, no matter how extreme, is not a defence for crimes of general intent, such as assault causing bodily harm or sexual assault. The 1977 *Leary* decision of the Supreme Court of Canada confirmed that this was the state of the law in Canada, and that remained so until the 1994 decision of the Supreme Court of Canada in *Daviault*.

Daviault was a Charter case and it marked a turning point in Canadian law. In *Daviault*, the Supreme Court of Canada ruled that a defence of extreme intoxication for general intent offences was necessary to make the common law consistent with the Charter, including the right in section 7 not to be deprived of liberty except in accordance with the principles of fundamental

justice and the section 11(d) right relating to the presumption of innocence. In particular, the court said that the *Leary* rule violated the Charter because it allowed for a conviction even where the accused acted involuntarily or without a culpable state of mind.

Following *Daviault*, in 1995 Parliament passed former Bill C-72, which enacted section 33.1 of the Criminal Code. Colleagues, this is an example of the interaction — or the dialogue, really — between courts and the legislature to which I alluded earlier.

The legislative intent of section 33.1 was to limit the extreme intoxication defence in cases involving violent offences, with the objectives of protecting the public from extremely intoxicated violence and promoting accountability by ensuring that individuals could not escape criminal liability for violence committed while in a state of self-induced extreme intoxication.

First, section 33.1 sought to protect the public from extremely intoxicated violence, especially for those who are at higher risk of violence committed by intoxicated individuals.

[*Translation*]

Unfortunately, we know that there are clear links between gender-based violence, particularly sexual violence and intimate partner violence, and intoxication.

According to a 2018 Statistics Canada survey, 63% of women and girls who were killed were killed by an intoxicated attacker. Last year, the World Health Organization identified the harmful use of alcohol as a risk factor for sexual violence and intimate partner violence.

[*English*]

The second objective of section 33.1 was to hold individuals accountable by ensuring that they could not escape criminal liability for crimes of violence committed while in a state of self-induced extreme intoxication. Canadians expect our justice system to hold people accountable for criminally negligent behaviour.

This brings me to the *Brown*, *Sullivan* and *Chan* cases.

In all three cases, the Supreme Court had to decide upon the constitutionality of section 33.1 in light of, on the one hand, the principles of fundamental justice and the presumption of innocence guaranteed to the accused by sections 7 and 11(d) of the Canadian Charter of Rights and Freedoms and, on the other, Parliament's aims to protect victims of intoxicated violence — in particular, women and children — and hold perpetrators to account.

With your indulgence, I will explain the reasoning in *Brown* at some length because that reasoning is key to understanding why the government took the policy direction that it did, and why other directions were not taken and should not be pursued because they would be at significant risk of being found unconstitutional.

Justice Kasirer, who wrote the opinion for the court, made clear that the court's decision was restricted to cases of automatism and that its decision did not in any way open the door to a defence of drunkenness. He wrote:

> To be plain: it is the law in Canada that intoxication short of automatism is not a defence to the kind of violent crime at issue here. The outcome of the constitutional questions in these appeals has no impact on the rule that intoxication short of automatism is not a defence to violent crimes of general intent in this country.

However, the court concluded that section 33.1 infringed the Charter because it risked convicting people who are not at fault for the violence that is central to the offences for which they would be convicted. In the words of the court:

> . . . the accused risks conviction for the relevant general intent offence — in Mr. Brown's case, for aggravated assault — based on conduct that occurred while they are incapable of committing the guilty act (the *actus reus*) or of having the guilty mind (*mens rea*) required to justify conviction and punishment. They are not being held to account for their conduct undertaken as free agents, including the choice to ingest an intoxicant undertaken when neither the risk of automatism nor the risk of harm was necessarily foreseeable. Instead, the accused is called to answer for the general intent crime that they cannot voluntarily or wilfully commit, an offence for which the whole weight of the criminal law and ss.7 and 11(d) say they may be morally innocent. To deprive a person of their liberty for that involuntary conduct committed in a state akin to automatism — conduct that cannot be criminal — violates the principles of fundamental justice in a system of criminal justice based on personal responsibility for one's actions. On its face, not only does the text of s. 33.1 fail to provide a constitutionally compliant fault for the underlying offence set out in its third paragraph, it creates what amounts to a crime of absolute liability.

In so declaring section 33.1 unconstitutional and of no force or effect, the Supreme Court created a gap in the law and invited Parliament to fix it. By the same token, the court provided two clear road maps for Parliament to consider to achieve its legitimate aims connected to combatting extreme intoxicated violence, which the government has followed to the letter in Bill C-28.

• (1710)

Paragraphs 10 and 11 of the court's decision in *R. v. Brown* provide that guidance. And I quote again from Justice Kasirer. He said:

> . . . it was not impermissible for Parliament to enact legislation seeking to hold an extremely intoxicated person accountable for a violent crime when they chose to create the risk of harm by ingesting intoxicants.

And further in paragraph 11:

> I am mindful that it is not the role of the courts to set social policy, much less draft legislation for Parliament, as courts are not institutionally designed for these tasks. But it is relevant to the analysis that follows that, as noted by the majority in *Daviault* itself (p. 100) and by the majority of the Court of Appeal in *Sullivan* (para. 132), it would likely be open to Parliament to establish a stand-alone offence of criminal intoxication. Others, including the *voir dire* judge in this very case (2019 ABQB 770, at para. 80 (CanLII)), have suggested liability for the underlying offence would be possible if the legal standard of criminal negligence required proof that both of the risks of a loss of control and of the harm that follows were reasonably foreseeable. In either of these ways, Parliament would be enacting a law rooted in a "moral instinct" that says a person who chooses to become extremely intoxicated may fairly be held responsible for creating a situation where they threaten the physical integrity of others . . . .

Honourable senators, Bill C-28 essentially enacts the second pathway proposed by the Supreme Court — that is, to use the standards of criminal negligence — in order to realize the objectives of the former section 33.1, but in a manner that addresses the Supreme Court's decisions and complies with the Charter.

In addition, Bill C-28 retains as much as possible of the language previously used in the provision and in the body of settled case law, thereby reducing the uncertainty and the litigation risk associated with legislation that modifies existing settled law. For over 25 years, these words have described states akin to automatism or akin to insanity that undermine criminal responsibility for one's actions.

We have heard concerns raised as to whether the definition of "extreme intoxication" proposed in Bill C-28 is under-inclusive, that is, that those in states akin to insanity would escape liability. Colleagues, with respect, this issue has been settled by the Supreme Court of Canada itself in 2011.

The court in the case of *R. v. Bouchard-Lebrun* collapsed the distinction between "akin to automatism" and "akin to insanity" by repeatedly characterizing the words used in the former provision, section 33.1, as including states where the person is acting in what appears to be a voluntary capacity that is influenced by drug-induced delusions. There is no reason to believe that courts would limit the scope of Bill C-28 or frustrate its clear purpose by narrowly interpreting the definition where that definition provides sufficient flexibility to adapt to the evolving jurisprudence relating to automatism.

With respect to the automatism defence considered in the *R. v. Brown* case, it only applies in rare and specific situations and almost never involves intoxication by alcohol alone. This is a function of the different ways that alcohol affects the motor and cognitive capacities as compared to other drugs such as psilocybin or LSD. This was much discussed 20 years ago, when Parliament enacted former section 33.1, and figures in the decisions of the Supreme Court in the *Brown* case, upon which the government is relying for guidance.

Colleagues, Bill C-28 affirms that it is fair and just to hold those responsible for crimes of violence committed in a state of extreme intoxication if they were criminally negligent in their consumption of intoxicating substances. We can all agree that it is unacceptable for people to negligently put themselves into a state where they can't control their actions and then escape the consequences of the harm they caused others. So how would this work in practice, and how does Bill C-28 respond to the concerns we've heard about its effectiveness?

It is the Crown's burden to prove the essential elements of the crime beyond a reasonable doubt, and any reasonable doubt about guilt must result in an acquittal. This is the presumption of innocence, which was firmly recognized under the common law in 1935 in the House of Lords decision in *Woolmington v. DPP* and was constitutionalized in Canada by its incorporation into the Canadian Charter of Rights and Freedoms in 1982.

In addition, under centuries-old common law, to be convicted, the prosecution must prove both a prohibited voluntary act, *actus reus*, and an associated guilty mind, *mens rea*. Under the current section 33.1, before the defence of extreme intoxication can be considered by the trier of fact, the accused must introduce evidence to satisfy the judge that there is an air of reality to the defence. This is a question of law for the judge to decide. Following the parameters set out in the *Daviault* and *Brown* decisions, this will require the accused to lead expert evidence. And the Crown will respond with its expert evidence.

Colleagues, from a legal point of view, extreme intoxication is a rarely used defence, notably, because of the initial evidentiary threshold required — that I just described — but also because of the legal burden that the accused must ultimately discharge. To avail himself of this defence, the accused must ultimately prove through expert evidence and on a balance of probabilities that it is more likely than not that they were in a state of extreme intoxication akin to automatism as opposed to simply being highly intoxicated.

This approach is consistent with other defences based on one's lack of ability to know or control one's actions, such as the defence of being not criminally responsible by reason of mental disorder or automatism caused by a blow to the head. Whether the specific expert evidence put forward is sufficient to raise the defence, as I said, is a question that the judge must assess. If there is not enough evidence to meet this air-of-reality threshold, the trier of fact — the jury if it is a jury trial — will not allow the defence to be considered at all. However, if there is sufficient evidence to pass this evidential burden, the jury will be instructed to consider it.

However, that's only the first step. For the defence to be successful, the accused must establish that it is more likely than not that they were in a state of extreme intoxication at the time of the assault. This is sometimes called a "reverse onus" because normally the accused does not need to prove a defence. Also, this must be demonstrated on a balance of probabilities, which is the

law's way of setting a higher standard that means more likely than not. Why? This is because the accused is best placed to lead this type of evidence, and the courts have found this to be constitutionally acceptable in such cases. Bill C-28 leaves in place this important requirement for establishing the defence, and the defence will continue to bear this heavy burden.

Under Bill C-28, if one establishes that they were in a state of extreme intoxication, they would still be held criminally liable if they acted negligently, that is, departed markedly from the standard of care expected of a reasonable person under the circumstances with respect to the consumption of intoxicating substances. The court may then lead evidence to establish liability for the crime of violence charged through the criminal negligence pathway of section 33.1 as proposed in Bill C-28.

It is about this issue that concerns have been raised. From my point of view, the state of the law as it currently is — settled law, well-established law, law that is well understood by judges and by lawyers, prosecutors and defence alike — already provides an answer to these concerns and, respectfully, supports the proposition that Bill C-28 is an effective response to cases where the defence of extreme intoxication may be raised.

Let me elaborate. The first question is: What is the standard of care to which we would hold the accused? The answer is whether it would be foreseeable to a reasonable person in the same circumstances that consumption of the intoxicating substances could cause extreme intoxication and lead to the harm of another person. This is an objective test. It is independent of what the accused actually foresaw or actually intended.

• (1720)

The second question involves measuring the accused's conduct against that objective standard of care. And Bill C-28 provides guidance to the courts in how to conduct that analysis, requiring that they take into account all relevant circumstances, including what was done or not done to avoid this risk.

"All relevant circumstances" recognizes that determining negligence is informed by context and driven by the evidence. The court would assess the conduct against what a reasonable person would have done and determine if the accused fell below that standard based upon the specific core facts of the case. This is nothing new. Courts regularly and routinely conduct this type of assessment in other areas of criminal law, notably in relation to offences of criminal negligence.

By definition, "all relevant circumstances" will vary from case to case, and includes factors such as the nature of the substance consumed and the physical or social setting within which the consumption or actions took place.

In one of the passages I cited from *Brown* earlier, Justice Kasirer referred to the voir dire judge in the lower court. In that case, it was Justice deWit of the Court of Queen's Bench of Alberta who had this to say on this particular point. I'm quoting, starting at paragraph 82, from the lower court decision speaking of the evidence relevant to this point:

> Examples of such evidence would be an accused's experience and knowledge with respect to the effects of certain drugs or alcohol. . . .

And here's the point:

> . . . An accused would have to do more than assert that they believed they could consume the drug or alcohol without undue risk. Evidence would have to be provided that such a belief was reasonable. Such a requirement would ensure that the morally innocent are not convicted and important *Charter* rights not unduly impaired.

If the conduct of the individual, whatever he may have thought, assumed, foresaw or intended, was not reasonable — that is to say, did not conform to the standard of what we would assume a reasonable person should and ought to do and ought to know about the impact of drugs on the body and one's ability to control oneself — then that person would be guilty of the offence charged. This is an objective test. Courts will not look at this from the accused's perspective, but from the perspective of a reasonable Canadian, and it will also consider what information is publicly available. Personal characteristics — short of incapacity — such as an accused's background or an accused's IQ level are not relevant, and the Supreme Court confirmed this in a 2022 case called *R. v. Goforth*.

In the recent Supreme Court decisions in *Brown*, *Sullivan* and *Chan*, psilocybin — commonly called magic mushrooms — was found to have contributed to extreme intoxication and violent behaviour, either consumed alone in one case or in combination with alcohol in the *Sullivan* and *Chan* cases, leading to tragic results.

These findings are now in the public domain, which means that reasonable Canadians should be aware of the risks of taking these substances. If Bill C-28 passes, we would expect that courts would take this into account in assessing what an accused ought to have known about ingesting psilocybin in determining whether an accused is criminally negligent in a future case on similar facts to those that were before the court in *Brown* and *Chan*. The takeaway here is that certain kinds of drugs may have the potential to lead to uncontrolled violence more than others, while others present a very low risk.

By contrast, consider a person who consumes a prescription drug, triggering an unanticipated and extreme reaction that results in a state of extreme intoxication. While in that state, the person harms a family member who resides in their home. On facts like these, a reasonable person would have had no way of anticipating that violent loss of control when they chose to consume the drug. Under Bill C-28, unlike under the former provision, the intent of proposed section 33.1 is that such a person could be acquitted. Cases will turn on the unique facts before the court.

Senators, I appreciate that there are concerns raised by some that the new test requiring foreseeability of harm would be unduly burdensome to prove. The key takeaway of this legislation is that courts would be able to hold a person accountable for committing a violent crime, such as sexual assault, even when the defence of extreme intoxication has been raised. Courts would do this by finding that an accused was criminally negligent in their consumption of the intoxicating substance.

The proposed amendments, Bill C-28, do not require the level of risk to be probable or even more likely than not. The question for the Crown to prove is not whether an accused ought to have known that a particular drug would lead to loss of control and violence, but whether that drug could lead to loss of control and violence. The question is whether the risk is foreseeable to a reasonable person — the objective test to which I referred.

Risk assessments like this are a balancing act. It's not a hard science. The standard being proposed is flexible, and it enables the court to focus on the critical question, which is, again, and I repeat, whether the person fell far below the behaviour expected of a reasonable person to avoid putting others at risk. The prosecution can argue that a reasonable Canadian learns about the positive and negative effects of an intoxicant before taking it, that they also care about the harm they might do to others, how certain drugs may affect the mind and behaviour and about incidents of violence following ingestion of certain types of drugs. Prosecutors can point to other cases where a violent loss of control has occurred to substantiate their arguments that such a risk was foreseeable in the case before the court.

Sullivan and *Chan* are perfect examples. The prosecution can also argue that a risk of violence can be inferred from the possible loss of self-control. A person who can't control their actions cannot stop themselves from harming others, and the risk of loss of control also gives a pathway to demonstrating a risk of uncontrolled violence. The jury can use the evidence to draw conclusions about whether the reasonable person would foresee the risk and try to avoid it, and whether the accused's actual behaviour met or departed significantly from that.

Some may still argue that Bill C-28 makes it too difficult to convict a severely intoxicated offender, that there should be a legal presumption that alcohol alone cannot produce a state of extreme intoxication or that there should be a reverse onus requiring the accused to prove that violence was not foreseeable. I understand, and the government understood, the motivations — important motivations — behind these suggestions and concerns because the government and the law, Bill C-28, share the same dual objectives of protecting vulnerable women and girls from violence and of holding perpetrators to account.

Colleagues, we have a Charter of Rights and Freedoms, and those suggestions would likely be deemed unconstitutional by the courts for reasons that were set out at great length by Justice Kasirer in *Brown*, and they would certainly invite a renewed round of Charter litigation with all the attendant resulting uncertainty and instability. Respectfully, colleagues, it would be irresponsible for Parliament to adopt measures that increase litigation risk rather than follow the clear pathway laid out by the Supreme Court of Canada. Bill C-28 offers a safer and more responsible response that is consistent and in line with the *Brown* and *Sullivan* and *Chan* decisions of the Supreme Court of Canada.

Let me cite the June 17 press release of the Women's Legal Education & Action Fund, also known as LEAF, where they describe Bill C-28 as, ". . . thoughtful, nuanced and constitutional legislation to address the narrow gap resulting from the [Supreme Court of Canada] decisions."

Bill C-28 recognizes that all members of society have a responsibility to protect each other from the foreseeable risks of their behaviour, and holds people accountable for the harm they cause when they fail to meet that responsibility.

Colleagues, I will conclude by stating that I firmly believe Bill C-28 serves to complete the work Parliament began in 1995 when it first enacted section 33.1. It is a small but significant change designed to keep the law intact while allowing for the rare, narrow exceptions that the Supreme Court says are constitutionally required. Adopting this legislation is in the interest of protecting victims and would-be victims of violence and holding perpetrators to account.

• (1730)

I am proud to be the sponsor of this bill, and I urge you to join your colleagues from all parties in the other place who voted unanimously in supporting this bill. Thank you for your very kind attention.

Hon. Paula Simons: Senator Gold, I want to thank you for that really interesting speech. It made me wish I had the privilege of being a student in one of your constitutional law classes. I hope you don't mind, because we won't have the chance to hear from other witnesses, if I ask you a question that may seem simple because I did not go to law school.

I want to understand what impact this would have at sentencing. If you're being pre-emptively found to be criminally negligent, would that be something the judge would also consider at sentencing, or is it only to establish the criminal intent itself?

Senator Gold: Well, you would have made a very good law student because that's a very good question. In fact, it is one of the things that went to the heart of the choice made by Parliament 20 years ago to choose this path — rather, I should say it chose, 20 years ago, not to create the offence of getting drunk negligently, to which I alluded briefly as one of the pathways.

The path of Bill C-28 preserves the offence with which you're charged. So if you were found guilty of sexual assault despite the fact that you were really high or drunk, and you lost control because you were negligent in getting so high or drunk, you're convicted of sexual assault with all the penalties and the stigma, if I can use that term, and the social disapprobation that attaches to that conviction.

Twenty years ago, the then-minister of justice Allan Rock — and this was much debated — was having to figure out which pathway to choose. He worried aloud, as did many scholars, that simply making a stand-alone offence of being criminally, negligently intoxicated would provide what he called a "drunk

discount" to the offender. By definition, the penalty would have to be less than for the sexual assault that was actually committed, and the stigma would be less. Indeed, even Supreme Court Justice Kasirer — I quoted at length from the judgment and I could quote at even greater length — makes the same point, 20 years on. He referred to the literature. He said a stand-alone offence would not achieve Parliament's dual purposes that are still relevant and valid, underlying section 33.1, and that is one of the reasons that, 20 years ago, that was not the option chosen. And it's one of the reasons this government has chosen the second pathway that the court laid out. I hope that answers your question.

Hon. Denise Batters: Senator Gold, yes, until the Supreme Court of Canada case last month, the last time I heard or thought much about automatism was probably in a first-year criminal law class. But it's a very serious topic that we're dealing with today, so I'm glad that this bill is being brought forward in a timely manner.

My question is as a result of this motion. The Standing Senate Committee on Legal and Constitutional Affairs — of which I am a member and have been for quite some time — is going to be required to study this general topic and then report back by March, and then the government will have 120 days after that to respond to that particular report.

Perhaps you could explain, because it seems a bit strange to have the Legal Committee, long after the fact — many months after this bill has passed — prepare a report and then to have the government respond to it afterwards. Is it the intent that there may be a more in-depth study where perhaps amendments would result that would strengthen this bill? Maybe you could just explain that. Thank you.

Senator Gold: It's an excellent question, and it does give me the opportunity to link that part of the process that we agreed to earlier today with the concerns that were expressed both in the chamber and outside the chamber.

I believe it was our colleague Senator Boisvenu who asked the minister why he didn't just sort of fix it with the "notwithstanding" clause temporarily and then come back with a more comprehensive — I don't want to put words in Senator Boisvenu's mouth, but concerns have been expressed that what's really needed here is a fresh look at the role of intoxication in criminal liability and greater attention on the rights of victims and the gendered nature of the crime.

This was a narrow decision creating a small gap. It's like the leaky faucet in the third-floor bathroom; it's not the whole house crumbling around us.

The purpose, I think, of giving our Legal and Constitutional Affairs Committee time to look at the broader area is precisely for senators to have the benefit — not necessarily exclusively, although I'm sure it will be a part of it — to look at this bill, if it passes, and also at the larger issue. They can then make recommendations and hear witnesses and contribute and do our part, which we do well, in trying to move the evolution of the law forward.

It's also important to remember, colleagues, that it's not simply that we "ask" the government to respond within 120 days. The motion is very clear that it refers to our Rules; the government has to respond within 120 days. If they don't respond, the matter gets sent to a special committee under our Rules; it could even be considered a breach of the privilege of Parliament. It's a serious business. I'm not aware of governments ever not honouring obligations of that kind.

We're not talking about parliamentary reviews, about which I am often questioned, understandably, in Question Period. This is a serious attempt to allow for proper, sober study of a really important, complicated issue which, by virtue of the Supreme Court of Canada decision, needs proper time. I think we all agree, and I think Senator Plett said it better than me in an earlier discussion, that this just has to be fixed now.

Now, I believe it's fixed properly. It is not the government's view and it's not my view that we're sending it out there to fix all the flaws. Reasonable people can disagree. The debate will reveal the diversity of opinions; I respect that. If in fact the study in the Senate reveals that there's a better way to fix this particular problem, it will be put forward. And I agree with Senator Lankin; I think this government would be responsive to attempts to improve it. It shares the objectives. It defended, as well as it could, as did LEAF and other intervenors, the current law.

Justice Kasirer, whom I respect as a jurist of enormous qualities, and the court, whom I respect equally, came to a different view. Indeed, many scholars for some decades have been saying, "We're not so sure about section 33.1." There have been questions about its constitutionality in the literature for a long time, but here we are. I hope that answers your question.

Senator Batters: I have just a very short follow-up on that. You mentioned it right at the end, but part of that report is to entail actually studying section 33 and perhaps its application to this. Given that this is a very infamous clause, and no one really wants to say its name, will the government actually take a serious look then at this particular clause, which was, of course, put into the Constitution by the very first Prime Minister Trudeau?

Senator Gold: I'm sorry. You were talking about the "notwithstanding" clause?

Senator Batters: Yes.

Senator Gold: I have no knowledge of what the government would do with regard to that. The short answer is that the court responded expeditiously with this legislation, which it believes, and I believe, satisfactorily fixes the broken sink or toilet or whatever architectural image I used. I have no reason to think that they will not proceed with trying to improve the law if those are the recommendations that come out of our study or the study in the other place.

• (1740)

Hon. Mobina S. B. Jaffer: Senator Gold, you've sponsored so many bills lately. You have been doing a yeoman's job, and I want to compliment you on that.

My question is a serious one. You take all of our questions seriously; I don't mean it that way. But I'm really concerned, because we are going to study this and we will also get the House of Commons report. So my first question is: What if our two reports are different? How is that going to be handled, and where would we go from there?

I know you would be guessing, in a way; I get that. But if we get a report from the House of Commons, and it's not something we're going toward, is it even worth it for us to do a report?

Senator Gold: We're the masters of our own house. Senate committees deserve the reputation they have for doing serious work. It's important, first, that the committee take the job seriously, as I know it will, and define the scope of it. It's up to the committee to decide how broadly or narrowly it wants to look at it.

As Senator Lankin pointed out, the way this was structured — and it was thanks to the input from senators to modify this — it gives the opportunity for our committee to start its work but not to have to finish its work until it has the opportunity to review what others may have said. Different opinions may emerge. There may be points of contact. Who knows?

But our work can only be enhanced, I think, with not only the knowledge and input of witnesses, but also the information and conclusions that the other place arrives at.

But it would be up to the chair, the steering committee and the committee as a whole to decide how to proceed.

Senator Jaffer: My real anxiety is that the Senate can only make recommendations. This is such a different process than we've often had before. Normally, we get the bill, we study it in committee and it comes back for third reading. This time, it's all different, and that's okay, too. We can be creative. But if we make recommendations, will they be implemented? What happens with them? Will they just take up shelf space?

Senator Gold: Thank you for the question.

We have to be clear about one thing: The motion that structured our debate today also includes this future study of the broader issues, but we're voting on the bill today. If you support the bill as it is, please vote for it. I think the bill is worthy of support, as I tried my best to demonstrate.

So, Senator Jaffer, with respect, this is not that different from things we have done. For instance, in May, we passed the bill but recognized that there were issues that were ripe for a decision. In that case, it was a joint parliamentary committee that was to look, study and come back.

How the government of the day, regardless of the party that forms government, responds to our recommendations will depend upon the quality of our recommendations and the receptivity of the government. This government is receptive to improving criminal law. It has shown itself receptive to responding immediately to the Supreme Court of Canada decision. I have every confidence that if this government is still in place when the reports come back, they will have a receptive ear.

The Hon. the Speaker: Senator Gold, your time has expired. Although Senator Pate wants to ask a question, there are no additional five-minute allocations; that was agreed upon.

[*Translation*]

Hon. Pierre-Hugues Boisvenu: Senator Gold, thank you very much for your hard work in defending this bill, which seems to me to be completely out of step with the Canadian reality for women who are victims of domestic violence.

I rise today as the critic of Bill C-28, An Act to amend the Criminal Code (self-induced extreme intoxication), which was introduced by the Honourable David Lametti, Minister of Justice and Attorney General of Canada.

We all know that Bill C-28 is a legislative response to the recent Supreme Court of Canada decision in *Brown* and would rewrite section 33.1 of the Criminal Code to make it constitutional and to add the concept of negligence. This means that if a person voluntarily and recklessly consumes an excessive amount of drugs and alcohol, and it was reasonably foreseeable that this would cause them to lose control of themselves and their actions, that person would be considered guilty of negligence and could be held criminally responsible for their actions.

Honourable senators, I have reservations about the Government of Canada's decision to hastily introduce a bill at the last minute after the Supreme Court of Canada's decision to strike down section 33.1 of the Criminal Code. That section prevented an accused person from using self-induced extreme intoxication as a defence in order to obtain a verdict of not criminally responsible or an acquittal. To me, this bill appears to respond only partially to the Supreme Court's decision and comments.

Honourable colleagues, remember medical assistance in dying. In 2015, the Supreme Court handed down an important ruling calling on Parliament to rewrite the Criminal Code provisions on medical assistance in dying. The current government introduced Bill C-14 and had to reintroduce Bill C-7 because C-14 didn't meet the criteria in the Supreme Court decision. Bill C-7, now law, was passed but still doesn't fulfill the requirements in the Supreme Court decision. Now, seven years later, a committee has been tasked with ensuring that future amendments are consistent with the Supreme Court's ruling. I think this bill is like the others in that we are likely to be back here again in a year or two having to amend it to make it consistent with the Supreme Court's decision and comments.

In its decision, the Supreme Court found that section 33 of the Criminal Code violated the Charter of Rights and Freedoms. I would like to quote a very important part of the decision:

> Since s. 33.1 allows the court to convict an accused without proof of the constitutionally required *mens rea* [notion] it violates s. 7 of the Charter. Section 33.1 also directs that an accused person is criminally responsible for their involuntary conduct. Because involuntariness negates the *actus reus* of the offence, involuntary conduct is not criminal, and the law recognizes that voluntariness for the conviction of a crime is a principle of fundamental justice.

The decision continues as follows:

> Section 33.1 also breaches the right to be presumed innocent until proven guilty guaranteed by s. 11(d) of the Charter. To convict the accused, the Crown must prove all the essential elements of an offence beyond a reasonable doubt.

Honourable senators, I'm sure you understand that despite my obvious disappointment with the Supreme Court decision, which I believe poses a risk to the safety of women living in a context of domestic violence, I will not go over the reasons that led the Supreme Court to strike down section 33.1 of the Criminal Code. Nevertheless, I would like to underscore the strong public disapproval of this decision and its impact on victims of crime, despite whatever relevant aspects it might include.

We know that women are the most likely to be affected by this decision, since they are the primary victims of homicide and sexual assault in the context of domestic violence.

Let's look at the case the Supreme Court ruled on. A young man, who had consumed a large quantity of drugs, broke into a woman's home and beat her severely, leaving her with permanent injuries. The man has since been acquitted of the crime he committed against an innocent woman. In response to the decision, the victim stated the following:

> It's important to remember that [this decision] has negative consequences for the victims of aggravated assault in this country, some of whom have lost their lives as a result of these attacks.

• (1750)

With this ruling, a sex offender could use self-induced intoxication as a defence for sexually assaulting a woman after getting high or drunk as a result of his own actions. Similarly, an abusive husband could be found not criminally responsible or even be acquitted of killing his wife after becoming intoxicated.

I would remind you that in a large proportion of crimes involving family or domestic violence, the component of intoxication is almost always present. The statistics are troubling. Quebec makes up 22% of the population of Canada, but in 2018, it accounted for 45% of the cases in Canada where the perpetrator was found not criminally responsible. I fear that the Supreme Court ruling will just open up a new loophole with respect to the possibility of using the verdict of not criminally responsible to acquit abusive men.

I want to point out that this ruling sends a bad message to women and victims of crime, and it undermines Canadians' trust in our justice system.

That being said, the Minister of Justice decided to provide a legislative response through Bill C-28. Although I commend his desire to react swiftly to a ruling that is unjust to victims, I would like to note that swiftness is not a sign of effectiveness in justice, especially when we are talking about a bill that amends the Criminal Code in response to a recent Supreme Court ruling.

It will have taken us only one week to pass Bill C-28, and we will not have had the time to do our job, which is to study it thoroughly and ensure, as is our duty, that this bill fixes all the problems identified by the Supreme Court that I mentioned earlier.

Our objective is not to pass an imperfect bill that will be challenged in court and struck down by the Supreme Court, but rather to pass legislation that respects the Charter and protects victims of crime.

Yesterday, Hugues Parent, a law professor at the University of Montreal, wrote in *La Presse* that if this bill is passed in its current form, it is highly likely that section 31 will be easily circumvented. My colleague, Senator Carignan, asked Senator Gold questions about this. According to Mr. Parent's analysis, Bill C-28 is based on extreme intoxication akin to automatism, which occurs only in very rare cases. He suggests that defence lawyers will not have much trouble circumventing section 33.1 when defending an accused who was in a state of psychosis, a behaviour that is much more common after excessive consumption of drugs, which he refers to as insanity, not automatism.

The Legal and Constitutional Affairs Committee, which could make any necessary changes, will not have the opportunity to properly examine this major and worrisome flaw in the bill. That poses an additional threat to women's safety.

The National Association of Women and the Law, Women's Shelters Canada and Luke's Place Support and Resource Centre for Women and Children indicated in a letter to senators that the government's lack of consultation on this bill was worrisome. They also indicated that they were consulted only a few days before the bill was introduced, that the government didn't follow up on the alternative measures they proposed, and that those measures weren't included in Bill C-28. I repeat: Their proposals were not considered, even though their clients are the ones who are most affected by this bill. If I were a woman today, I would be outraged and concerned that this bill doesn't take the concerns of these organizations into account.

Honourable senators, I would like to quote an excerpt from that letter that really spoke to me. It reads, and I quote:

> The defence of extreme intoxication is one that is almost always advanced by men perpetrating violence against women.

They use the word "always."

> Further, men responsible for violence against women are usually intoxicated.

That is what I was saying earlier in my speech.

> Even if it is a high evidentiary bar for a successful defence of extreme intoxication, the real-life impacts of the availability of the defence on charging and prosecution decisions cannot be underestimated. Parliament should act quickly to ensure that accused men who voluntarily become extremely intoxicated before committing gendered violence are held accountable.

This excerpt is simply a continuation of what the Supreme Court of Canada said when rendering its decision. Indeed, by striking down section 33.1, the highest court in the land has suggested to Parliament an opportunity to make legislation that protects women and victims. I would like to quote from that ruling, as follows:

> Protecting the victims of violent crime — particularly in light of the equality and dignity interests of women and children who are vulnerable to intoxicated sexual and domestic violence — is a pressing and substantial social purpose.

I didn't see any urgent measures in Bill C-28 other than rewriting section 33.1. There is no mention of victims or women. The Supreme Court said that there was a pressing and substantial social purpose, but that purpose is not addressed in Bill C-28, since this legislative response doesn't provide any concrete measures to protect victims of violent crime, the majority of whom are women. The proposed measures are simply an attempt to quickly close the loophole created by the Supreme Court of Canada's decision without regard for the underlying problem of violence against women in Canada.

I think the minister would have been wise to temporarily use section 33 of the Canadian Charter of Rights and Freedoms, known as the notwithstanding clause, in order to introduce a bill in the fall that delivers on what victims groups are asking for and to announce legislation to better protect victims of domestic violence. I would have liked to hear the minister tell us that this bill is a first step and reassure women, the primary victims of domestic violence, that he would bring forward fundamental measures in the fall to ensure that they are protected in the Criminal Code. The minister left this aspect out entirely.

I remind senators that 173 women were killed in 2021 and 160 were killed in 2020, for a total of 333 women, which is 30% higher than three years ago. That is more than 30% higher, which means we can expect this figure to rise in the coming years.

I'm sure you can understand how uncomfortable it makes me feel, as an advocate for victims of crime and for women who are victims of violence, that this bill does not tackle this scourge directly. Why didn't the minister seize this opportunity to put forward concrete measures, as Quebec did by introducing electronic bracelets for criminals about to leave prison? Quebec created specialized courts for cases involving domestic and sexual violence. Why didn't the minister announce similar measures right away? What's the government waiting for to take action?

I have been talking to you about violence against women for five years now. Don't tell me the minister wasn't aware of the situation. The other place even passed Bill C-233 in June. Introduced by Liberal MP Anju Dhillon, C-233 will authorize the use of electronic monitoring devices across Canada. Why didn't the minister add the legislative measures proposed by Ms. Dhillon to his bill? Both measures could have been adopted at the same time. If the measures in Bill C-233 had been included in Bill C-28, I think the majority of victims' and women's groups would have applauded that. What we are in the process of doing now is making women even more worried about the future.

• (1800)

Although I acknowledge the federal government's willingness to act in this case, I think this bill is flawed and, more importantly, it doesn't go far enough and fails to reach its target of better protecting women in Canada.

Despite my criticisms, I intend to support the passage of this bill for lack of an alternative. However, I will continue to fight so that we can improve this situation next fall and so that women can get the protection they deserve. Thank you.

Hon. Senators: Hear, hear!

The Hon. the Speaker pro tempore: Honourable senators, it is now six o'clock. Pursuant to rule 3-3(1), I'm required to leave the chair and suspend until eight o'clock unless it's agreed that we not suspend. If you wish the sitting to be suspended, please say "suspend."

Some Hon. Senators: Suspend.

(The sitting of the Senate was suspended.)

[*English*]

(The sitting of the Senate was resumed.)

• (2000)

BUSINESS OF THE SENATE

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate): Honourable senators, I understand that there has been an agreement that, rather than cutting debate off at 9 p.m. it should be extended until 9:30 p.m., in order to accommodate senators wishing to speak. I would therefore ask for leave that the terms of the order adopted earlier today be applied as if the time specified in point 5 were 9:30 p.m.

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

Hon. Senators: Agreed.

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Gold, P.C., seconded by the Honourable Senator LaBoucane-Benson, for the second reading of Bill C-28, An Act to amend the Criminal Code (self-induced extreme intoxication).

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, it is so good to see that, depending on whether it suits our purposes or not, our principles about leave as well as other things can change as they need to. We certainly appreciate that.

Not to put a damper on anything, but I have about a 75-minute speech here, so that puts us to what time? Sorry, colleagues, the rest of you may not be able to speak. You may as well go home, and Senator Gold and I will take care of the rest of the business.

I was reminded by my lovely wife today that I made a mistake earlier when I said that I had voted with Senator Gold. She said that I was supposed to remind him that, in fact, Senator Gold had voted with the opposition in the last vote, and not the opposition voting with him. I want that corrected for the record, please. Senator Gold, we appreciate that you voted with us.

Honourable senators, I rise to speak to Bill C-28, An Act to amend the Criminal Code (self-induced extreme intoxication). I have already said that I will support this bill. I am going to spend at least 10 minutes telling you why I shouldn't. Then I will turn myself into a pretzel, like those who give leave one day and then don't the next, and vote for something that I will be telling you for 10 minutes that we shouldn't ever support.

This bill purportedly responds to the ruling of the Supreme Court of Canada in *Brown* and *Sullivan* last month, which found that section 33.1 of the Criminal Code was unconstitutional. The ruling by the Supreme Court came down on May 13, 2022. We heard nothing from the government on this matter for five weeks. I think the Prime Minister was on an airplane.

Suddenly, the bill was tabled just before the end of the session on June 17. No debate was scheduled on the bill for four full days, colleagues.

Then we were told that the bill we have before us, Bill C-28, must not only be adopted in extreme haste, but must essentially be adopted with no substantive legislative review at all. This, of course, is what our friend and colleague Senator Patterson was concerned about earlier today.

Honourable senators, for five weeks we heard absolutely nothing and then suddenly, as is customary with this government, panic set in. The government claims that in the five weeks from the court decision to last week, it was busily consulting on this bill. It claims that since the court rendered its decision it has consulted with about 30 groups. That is quite a large number.

Minister Lametti claimed, during our brief meeting in Committee of the Whole with him this week, that these groups almost unanimously approve of the government's response to this bill. This is surprising, colleagues, on several levels.

First, it is surprising that the government was able to consult in a fulsome way with 30 groups in just one month, but that is what they say they did.

On other bills, this appears to have been completely beyond the government's capacity. Just this past Monday, the Senate passed Bill S-7, which was also a government response to a court ruling from October 2020. Bill S-7 was introduced in response to a decision by the Court of Appeal of Alberta that struck down a section in the Customs Act. On that matter, the government was given 18 months by the court to introduce legislation in response to its ruling. Yet not only was that deadline missed but, as senators found out when the bill was studied at committee, the government had actually consulted with absolutely no one prior to introducing the bill. That was an extremely complex bill involving extremely complex legal issues.

Now we have this bill, which also deals with an extremely complex legal issue. Yet, if we are to take the minister's word for it, in just one month the government was able to fulsomely consult with groups that unanimously approved the government's course of action.

Honourable senators, I have to say that this stretches the imagination. I believe there is another explanation as to why the government took so long to introduce this legislation. It is quite simply due to the fact that its priorities are elsewhere. This is not a government that pays a great deal of attention to policy details. It throws borrowed money at problems and does not pay much attention to how money is spent.

It makes you wonder, colleagues, how there could be those of us — or you — who voted an hour ago for a completely out-of-control budget. There are even those who call themselves conservatives who voted for it. I find it extremely strange that we have conservatives who voted for that — conservatives who ran on a platform of being a conservative. Yet here they are.

I am not sure how many of you listen to Simon & Garfunkel. I am of that age. As Simon & Garfunkel sang, "Heaven holds a place for those who pray." So, conservative colleagues, there is hope for you if you repent. A few years ago, Chuck Cadman promised to keep the Paul Martin government alive. After he voted he said that he then had to go and ask God for forgiveness. God forgave him, and he will forgive you.

And this government does a lot of signalling and proclaiming colleagues. I am sure that in relation to this decision by the Supreme Court, someone saw a potential political opportunity. It was an opportunity to look decisive. I do not intend to speak very much about the substance of the bill, as you may have already realized. That is better left to others. Senator Patterson has a lot more to say about that. But I do note that many senators in this chamber have, in only a short time, raised some very significant issues.

• (2010)

Senator Carignan referenced a learned professor at the University of Montreal, one who specializes in criminal defence who argues certain dimensions of extreme intoxication may not be covered by this bill at all. On Tuesday, Senator Cotter said:

> . . . what I worry about here is that the proposal, as heartfelt as it is, will miss the mark and almost nobody will be able to be convicted under this provision.

Senator Cotter and I did not start off on the best of terms, but I certainly have come to respect the tremendous knowledge that he has and the expertise that he brings to the Legal Committee, and I respect that quote.

Senator Pate quoted Sean Fagan, counsel for the defence in the case in question, when she said, ". . . the law would be entirely ineffective due to the burden placed on prosecutors." I recognize informed concern and skepticism when I see it, and it is informed concern and, I'm sure, some skepticism, Senator Pate. This is why I'm so concerned about the way in which the government is attempting to frogmarch this bill through both the House and the Senate, and even that it is doing so badly.

On Tuesday, the government's vaunted hybrid system crashed. We all know that. We shut down here because we could no longer operate. Fortunately, our Leader of the Government has not to this point suggested that we continue with this horrible system of hybrid since. I have the fullest confidence in him that he will not come forward with that. I want it in Hansard that I trust Senator Gold that he will not bring this forward.

But the government's House leader, Mark Holland, wants and was just given another year of this system that has already failed us so many times. Why? Because he says there might be another pandemic coming, honourable senators. There just might be. Dr. Ravalia, have you heard of a pandemic that is coming?

Senator Ravalia: No.

Senator Plett: Thank you. There is the science. There is no pandemic coming. And yet, Mark Holland says we need to have another hybrid year so that we can all stay home and do whatever we do from home. If we are honest, this new approach where people have to be in Parliament less and less is the government's more important priority nowadays. That, honourable senators, is sad. Hybrid is obviously popular with both Liberal and NDP caucuses — but none of us here are in the Liberal or NDP caucuses, are we? I do not think so. We are all independents. We voted independent. Oh, no, we all voted in favour. Well, we did not all vote, but a lot of us voted in favour of an NDP-Liberal budget just a few minutes ago.

Nevertheless, it is popular for the same reason that it is popular with many in this chamber. One can sit at home, look into the camera for a few hours, read a couple of questions and pretend that one is a great servant of the public. It is clear who wins from hybrid sessions: parliamentarians. Parliamentarians who, quite frankly, do not want to show up for work.

I said today that when a person says, "with all due respect," they are probably going to say something disrespectful. Senator Moncion remembers when I said it. And I do want to respect every senator here. I really do. And I do respect every senator here, but I do not believe that this is the way to conduct parliamentary business.

It is clear who wins from hybrid sessions, but Canadians, who are counting on us to undertake serious reviews of government legislation, lose. That is what we are seeing in relation to this very bill, Bill C-28. Even for this government, the process of Bill C-28 sinks to a new low. What the process around Bill C-28 illustrates is that of a government in chaos. In the face of multiple challenges that now confront our country, both domestically and internationally, we have a government consistently focusing on the wrong priorities.

Not only are its priorities wrong, it executes them badly. Look at Bill C-11. It turned into a complete fiasco in the House of Commons, and that happened for a second time, with the government having learned absolutely nothing from the fiasco that surrounded the previous Bill C-10. Consider Bill S-7, which we passed in this chamber earlier this week but only after it had to be virtually rewritten by the Standing Senate Committee on National Security and Defence. Then, we have the pending fiasco on Bill C-21, which is nothing more than a gratuitous attack on lawful sport shooters, even as gun crime in our cities continues to rise. Then we see what the Prime Minister and Minister Blair did with the Commissioner of the RCMP just to promote that legislation.

Honourable senators, the list goes on and on. In all of this mismanagement, it is Canadians who end up losing. Canadians, honourable senators, deserve so much better. We owe Canadians so much more. I only hope and trust that very soon they will have a competent government, and I will not blow our horn any more — I did that before dinner — but I truly hope that we will have a competent government that finally and actually puts Canadians first.

Honourable senators, that has not been done by this government. It does not matter how you put it. It does not matter what caucus you are from in this chamber. We have a government that has put themselves first, not Canadians. We need to turn that around. We need to approve Bill C-28 today. Why? Not because of this government, not because of their competence, not even because this is a good bill; but as has been said by others, it is a bill that is a step in the right direction. It is a bill that protects women, girls and children from heinous crimes that we have talked about over and over again.

That, honourable senators, is why at the end of tonight, whether we like it, whether we support this government — and I do not think that there is any illusion that I do — but this is a bill that I truly, honestly believe in my heart of hearts deserves unanimous consent. I hope you will support that tonight. Thank you.

The Hon. the Speaker: Senator Plett, would you take a question?

Senator Plett: Absolutely.

Hon. Mary Jane McCallum: Senator Plett, you made remarks like, "No one will be convicted," "entirely ineffective," and "sinks to a new low."

• (2020)

I am very concerned about this bill and have a right to feel very concerned. Do you feel there will continue to be violence against women once the bill is passed? My specific concern is violence against Indigenous women, considering there has been no progress toward resolving the issues connected to the missing and murdered Indigenous women and girls.

What I want to ask all of the Senate tonight is: Don't we matter as women? It boggles my mind that the patriarchy is deciding this issue, but it is violence against women we are looking at. I am so very concerned about it. Thank you.

Senator Plett: Senator McCallum, thank you very much for your question and thank you for your concern.

Senator McCallum, you know that I have the utmost respect and regard for you as a senator, for you as an Indigenous leader and for you as an advocate for Indigenous women and girls.

Do I believe that this will stop violence against women and children? Without question, I do not believe it will stop that. Do I believe that it is one measure toward stopping it? Yes, I do. Do I believe that targeting sport shooters and hunters will prevent murder? No, I don't.

I am really trying to make sure that I get at the heart of your question. Do I have a concern for Indigenous women and children, and for the violence perpetrated against them?

Let me just simply, Senator McCallum, say this: I have a concern for every woman, every child that experiences some of the violence and the horrific things that have been perpetrated upon them, as we talked today about Senator Boisvenu and his daughter. It is regardless of whether they are Indigenous, Aboriginal, White, Black — I'm sorry, I do not differentiate between any races, between any ethnicities. Violence against women and children is horrific no matter what colour you are.

[*Translation*]

Hon. Raymonde Saint-Germain: Honourable senators, I rise today to share with you my observations about Bill C-28, An Act to amend the Criminal Code (self-induced extreme intoxication).

The context in which we must examine this bill forces me to grapple with two very different sentiments that I find difficult to reconcile. On the one hand, I am very frustrated at having so little time to analyze this bill. On the other hand, I am aware that maintaining the status quo has serious repercussions for victims, given the Supreme Court decision of May 13. I realize that action must be taken now, and I believe that Bill C-28 is an adequate response to this urgent need, although, in an ideal world, the bill would have benefited from more in-depth study.

Colleagues, we must assess the ramifications of not acting now to fill this legal void, as was suggested by the Supreme Court. I would like to quote from *R. v. Brown*, which reads:

> While s. 33.1 [of the Criminal Code] is unconstitutional, there may well have been other paths for Parliament to achieve its legitimate aims connected to combatting extreme intoxicated violence. . . . And it was not impermissible for Parliament to enact legislation seeking to hold an extremely intoxicated person accountable for a violent crime when they chose to create the risk of harm by ingesting intoxicants.

I want to emphasize ". . . when they chose to create the risk of harm . . . . "

[*English*]

Now let me address why Bill C-28 is the correct response and will, indeed, close the gap in the law created by the Supreme Court decision *R. v. Brown*. As a reminder, in its decision, the court struck down section 33.1 of the Criminal Code. In doing so, it ruled that preventing the use of extreme intoxication as a defence for violent crimes was unconstitutional and in violation of sections 7 and 11(d) of the Charter.

As a response, the government chose to re-enact and amend section 33.1. This amendment proposed in Bill C-28 would ensure — as I believe is the right thing to do — that someone who voluntarily consumes intoxicants such as illegal drugs, alcohol or prescription drugs, and does so in a criminally negligent manner and, as a result of an extreme state of intoxication, violently attacks others, this person could be held criminally responsible for those violent acts.

This change is similar in spirit to the previous version of section 33.1, but with an emphasis on the concept of negligence. This is very important: an emphasis on the concept of negligence.

As Minister Lametti pointed out to us here in this chamber on Tuesday:

> . . . individuals would not be held criminally liable where the risk of violent loss of control was not foreseeable, or, where it was foreseen, where reasonable efforts were made to avoid that kind of harm.

This exemption is only valid in very rare cases. It will be up to the courts to determine the degree of negligence of an individual. In this context, criminal negligence is defined as not taking sufficient care to avoid a reasonably foreseeable risk of losing control and acting violently.

In my opinion, this is a good solution to the issue the Supreme Court decision has asked us to fix. The changes proposed by Bill C-28 are essential for public safety, particularly for the most vulnerable people in our society and, indeed, for everyone, because nobody is immune to falling victim to a violent assault. I would also add that it is needed for confidence in our justice system.

As presented to us today, the bill has the support of a majority of the stakeholders consulted before its conception, including groups for the defence and promotion of women like the

Women's Legal Education & Action Fund, or LEAF. In a statement published on June 17, Pam Hrick, Executive Director and General Counsel of LEAF, stated that Bill C-28 was, ". . . a thoughtful, nuanced and constitutional response" to the Supreme Court decision.

I think that I have made it clear that I support the adoption of this bill, and my support is consistent with my speech. I recognize the duty the government had to act quickly in order to close the gap in our law.

However, going back to the frustration I expressed earlier, I believe we need to find a balance between the necessity to adopt this time-sensitive government legislation now and the relevance of addressing the concerns raised by numerous senators during the Committee of the Whole and in their overall study of this bill ever since it was presented to us.

• (2030)

That is the balance that we need to find now between the necessity to adopt this time-sensitive legislation and then a further study of the relevance of the concerns raised by numerous senators and other stakeholders during the Committee of the Whole and in the media.

Colleagues, those concerns are valid. Even without the situation we find ourselves in, the Legal and Constitutional Affairs Committee should initiate a study. It is a question of public interest and general interest, and I have the utmost confidence in the strong legal minds who sit on that committee.

As such, it is essential for the Standing Senate Committee on Legal and Constitutional Affairs to be empowered to examine and report back on some strategic aspects of this bill, as we have done with the adoption of Motion No. 53.

We realize the distinction between the urgency of adopting this bill and the broader scope of this issue linked to intoxication. That is why the leaders of all the caucuses and groups, including me as facilitator, have made sure to put forward a non-prescriptive motion that leaves a wide margin for action by the committee.

Now, after a careful study by both the Senate and the other place, the government will be requested to provide a complete and detailed response within 120 calendar days. Acting in such a manner is the right decision to make. It is the only means that immediately addressed the legal issue that Bill C-28 aims to fill while also giving the opportunity for the Senate to study and report on the broader issue of self-induced intoxication, including self-induced extreme intoxication in the context of criminal law.

We must also think that Bill C-28 could be used as a stopgap for this period between the adoption of the bill and a review from Parliament. That trial period could be useful in identifying the practical problems that could come up with the bill in its current form while not letting down the people most susceptible to violent assaults.

[*Translation*]

In closing, I think it would be irresponsible of us not to pass this bill today. We have a duty to act and to act now, in this case. That way we can ensure that the legislation properly protects our fellow citizens while closing a loophole for individuals who have committed violent crimes while intoxicated because of their own negligence. Thank you. *Meegwetch*.

[*English*]

The Hon. the Speaker: Senator Saint-Germain, will you accept a question?

Senator Saint-Germain: Yes.

Senator McCallum: What are the consequences of not acting? I can't wrap my head around the conversation that we're having here. It seems to me that women are still being put at risk, and they're still the ones who are going to bear the burden. What are the consequences?

Senator Saint-Germain: Thank you for the question, Senator McCallum. It is a key question, and I share your concern.

We all have to be very conscious that we need to act on many fronts. We need to take many actions for preventing violence against women, against racialized people and also against LGBT communities.

The consequence of not acting is that we will perpetuate this loophole in the law, given the Supreme Court decision, and then we will allow for perpetrators — those who would be in a position to commit violence or who have committed violence while they were under the influence of a substance — to still not be tried in a way that they would be considered responsible for the fact that they assaulted people when they were under the influence of a substance and they had voluntarily made the decision to use the substance.

So not acting will be protecting perpetrators rather than protecting their victims. That is why it is so important to fill this gap.

Once again, I stand by you, Senator McCallum, that we need to do more in order to prevent more violence against women, and against targeted and vulnerable people. Also, we need to act on the social front and to have more support after those violent acts have been perpetrated for the victims so they can heal in the best possible way.

Thank you again for your question.

Hon. Dennis Glen Patterson: Would you take a question, Senator Saint-Germain?

Senator Saint-Germain: Yes, senator.

Senator Patterson: Thank you for your speech.

As you know, one of the strong criticisms of the bill from the legal community — noted scholars I won't name and women's groups — is that there's too high a burden on the Crown in this draft of the bill, and that we all believe there should be a fix, but the fix is seriously flawed.

I'm just wondering if you're concerned that while we wait for the committee to meet and hear the witnesses we know weren't heard or weren't heard properly, then the 120 days — that because of this stiff evidentiary burden on the Crown, persons will get away with crimes of rape or murder through what is an easy burden for the defence and a difficult burden for the Crown.

Senator Saint-Germain: Thank you for the question.

First, I want to reframe your assertion that a majority of legal advisers and groups would be very concerned about the inability of the Crown prosecutor to act in a way that would be efficient, and that there is too much burden on their shoulders. I disagree with that, and I could certainly turn to, including in this chamber, legal people who will see or tell you the opposite.

But my main concern is that if we are not responsible in acting now in order to fix this gap in the law, the perpetrators will not be convicted. That is a very serious issue with a very serious impact. So my view is that the best way to protect the victims in the short term is to act now and to vote for this bill.

Furthermore, the Legal and Constitutional Affairs Committee's mandate is not only with regard to this bill; it is with regard to the broader question of the criminal justice system — intoxication, the extreme intoxication and what could be done. What could be done is not only in the judicial field, the courts and the law; it's the whole system of consistent and complementary measures that would provide for the victims to be better protected and for there to be more prevention. Unfortunately, further to their victimization, there would need to be more healing and services — notably, social, psychological and medical services — available and timely to help them heal.

That is my view.

Once again, for now, what we have to discuss is this bill. Will it fix an issue that is timely? My answer is yes.

• (2040)

Senator Patterson: Would you take another brief question?

Senator Saint-Germain: Yes, senator.

Senator Patterson: Senator, I think you were saying we have to pass the bill or there will be a vacuum in the law. Would you say that what you're advising the Senate is that although the bill may have flaws, which I believe may be corrected by the Legal and Constitutional Affairs Committee, it's still better than doing nothing?

Senator Saint-Germain: Exactly.

Senator Patterson: Thank you.

Hon. Scott Tannas: Honourable senators, I rise briefly to speak on Bill C-28. I did not speak during the motion debate earlier. I'm going to make a few comments about that, and then I'll move quickly to my thoughts on the bill.

The programming motion was agreed to by all leaders, as was said. To be clear, the programming motion arose out of very recent concerns that were being expressed by senators and by people outside of this chamber as to the bill. As a result, leaders agreed that it would be unwise, and perhaps unfair — certainly, from my point of view — to ask for leave to suspend our Rules. So we came up with the programming motion as an alternative. We participated in that process today, a process that allowed all senators to debate and decide on the path to deal with this bill — all senators.

The Senate went ahead, and we made our decision to use established tools within the Rules and without pressuring any dissidents to sit quietly and grant leave. I think that is what an independent Senate needs to look like today. I'm proud of the work that we did, even though it took time. I'm proud of the work that we did earlier today, and I want to thank everyone for their participation.

Now, on to the bill. Like many of us, I regret that we could not spend more time on the bill. I listened carefully to the speeches. I also followed our own research team and the information that they provided us, which was very clear. It is clear to me that this bill is urgent, that it is a serious matter and that it is not a political issue. We are not trying to rush somebody's policy through for partisan reasons. There is a real and serious issue here, and there's further evidence of that.

Honourable senators, the government moved in a little over a month from the decision of the Supreme Court to present this motion. That's light speed in government world, and it goes to the seriousness and the urgency with which the government takes this.

We all know that once the bill was tabled in the House of Commons a little less than a week ago, the plan for a speedy passage through a unanimous motion ran into some difficulty as they listened to voices of concern and objections that began to emerge. A compromise motion included not a pre-study but a post-study, a novel idea, that the House Standing Committee on Justice and Human Rights would undertake. We have just empowered our own Legal Committee to do something similar.

Honourable senators, I think the events, the decisions and the compromises have actually worked out in an interesting fashion. We have the opportunity to plug the hole now and go with what the government recommends in their considered research. This was not a wild idea. I dare say, hundreds of people have put their best minds toward what we have been recommended to pass. We can plug the hole right now, but we will also have the opportunity to make sure that we have the appropriate permanent solution in place, and that we have a process to follow up to ensure that what we find in the post-study is actually listened to, looked at and responded to.

It will be up to us to make sure that our follow-up is acted upon. That will take some will, some diligence and some follow-up on our behalf over a long period of time where, I'm sure, we

will be engaged with other things. However, I know there are people in the room here that will make sure that we follow up on it.

I support this with all my heart. I trust that the government has done their best and that they have presented us with what they believe is the best answer to this problem. I support them, but I think this is one of those moments where we take some advice from Ronald Reagan, who once said, "Trust, but verify." We trust the government, pass this bill and we will look to verify — and act if we need to do so — in the future.

Thank you, colleagues.

Senator Plett: I would like to ask the senator one quick question, if he will take it.

Senator Tannas: Absolutely.

Senator Plett: Thank you, Senator Tannas. First, this is in no way to take away from your speech. I agreed with it 100%. As I said earlier today, Senator Tannas, I think I gave you a fair bit of credit for suggesting a way forward because of your issues about giving leave — or your caucus's issues about giving leave — and how the Leader of the Government could move this forward.

I spent a bit of time this afternoon talking about and maybe paving the way for explanations that I have to make out there about what might be perceived as time allocation or a programming motion. So I guess I want to read something into the record and then ask you a question.

I just looked up what a programming motion, in fact, means. A programming motion can be used by the government to timetable a bill's progress through the House of Commons by setting out the time allowed for debate at each of its stages. The motion is usually put forward for agreement immediately after a government's bill has passed its second reading. Typically, it's the government that would put forward a programming motion which would have time allocation, and so on and so forth.

I guess, Senator Tannas, I'm only asking this for the record because I don't know that we need to debate what a programming motion is. I do not want to take anything away from Senator Gold. He has been very cooperative in trying to work this through. However, if the story is to be told correctly, this was actually a motion and an idea brought forward by the leader of the largest group in the Senate and the Leader of the Opposition in order to bring this to a close and to put some time constraints on it. The government agreed after the other four parties agreed.

• (2050)

I would simply like your affirmation that that, in fact, was the progress that was followed here.

Senator Tannas: Actually, I conveniently left that out of my speech because I was cutting it down for time, but you're right. The credit for the road map goes to Senator Saint-Germain and working with you.

This is what has to be done at the end of a period of time. We have to find ways to wrap things up; otherwise, we never will. We'll spin our wheels, and we won't accomplish what could be accomplished and we won't prioritize properly. I thought it was a masterful job. I supported it 100%.

In relation to the programming motion, I agree that we need to come up with a different word. But the fact is that the motion we put forward had two components. One was that it was unfair, and it was unadvisable to ask a growing number of senators who were uncomfortable with sitting quietly and granting leave. It made more sense to put the decision in the hands of every senator collectively, not individually, to determine whether this was a suitable way forward, and we've done that.

So a programming motion was not what we did. We did a motion to ratify, importantly, a decision of the leaders that needed the input of all senators in order to have permission to move forward. Thank you.

[*Translation*]

Hon. Pierre-Hugues Boisvenu: Would Senator Tannas take a question?

[*English*]

Senator Tannas: Yes, I would. This would be the last one, because I know we want to move forward.

[*Translation*]

Senator Boisvenu: Senator Tannas, you said in your speech that you support this bill based on the research apparently conducted by a number of experts. Can you tell us why the minister wasn't able to tell us what other jurisdictions were consulted before this bill was introduced?

[*English*]

Senator Tannas: I was not talking about consultations. I was talking about the Department of Justice and their ability to assess the situation and recommend a remedy.

I'm not at all sure, and that's why I think it's important that we have the committee post-study. I'm not at all sure that the consultation process was complete or that this is 100% the answer. But I am not convinced that it is not the answer sufficiently that I would want to say we should reject this bill and send it back to the drawing board for weeks or months. I think we should do the "and." It doesn't have to be "this" or "that." It's "and." Take this, plug the hole, decide whether this is the right remedy for the long term, permanent, and we will do that in a proper amount of time, listening to all the voices, including experts and people who, for other reasons, want to have a say. That's the path we have, and I'm satisfied with it.

An Hon. Senator: Hear, hear.

Hon. Brent Cotter: Honourable senators, the remarks this evening and throughout the day on this topic have been outstanding. Senator Gold gave one of his finest speeches, and it will be remembered here. I agree with much of it. His recitation of the history of these issues was outstanding.

This is a narrow but important issue, and a hole in the law that the Supreme Court of Canada itself acknowledges.

Let me begin by speaking about this personally. Much of my career has been skipping from issue to issue off of the tops of the waves rather than digging deeply into issues, with some exceptions, and this is one.

As a young lawyer doing legal aid work, I defended a young man with intellectual impairments who was charged with rape, as it was then called. He was extremely intoxicated, so much so that, many hours after his arrest, he blew 0.21 on the Breathalyzer — nearly three times the legal limit for driving a car. The defence was that he was too intoxicated to form the intent to commit the crime of sexual assault.

I did my best. The case went to the Saskatchewan Court of Appeal. The legal issues were complex, or at least they were at that time, and the Court of Appeal took a year to make a decision. They upheld the young man's conviction — rightly, in my opinion.

This got me thinking about two things. First was the role of lawyers in defending people in these situations — a topic for another day. Second was the problematic nature of the law if people who put themselves in such a state can be absolved for what they did when they were very intoxicated.

Unlike other areas of the law, I have followed the evolution of the law in this area of extreme intoxication more closely than others. I found that Senator Gold's recounting of that law brought me back to those cases and memories of that evolution.

It brings me, in some ways, to this place and this issue today. I have a tangent that I would share, but I feel Senator Plett stole the quota of tangents for the evening, and I'm going to let this one go and start my remarks at another point.

I have immense respect for Minister Lametti. In my view, he's doing an excellent job in a very challenging portfolio, and I greatly admire the work of his Department of Justice team. In that sense, I'm in accord with the remarks of Senator Tannas.

On Bill C-28, I think they worked diligently on short notice, under significant public and political pressure, and they did the best they could. Let me be fair to the minister and his team: They may be working on a problem that is virtually intractable. Let me try to explain.

What we love or value in general terms, we often hate in its specifics. Here is what I mean: First, we have a foundational principle in our criminal law of hundreds of years' standing, reinforced by our Charter of Rights that, with rare exceptions, we only punish people for offences when they have a guilty mind or, as Senator Dalphond said in his more erudite manner, *mens rea*. In simpler terms, we only use the criminal law to punish people for doing a bad thing if we conclude that they intended to do the bad thing, and nearly all of us are fine with this. Senator Gold presented this in a more elegant way.

Second, in an instance like the cases that bring us here, courts have found that the person who did the bad thing had no ability to intend to do the bad thing. Hence their acquittal, and hence our problem.

Let me add a bit to this. In *Brown*, *Sullivan* and *Chan*, all nine judges of the Supreme Court of Canada came to the same conclusion. It's not some aberrant flight of fancy. In fact, in my view, Justice Kasirer's decision, writing for the whole of the Supreme Court, is principled, honourable and heartfelt. He understood the significance of what he and his colleagues were deciding, and in an extraordinary effort — unusual in court decisions — offered ideas for ways forward for Parliament to fill the gap that they knew they were creating in the criminal law.

• (2100)

This is a classic example of what Professor Peter Hogg, perhaps Canada's greatest constitutional lawyer — even, if I may say so, greater than the Leader of the Government in the Senate, perhaps a subject of debate on another day, I'm sure — referred to as a dialogue between the courts and the legislatures in relation to the Charter of Rights — in this case, Justice Kasirer's dialogue; it is now our turn.

The question is: Is Bill C-28 the right parliamentary response in this dialogue? Many of us have spoken and will speak to the perceived or anticipated shortcomings of Bill C-28 as a response to what I will call self-induced criminally negligent extreme intoxification leading to harm to victims. In discussion with Minister Lametti, as Senator Plett noted, I raised one of these points myself regarding the ability to effectively prosecute the offence.

To be fair, the dilemma is difficult. We are reluctant — as Senator Gold noted — to create an offence that is limited to merely criminalizing negligent intoxification. Some have suggested, including the Supreme Court, that this provides a discount for intoxification. On the other hand, a bill like Bill C-28 honourably seeks to link the criminal negligence to the risk of harm and essentially the harm itself so that the perpetrator, if convicted, will be punished in line with the severity of the harm caused, not just the intoxication.

Here is my concern: By pursuing the very goal it seeks to achieve, Bill C-28 poses the risk that the necessary evidentiary connection, not constitutional, to that bigger offence and punishment — the linkage to that bigger guilty mind, the intention not just to become extremely intoxicated, but even objectively to risk harm — will be potentially unachievable.

Let me say a little bit more on that. Senator Gold described, rightly, that this will be an objective standard. I have no idea what the statistics are about magic mushrooms, but I want to tell you that it is almost unimaginable to me that lots of people having ingested a lot of magic mushrooms rush out and harm other people. My guess is that on all kinds of these substances the

statistics are shockingly low that people take them and then engage in violence. If that is true, it powerfully undermines the argument that convictions will be achieved.

Senator Gold and I had an informal discussion about Bill C-28 yesterday. It was a rich discussion. I will not say more about the content. It was enriching for me, at least, and it made me somewhat more hopeful — but I think that I would only say "somewhat" — that the bill will be able to be effective. It brought to mind a metaphor that I shared with Senator Gold. I wasn't going to share it today, but I quite frankly can't resist. I believe Senator Plett left one more metaphor on the table, and I would like to use mine now.

A Nova Scotian friend told me this story about two fellows riding in a rowboat. They are going down the river. Suddenly they realize, holy cow, they are about to go over a waterfall. One of them, the leader in the boat, says to the other, "Throw out the anchor." The second guy says, "I would, but the anchor is not attached to the boat." The first guy says, "Throw it out anyway, it might do some good."

I am a little bit worried that this piece of legislation, as heartfelt as it is — and I prefaced that in my remarks to Minister Lametti — may not be effective.

Where do I ultimately stand on the bill?

First, I'm satisfied that it is constitutional. I have had advice on that from others. I am completely in agreement with Senator Gold. The bill will not be struck down. It touches all the bases the Supreme Court asks it to touch, and indeed the Supreme Court invites this as one option for consideration.

Second, I would have preferred more reflection to see whether other formulations are preferable. At the same time, I am aware of the urgency of the issue. Additionally, the willingness of all elected parliamentarians to embrace the option deserves meaningful consideration. I'm appreciative that plans are in place to enable senators to study the whole terrain of extreme intoxification in criminal law, including this section of the code. On balance, with some reluctance, I will support the bill and watch attentively its effectiveness. Thank you.

Senator Plett: If I could indulge the chamber for just one second, we have, I think, five speakers left. I know we have 25 minutes. I would like to, with leave, simply ask this chamber that we not allow any questions but we allow all five of these speakers to speak and have their 10 minutes. It takes us where it takes us. I think it would be wrong for us to drop the last two speakers for the sake of 20 minutes.

The Hon. the Speaker pro tempore: Honourable senators, is leave granted?

Some Hon. Senators: Agreed.

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to speak to Bill C-28, An Act to amend the Criminal Code (self-induced extreme intoxication).

Senators, I have to say to you that I am very concerned with the process we have followed on Bill C-28. This is such an important issue in criminal law. But I also understand that because of the big gap that we currently have in the criminal law as a result of the recent Supreme Court decisions in *R. v. Brown* and *R. v. Sullivan*, I understand we have to act quickly and I accept that.

Senator Gold, I have one request of you: If the Legal and Constitutional Affairs Committee will study Bill C-28 — which I have no doubt we will — and provide recommendations to the Senate and Minister of Justice, the Minister of Justice will take our recommendations seriously and respond to us in the time we have set aside. Hopefully, if there are any recommendations, we will implement them.

Honourable senators, I had a much longer speech prepared, but out of respect for my colleagues and everyone who was able to speak, I will raise a few issues that I seriously think need to be looked at. Perhaps the committee will not agree with me.

I asked the minister, as well; we do not know what negligence looks like for extreme intoxication. Senators Cotter, Simons and I asked this question of Minister Lametti when he was here. I must admit that I did not find his answer satisfactory.

For example, what do we do with young adults and teenagers who might not know their tolerance? Would we exonerate all of them under the defence of extreme intoxication because they could not be negligent? Must the accused know their own limits to be negligent?

Second, we do not know whether the burden to prove negligence for extreme intoxication is appropriate.

If Bill C-28 passes, the Crown will need to prove beyond reasonable doubt that there was negligence on the part of the defendant. However, as Senator Boisvenu pointed out, it most likely will lead to a battle between expert witnesses. How will a jury or even a judge answer these incredibly hard questions?

Third, we do not know if we should or should not add a presumption in Bill C-28 that alcohol alone cannot cause extreme intoxication. As such, we are applying a defence which has now lost its context.

Senators, there are many questions that the committee will look at, I'm sure, but what will it take before the courts to prove negligence in reaching a state of extreme self-induced intoxication? How will the prosecutor be able to prove beyond a reasonable doubt that the accused was negligent in not objectively foreseeing that his consumption would lead to extreme intoxication and to harm? Especially for young adults who do not know their limits, how will negligence be applied?

Senators, I have heard so much this evening and throughout the debate that we must fill the gap. Women's groups want this. First of all, I respectfully say to you that women's groups are not a homogenous group. Some women's groups want it. It is not a homogenous group.

• (2110)

Secondly, as a young lawyer, I tried to convince my client that if the judge found the accused liable, she would be protected. Four years later, he returned home and killed her. So to just say that we are protecting the vulnerable and women is not enough. By acting so fast, we will build a false idea within vulnerable groups that there is protection.

There is never protection if the resources are not there to protect the women. Thank you, honourable senators.

Hon. Paula Simons: Honourable senators, I rise today to speak to Bill C-28, An Act to amend the Criminal Code (self-induced extreme intoxication). I want to remind us what we're actually talking about here.

On a January night in 2018, Matthew Brown, a student at Mount Royal University in Calgary and the captain of the Mount Royal hockey team, went to a party. He had quite a bit to drink and then took some magic mushrooms.

That mixture put Mr. Brown into what the trial judge later described as "substance intoxication delirium," a condition that was so extreme as to be "akin to automatism." While capable of physical movement, Mr. Brown had no willed control over his actions.

He stripped off all his clothes on a cold Calgary January night and ran barefoot into the snow while friends chased after him. Fifteen minutes later he broke into the home of a professor at Mount Royal University, but Brown did not know her. This was a random attack, not an attack with a motive. He beat the professor with a broomstick, breaking her hand. Then he continued running, smashing his way into a second home a kilometre away an hour later. The couple who lived there called police, and police found him there delirious on the bathroom floor.

Mr. Brown had no criminal record, no history of mental illness. He had taken magic mushrooms before but never experienced anything like this reaction. At trial, a judge in Calgary found him not guilty, saying he could not have formed the necessary intent to commit a crime. The Alberta Court of Appeal disagreed, yet last month the Supreme Court of Canada ruled unanimously that Brown should not be held responsible for the violent actions he had committed and, further, that section 33.1 of the Criminal Code was unconstitutional.

As Senator Gold has explained to us, section 33.1 was introduced in 1994 in response to public outrage in the case of a chronic alcoholic named Daviault, who committed a terrible sexual assault while extremely drunk.

At that time, there were complaints that that bill was being rushed because it was passed within just a few months. It has long been seen as problematic and perhaps unconstitutional.

So why did the court strike down the section of the code last month? Let me quote from their unanimous judgment, and I promise this is a different quotation than the one read to us by Senator Gold.

> Section 33.1 breaches s. 7 of the *Charter* by allowing a conviction without proof of *mens rea* or proof of voluntariness. It is a principle of fundamental justice that proof of penal negligence, in the form of a marked departure from the standard of a reasonable person, is minimally required for a criminal conviction, unless the specific nature of the crime demands subjective fault. Section 33.1 requires an intention to become intoxicated but intention to become intoxicated to any degree suffices — it matters little that a person did not foresee their loss of awareness or control, and nothing is said about the licit or illicit nature of the intoxicant or its known properties. For this reason, while s. 33.1 applies to those who recklessly invite their loss of control, it also captures unexpected involuntariness, for example an unexpected reaction to a prescribed pain medication. It also imposes criminal liability where a person's intoxication carries no objective foreseeability of harm. Furthermore, instead of asking whether a reasonable person would have foreseen the risk and taken steps to avoid it and whether the failure to do so amounted to a marked departure from the standard of care expected in the circumstances, s. 33.1 deems a marked departure to be present whenever a violent act occurs while the person is in a state of extreme voluntary intoxication akin to automatism. Since s. 33.1 allows the court to convict an accused without proof of the constitutionally required *mens rea*, it violates s. 7 of the *Charter*. Section 33.1 also directs that an accused person is criminally responsible for their involuntary conduct. Because involuntariness negates the *actus reus* of the offence, involuntary conduct is not criminal, and the law recognizes that voluntariness for the conviction of a crime is a principle of fundamental justice.

The court's ruling was clear. You can't be convicted of a crime if you're in a state of automatism, unconscious of your actions. That is not a legal loophole. It is a fundamental principle of justice. Again, this is not the same thing as having your judgment impaired by crack, meth or vodka.

As Senator Gold explained, the court stressed this defence is not available to those who just get really drunk or high. A person in a state of automatism has, for all intents and purposes, left their own body. It is an extremely rare condition and an extremely rare defence in law.

Nonetheless, there has been a huge public backlash to this ruling and a fear that the decision somehow gives a get-out-of-jail-free card to anyone who got drunk and committed a sexual or domestic assault, so we see this extraordinary rush to amend section 33.1. It is truly extraordinary.

Bill C-28 was introduced in the House of Commons last Friday. Suddenly, it is here before us, and we are asked to pass it immediately, without study by the Standing Senate Committee on Legal and Constitutional Affairs and with very truncated speeches. We've heard only from the minister — not from any of the bill's critics; not from those who feel it goes too far; not from those who feel it doesn't go far enough; and not from those who simply find its language unclear, confusing and open to challenge.

Bill C-28 offers a new definition of what it means for a person to depart markedly from the standard of care. First, the court must consider the objective foreseeability of the risk that the consumption of an intoxicating substance could cause extreme intoxication. Second, it must consider all relevant circumstances, including anything that person did to avoid the risk.

The premise then is to treat the consumption of drugs such as magic mushrooms as a type of criminal negligence. I fear, though, that we could find ourselves caught in a kind of *ex post facto* logical loop.

If you take recreational prescription drugs recklessly, end up in a state of automatism and do not commit a violent act against another person, presumably you are every bit as negligent, morally speaking. So then are you only guilty if you hurt someone due to a rare reaction? The temptation, I fear, may be to argue backwards: that the fact that you did hurt someone is itself the proof of your negligence.

Now, Mr. Brown drank a lot, but that did not trigger any violence. Then he took some mushrooms, as he had done before without ill effect. Yet that night, that combination of alcohol and psilocybin caused him to commit terrible acts. Was his bizarre neurochemical reaction reasonably or objectively foreseeable? Could a reasonable Canadian have predicted it?

In law there is an adage that the risk to be perceived defines the duty to be obeyed. What was the risk to be perceived in this case, and what was the duty? I don't know if Bill C-28 strikes the right balance between protecting the rights of victims and the rights of the accused to a fair trial. Perhaps you don't either. How could we, given the bill has had virtually no debate in the House, that we were never able to call expert witnesses, and there has been no time for meaningful, public press debate?

This unseemly haste, my friends, is not a mark of political courage but of political cowardice, and every single party in the other place is implicated. Nobody wanted to deal with the political risks of tackling these hard questions in earnest; and, if we're frank, nobody much wanted to delay their summer holidays. Instead, our friends over there tossed us this hot potato. This Senate is full of former judges, former prosecutors, former police detectives, former constitutional law professors. We count amongst us doctors, people who have worked in the corrections system, a professor of psychiatry, human rights advocates, experts in domestic violence and victims' rights and feminist law reform. Oh, and half of us are women. And yet, this chamber — so uniquely qualified to analyze and study this bill — has been robbed of our chance to do the job we were designed for. We have been robbed of our chance to do a proper study of this bill before the fact, not after. Talk about *ex post facto* logic.

• (2120)

We are being asked to irresponsibly pass a bill on speculation in the hopes that, if there are problems, we can fix them later. For the sake of everybody who may be brought to trial in the interim, this is something I cannot support. Thank you. *Hiy hiy*.

Senator McCallum: Honourable senators, I rise today to speak to Bill C-28, An Act to amend the Criminal Code (self-induced extreme intoxication).

As is true with many in this chamber and many in the general public, I, as a First Nations woman, have substantial concern and misgivings about the haste with which we are dealing with this legislation. I do not know if there are those in this chamber who can honestly say that the Senate has done due diligence on Bill C-28. I, for one, cannot make that assertion.

It is a very unusual and dangerous practice that we are engaging in, both here and in the other place. I understand that a House of Commons committee has been tasked with studying the subject matter of this bill in the fall. I also note Minister Lametti's support for the Senate to undertake a similar committee study following a question by Senator Carignan during Committee of the Whole. However, I find it highly concerning that Parliament has agreed to do this process backwards. Studying the contents of a bill and thereby understanding the perspectives of the experts in this field only after that bill has become law is ill-advised.

One can argue that it treads dangerously close to impacting our collective privilege in fulfilling our senatorial duties. How can we vote competently on legislation if we have not been given the chance to adequately study and consider its merits and shortcomings?

This is especially true for me, colleagues, as a non-affiliated senator. Senator Plett, in his remarks on Motion 53, referenced it as not being time allocation as it had unanimity in its support. At no point was I consulted, informed or approached about the process around this bill or any other such legislative matters.

I can only assume the same was true for my non-affiliated colleagues. This long-standing subjugation of the unaffiliated has removed my voice and opinion from larger decisions of the Senate, including Bill C-28. I take exception to that.

Colleagues, I would like to state that I support the concept of this bill; I do not support the practice. Self-induced extreme intoxication should never be accepted as a viable defence for heinous and criminal acts. It is a loophole that needs to be closed. The closing of this loophole is intended, of course, to ensure guilty parties do not elude punishment on what constitutes a technicality. It is also, of equal importance, intended as a protection for the victims, who are largely women, from the criminal acts that tend to flow from self-induced extreme intoxication.

Honourable senators, given the extremely short time frame between the Supreme Court of Canada's ruling on this matter and the introduction of this legislation in the House being a little over a month, it should come as no surprise that the issue of inadequate consultation has been a big one. I note that the issue of inadequate consultation is also not a new one.

As it pertains to Bill C-28, this issue has been raised by one of the groups that had actually been consulted, the National Association of Women in the Law, or NAWL. They contest that they, as well as many other interested stakeholders, have faced a lack of meaningful consultation. They also rightly state that the Senate, through the Standing Senate Committee on Legal and Constitutional Affairs, would greatly benefit from hearing from medical experts, women's groups and Crown prosecutors whose job it is to prosecute on behalf of victims.

When questioned on this shortcoming by Senator White during Committee of the Whole, Minister Lametti responded by saying:

> We did the consultations we could do in the time that we had from the date of the Supreme Court decision. We reached out.

You must admit, honourable senators, that this is a less-than-confidence-inspiring response.

Honourable senators, beyond the issue of consultation, it has been raised that there are serious concerns that Bill C-28 represents a flawed piece of legislation. This concern, at its core, is that Bill C-28 will not accomplish what it seeks to. This is due to the fact that the burden of proof, which regrettably falls on the Crown and the victim, is a threshold that is nearly impossible to meet.

The National Association of Women in the Law registered a very valid concern around the stringent requirements for prosecutors to prove beyond a reasonable doubt both that the loss of control after the consumption of intoxicants was reasonably foreseeable, as well as the foreseeability of harm. In their words, through their June 21 press release, NAWL indicates:

> Indeed, NAWL is concerned that this reform will prove impossible for the prosecution to implement. And that in the end, the heavy burden of men's extremely intoxicated violence will fall predominantly on the women they harm. This is because the Crown must prove beyond a reasonable doubt that a reasonable person could have foreseen that the accused's consumption of a given intoxicant could cause loss of voluntary control, even though reasonable people may not actually know the effects of the intoxicants they are consuming, particularly with respect to quantities and combinations of intoxicants. Further, the Crown must now also prove that the reasonable person could have foreseen that the consumption of the intoxicants could lead them to become violent and harm others, even though there appears to be little scientific evidence to support the claim that any particular drug makes violence more likely.

As some of you will know, this concern has also been echoed to senators' offices by the Alberta Council of Women's Shelters, known as ACWS, an organization that supports over 50 shelters across the province of Alberta for women, children and seniors facing domestic abuse. In their words, they are working ". . . to end domestic violence through culture-shifting violence prevention programs, collective data and research, and front-line training."

Colleagues, our Senate committee would have done well to learn from groups like NAWL and ACWS and Indigenous organizations, due to their expertise and boots-on-the-ground work.

If such organizations register concern with the process and content of this legislation, we would be wise to heed their words.

As Minister Lametti stated before the Senate:

> You may have been aware of the reaction to the Supreme Court decision. It was pretty much universal across Canada. . . ."You need to act quickly."

Honourable senators, it is a fine line that exists between acting quickly and acting negligently. I am worried that we find ourselves on the wrong side of that line when it comes to Bill C-28. We have heard senators during Committee of the Whole make remarks to the minister by saying such things as, "The law would be entirely ineffective due to the burden placed on prosecutors," and:

> . . . what I worry about here is that the proposal . . . will miss the mark and almost nobody will be able to be convicted under this provision.

Honourable senators, I believe this bill is yet another form of violence against women, and particularly Indigenous women. And do I trust the government? Do Indigenous women trust the government? I would say no. Why would we place our trust in such an institution?

Let us ensure we do the right thing for Canadians and not the convenient thing for parliamentarians as we prepare to vote on Bill C-28. Thank you. *Kinanâskomitin*.

Hon. Kim Pate: Honourable senators, I commend the Minister of Justice on his laudable intentions with this bill. I have no doubt that protecting victims of violent crime and sexual assault is an objective that we all share. Given the importance of this objective, it is vital that we not take any shortcuts, but rather give the bill the full consideration and analysis that it is due, particularly in light of the evolving information regarding the serious flaws in the government's consultation process, and the significant and substantial concerns raised by numerous groups. It is greatly and deeply concerning — and, frankly, irresponsible — for the Senate to vote on this matter without first having heard from the relevant parties and becoming more fully informed on the implications of passing this bill.

• (2130)

In an understandable attempt to act expeditiously, the minister is rushing Bill C-28 through the legislative process with a somewhat staggering disregard for standard procedure and due process. This push has given way to what can only be considered a disconcerting lack of government transparency. The

government claims it must act with urgency, but also acknowledges that cases involving intoxication amounting to automatism are incredibly rare.

Why is this, colleagues? A few home truths. Most accused who are charged with violent offences are poor, racialized and represented by legal aid lawyers. They can't afford the incredible defence teams, the medical reports and the legal gymnastics that are required to make the types of arguments that were brought before the Supreme Court of Canada in this matter. That's why the cases are rare, my friends.

They are also rare because they, staggeringly, strain the credulity of the claims. Yet, we have due process requirements, and those due process requirements require — as Senator Simons so aptly put it — that even those individuals with the greatest privilege have those opportunities to raise those cases.

Is this bill in the interests of public safety — I encourage us all to consider this — or, as many of us feel, a result of politically motivated social pressure? Let us be clear, honourable colleagues, the government knew the need for this legislation was coming. They knew whom to consult, they knew where they were and they could have conducted full consultations in preparation for whatever decision came down from the Supreme Court of Canada.

The supposed consultations which took place in the crafting of this bill may serve to highlight my point. The content of these consultations with women's organizations, victims' advocacy groups and criminal law experts have yet to be made available to our offices. Despite repeated requests, aside from one press release, we have received no details about the submissions, opinions or advice put forward by these groups or others.

The fact that we only keep hearing about repeated reference to one press statement from one group is indeed, honourable colleagues, instructive. The hurried nature of this process raises further questions about its efficacy. According to some of the witnesses listed by the minister, consultation was not only wholly inadequate, the participants didn't even know the phone call they engaged in was considered a consultation. Significant procedural and due process concerns were actually raised by many of those groups, and apparently ignored or disregarded.

As correspondence and pleas over the past few days underscore, concerns raised by witnesses were evidently not meaningfully considered in the drafting of this bill. How are we meant to serve our purpose of providing sober second thought when we lack the information required to make a knowledgeable and carefully considered decision? The purpose of committee study is significant and multifold. Beyond the political, it allows us to learn about the impacts and implications of proposed legislation from experts who can highlight that which may not be intuitive to us individually and, more importantly, how it may affect the most vulnerable and marginalized people. In this case, sexual assault victims, almost always women.

We learn from these processes and, more importantly, we then alter our legislation accordingly. We don't do it the opposite way. Bill C-28 is not yet law, and already we are aware of overlooked issues. As many of my colleagues have pointed out, one of the most noted concerns is the increased legal burden on the Crown to prove criminal negligence. The minister has acknowledged this question and highlights for us that, under the proposed law, the accused will need to first raise the issue of extreme intoxication. Still, the onus of disproving this highly subjective, specialized, scientific defence will rest with the Crown.

Our ability to further research the matter has been stifled. We are left to wonder how severe the impact of this problem will actually be. In fact, at this stage, we're advised by many groups — apparently consulted by the Department of Justice — that don't know whether proving objective foreseeability beyond a reasonable doubt will prove to be a prohibitive hurdle for prosecutors.

I want to take a moment to briefly highlight that these concerns are not mine alone. Informed stakeholders and experts have been vocal in expressing fear that it's unclear at which point one becomes negligent for simply taking a drug, one that does not put the rest of their friends or family into a state of automatism. Can we truly prove that in consumption of an intoxicant, there may be an objectively foreseeable risk that the user will lose control and become violent? That, dear friends, is one of the suggestions in this legislation.

The onus to make these points will be on the Crown, despite the amendments recommended by groups like the National Association of Women and the Law and shelters. We have not considered those options. Allow us not to fail those groups, but instead to acknowledge the validity in these critiques. As responsible lawmakers, we have this responsibility.

Much has been made of the need for haste following the Supreme Court's ruling, although we seem to overlook the fact that, even in the decision itself, the Court suggested we study — that we study — and then we legislate. For many of us, skipping these important steps amounts to an abdication of our responsibility, and for me, personally, it's reminiscent of where we were three years ago on another important Charter issue: solitary confinement.

Instead of chasing this runaway train with a "woulda, coulda, shoulda" review after the fact, please, honourable colleagues, let us pause, double-check the track we're on, correct it if necessary and continue responsibly.

Our primary role here in the Senate is to provide sober second thought, so before I yield my time, I ask you all: How can we provide sober second thought without the opportunity for thought itself? *Meegwetch*. Thank you.

[*Translation*]

Hon. Michèle Audette: Honourable senators, a few months ago, my daughter turned 15. She now has 15 years of life experience. She's a twin, so she has double that amount. Her name is Sheshka. Sheshka wrote to me while I was in the Yukon with other Indigenous women to mark the third anniversary of the report of the National Inquiry into Missing and Murdered Indigenous Women and Girls.

At 11 p.m., Quebec time, she sent me the following text message: “Mom, is it true?” As you can imagine, as a mother or a parent, when your child reaches out to you at that time of night, you have to wonder what is going on. So I replied, “Why? What are you talking about?” She then asked me, “Is it true that when someone is intoxicated or whatever, they have the right to rape me or take advantage of me as a woman?” That was my 15-year-old daughter asking. You can imagine how upsetting that was for me, too. I wondered what was going on, so I went straight to Google to find out. I was with Ms. Nagano, whom you met today, who is a former member of the RCMP. Together, we figured out what was going on.

I’ve been trying to reassure my daughter every day since, because this concern has grown more and more with social media, the internet, their friends and situations where some of these young women may have experienced similar trauma.

• (2140)

I told my daughter, Sheshka, that a few of us women here in this beautiful chamber are going to write to the Government of Canada, to the other senators and to Canadian society, to let them know that we intend to look at every option available to us to respond effectively and in a substantive way to this Supreme Court ruling. I told her that we were going to commit — I was, anyway — to urging the federal government to look into the different legislative and political levers that are available. I made her that promise.

You will understand that her reaction today, when we had a chance to discuss it, was, “ In that case, mama, why is drinking and driving a crime, when a man can rape me and that is not a crime?” That was before we received the bill. I told her not to worry, that we would collectively find better ways to protect men and women, the young and old.

I understand that the Supreme Court rendered a decision, but I did not see if this decision came with a deadline, a period of time, unless I missed that paragraph. People are talking about the urgency of this matter this evening and I understand that. We have been told about urgency over and over since we were born — especially Indigenous women.

I am spoiled to be here surrounded by legal advisers. You mentioned it, dear colleagues, but we also have experts on procedure, who know how we should do things and how to uphold traditions. I really liked some of the comments about how we can innovate and how we can do things in the fall when Parliament resumes. Can you reassure me, my daughter Sheshka and all the women living in the Far North, who may not have access to the same services that are offered here in the more southern part of the country? There may also be addiction problems stemming from colonial violence and other factors that are all set out in the reports that have been written over the years. It is important to look at this from a social perspective, an Indigenous perspective, a human rights perspective and a restorative justice perspective to ensure that, when we conduct those studies, we can recognize that, in fact, it is rare, and that we should not rush, but also that it is important to do things right.

In that same time frame, we will hear about a gang rape, and there will be silence. Women still find themselves debating or demonstrating that the legal side is important, but we cannot forget the psychosocial side.

Like you, I wish we could do things differently tonight, but I am hopeful that Senator Gold, our government representative, can assure us that, come fall, we will experience what I have shared with you tonight and see it in action. Senator Plett, I would ask that you remind our Government Representative that Indigenous voices need to be part of any upcoming studies. *Tshinashkumitnau*.

Some Hon. Senators: Hear, hear!

[*English*]

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

BILL TO AMEND—THIRD READING

Hon. Marc Gold (Government Representative in the Senate) moved third reading of Bill C-28, An Act to amend the Criminal Code (self-induced extreme intoxication).

[*Translation*]

Hon. Pierre-Hugues Boisvenu: Honourable senators, I had planned on making a speech at third reading, but I will not. Contrary to what I said at second reading, and having listened to my colleagues who support Indigenous communities, I will be voting against this bill.

[*English*]

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

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

ONLINE STREAMING BILL

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Dennis Dawson moved second reading of Bill C-11, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts.

(On motion of Senator Dawson, debate adjourned.)

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Michael Spavor, who was imprisoned in China for over 1,000 days. He is the guest of the Honourable Senator Woo.

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

Hon. Senators: Hear, hear!

[*Translation*]

THE SENATE

MOTION CONCERNING THE ELECTRONIC TABLING OF DOCUMENTS ADOPTED

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of June 22, 2022, moved:

> That, until the end of the current session, any return, report or other paper deposited with the Clerk of the Senate pursuant to rule 14-1(6), may be deposited electronically.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*English*]

BUSINESS OF THE SENATE

REPORTS OF COMMITTEES NOS. 11 TO 17 ADOPTED

Hon. Pat Duncan: Honourable senators, with leave of the Senate and notwithstanding rule 5-5(j), I move:

> That the reports of committees dealt with by orders no. 11, 12, 13, 14, 15, 16 and 17 under the rubric Reports of Committees – Other, under Other Business, all be adopted now.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

(Motion agreed to.)

BUSINESS OF THE SENATE

EXPRESSIONS OF THANKS AND GOOD WISHES

The Hon. the Speaker: Honourable senators, there has been an agreement between the leaders that they will take a few moments to make brief remarks before we suspend for Royal Assent.

Hon. Marc Gold (Government Representative in the Senate): Honourable senators, it seems the older one is, the faster time moves. Here we are at the end of June, after another year of uncertainty. As happened in the previous year and due to the newest variant of COVID-19, 2022 had us working under many of the same constraints. But with experience came some degree of ease of management, and the knowledge acquired from 2020 forward allowed us to plot our course more easily.

Committees were still unable to meet as often as during pre-pandemic years, and resources and manpower continued to be at a premium. But the work got done and we managed to accomplish much, in no small measure because of our dedicated Senate support staff. Without our pages, table officers and Senate clerks, there would be no business conducted in this chamber. At risk to their own health, they were physically present every sitting day, regardless of how sparsely filled the Senate seats might be. Thank you all for your loyalty and dedication.

• (2150)

While our committee schedule was cut back considerably, our committee clerks and attendants were present at each and every committee meeting, even if only one or two senators were in the room and all others were attending virtually. You also deserve our gratitude.

Thank you to our IT staff, who ensured that witnesses could connect from anywhere on the planet, that we, non-tech savvy senators, could participate in the chamber or in committee from our homes and that all involved could be seen and heard.

I want to offer a special shout-out to the interpreters. Some of us have spoken to those professionals about the unforeseen issues that they've suffered. We've also read and heard about the physical toll that this situation has taken on them. I want to thank each and every one of you on behalf of the Senate of Canada. Without your expertise and competence, we simply truly could not function.

Thank you as well to the men and women of the Parliamentary Protective Service. For you, this was a year like no other. You have our thanks for all you did and all you experienced.

Senator Furey, the Speaker of the Senate, is charged with all decisions relating to this place. You have navigated these troubled waters with the firm hand of an experienced captain, all the while understanding that the work must never stop. Your guidance during yet another year of operating in a hybrid fashion — or in February, when access to this building was sporadic and when human resources were at a premium — ensured that the business of the Senate on behalf of all Canadians didn't take a break. Thank you, Your Honour, for taking on these challenges and responsibilities, which I'm quite certain weren't in your original job description.

Hon. Senators: Hear, hear.

Senator Gold: Senators Gagné and LaBoucane-Benson are the best Government Representative Office, or GRO, colleagues I could hope for — talented parliamentarians, sounding boards, arbiters of debate, patient voices of reason and wisdom and just good friends to me. Thank you for your professionalism, common good sense and friendship. Of course, we all three admit and know that our jobs are made much easier — in fact, made possible — by the incredible team that we have working with us in the GRO. Teams of professionals who advise us, write for us, do research for us, and if they're listening — and I hope they're doing more fun things than listening to me talk at this hour — thank you so much.

To my leadership colleagues, Senator Plett, Senator Saint-Germain, Senator Tannas and Senator Cordy, we may not always agree. Tonight, though, was pretty good. Sometimes we disagree quite passionately, or vehemently on occasion, but I want to thank all of you for all the hours that you have put in and that have we spent together, hammering out how to best do the work for which we were summoned. Sometimes it feels as though we spend more time talking to each other than to any other person in our lives — at least that's what my wife complains about — but it's really worth it in the end to accomplish what we've accomplished and what we're expected to accomplish on behalf of Canadians.

And speaking of my wife, to my dear wife, Nancy, thank you for putting up with me, supporting me and being without me, as I am without you, in these long sittings, so I couldn't do it without you. Thank you, my darling.

In order for us to all come back in good form next September, let me conclude by wishing you all a peaceful summer. Spend it with those who matter most to you. Thank you for everything.

Hon. Senators: Hear, hear.

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, the end of the parliamentary session presents us with an opportunity to reflect on the last few months. And you can believe me when I say it has been wonderful to find ourselves face to face in large numbers in person in this chamber. Hybrid Parliament was meant to be a temporary measure in response to unusual circumstances. Sadly, the government moved that our hybrid sittings carry on longer than anticipated. The resulting effects weren't minimal and meant that our capacities were reduced. Our committee meetings were reduced, which, regrettably, led to less parliamentary oversight and decreased accountability.

I also want to thank our interpreters, who have gone above and beyond in providing exceptional service. Hybrid sittings have taken a toll on them, and we have heard this over and over again. The technical difficulties we faced caused them more grief than anyone else in this chamber. While they were often stretched thin in their personal capacities, when hearing their voices on the audio, no one would have known. Thank you for your perseverance this year.

Hon. Senators: Hear, hear.

Senator Plett: The last few months, colleagues, have been challenging for Canadians. We're seeing record-level inflation. Canadian families are having trouble affording day-to-day necessities. News headlines reflect the heaviness of world events. The war waged by Russia in Ukraine has shaken the world and brought about tragedy and uncertainty for many. My heart goes out to those who have found this year particularly demanding.

Colleagues, it is not my intent to take this time to criticize the government, but an honest reflection on this session requires me to at least acknowledge the unique challenges we have faced and continue to face. I sincerely make these comments when I say I am disappointed by steps this government has taken that have restricted freedoms of Canadians, sowed division in our country and reduced the efficiency of our Parliament. We have witnessed — not pointing fingers — one of the most contentious moments in our country's history, brought about by the culminating frustration of Canadians after rough years caused by the pandemic, not by a government, but by the pandemic. We witnessed the shameful unprecedented use, quite frankly, of the Emergencies Act. My sentiments on this are no secret, colleagues, and I remain deeply concerned about the precedent that was set by an unjustified invocation of the Emergencies Act.

That being said, colleagues, I am proud of our collaboration in this chamber to ensure the respect of Canadians and of the Charter. I am especially proud of my own caucus, the opposition, and the role we have played in this important session. I truly believe that our interventions and lively debates on this matter contributed to the eventual revocation of the Emergencies Act and served the best interests of Canadians.

To be sure, colleagues, some moments were worth celebrating — moments when we have come together and passed legislation that will act to best serve Canadians, including this very evening, colleagues. Although we do not always agree, I know our debates are always conducted in good faith and with the objective of serving this great country to the best of our abilities.

Colleagues, you have all gotten to know me over the last years. I shoot from the hips. But let me be clear: I have the utmost respect for each and every person in this chamber.

Senator Yussuff and I went to dinner, and if you just indulge me for a few minutes — we're going to be gone until September 20, so I think we can take a few minutes. Senator Yussuff invited me to dinner a week and a half ago. Now here is the former president of Unifor and the former president of the Conservative Party of Canada — not the pair that you would likely normally expect to be sitting and breaking bread. And I thank him for that because we had something in common when

he said, “Don, you and I believe in Canada. You and I would do anything for our country.” He said, “We may not agree on the path to get there, but we do agree on the love for our country.” Senator Yussuff, thank you for that.

I want to offer a special thanks to my leadership colleagues as well. Senator Gold, I know you’re already missing the questions that I have been asking and I know you will long for those questions in the next while. Give Nancy my regards, but I know that Nancy will not be of equal substitute to the questions that I have been asking.

• (2200)

As you have the summer, though it was never our goal to be agreeable on government business, it continues to be a pleasure to work with you and, Senator Gold, I look forward to resuming our lively debates and Question Period come September.

Senator Saint-Germain, it has been a pleasure. It really has been. We have collaborated. We have worked together. Senator Saint-Germain, you and I developed what Senator Tannas called a programming motion. I do not agree with the concept, but we have worked well together. I have enjoyed every minute of it. I wish you and all of your colleagues a great summer.

Senator Cordy, what I regret the most is that we have seen too much of each other in here and not enough of one another in Florida. My golf has continued more than yours has. I wish you and Bob a great summer, and hopefully we can play a game of golf this summer.

Senator Tannas, I know that you have lost your way a little bit, but I pray that you will find your way back. It was a pleasure working with you, Senator Tannas, in our caucus and it has been a pleasure working together with you in your caucus. I wish you a great summer as well.

Although we are often on different sides of an issue, all of your discussions and negotiations have been invaluable. I thank you and wish you all a great summer break.

Senator Furey, I do want to play that nine-hole golf course that you were talking about. I wish you and your family well, Senator Furey. I appreciate your fair deliberations and your fair running of this chamber. It is not an easy task. I could say especially with this government, but I will leave that for another day. Senator Furey, thank you for all that you have done, I wish you a great summer break.

I want to echo Senator Gold’s comments about the Speaker pro tempore as well. Senator Ringuette, you have done a remarkable job, especially when we have been in a Committee of the Whole. You have no idea how much I have appreciated your fairness and the way that you have taken ministers to task and cut ministers off. I have appreciated that more than you will ever have imagined. Especially a few ministers that I could name.

A special thank you to the Black Rod, his office and pages. What a great group of pages we have had. Greg Peters, thank you for your work, appreciate that. Your dedication and professionalism to the chamber are remarkable.

To our security and our Parliamentary Protective Service, I feel safe walking into this building. I feel safe walking around this building. The other day when we had a fire alarm, they told me, you go ahead and go back to your office, don’t worry about it. I am not sure whether they hoped that I would get stuck in my office or whether everything was okay, but nevertheless I do appreciate everything that they do for us.

Hon. Senators: Hear, hear.

Senator Plett: It is perhaps fair to say the following events that have transpired so far, and during these challenging times, there is an increasing appetite among Canadians for competent, transparent and accountable governance. Honourable senators, it is truly an honour to represent these values under the Conservative Party of Canada. I am proud to be a Conservative. I am proud of my team. I am proud of the fights and the best efforts of Canadians from coast to coast to coast. I am lucky to be part of a Conservative caucus who treats the role of the opposition with the respect it deserves. Canadians have full confidence that the Conservative Party will continue to hold the government to account for another year or so.

I also want to take the opportunity to thank our entire caucus — my caucus — for the diligent and excellent work that they have accomplished over the last few months, and continue to accomplish. Our group is getting smaller, but we are getting closer and we are fighting together. Thank you. I appreciate working with you.

I personally want to thank our staff, my staff and all of our staff for everything that they do behind the scenes. We all look in the mirror in the morning and think, “Now there’s someone really good.” We are nothing without our staff. Nothing. I am the first one to admit that I am nothing without my staff.

To my leadership, my deputy leader, Senator Yonah Martin; our whip, Senator Judith Seidman; our caucus chair, Senator Rose-May Poirier; and deputy whip, Senator Leo Housakos, thank you. Thank you to all of you.

I want to mention that our prayers should be with Senator Leo Housakos and his family. Leo is going through some difficult times with his mother, as many of us do as people get older. His mother is struggling with cancer, and that is why he is not here today.

To the Senate Administration, thank you for the crucial support you provide to us as senators and for ensuring smooth functioning of this institution. To all of those who work to keep our building running from security to cleaning, your work does not go unnoticed. It is appreciated by everyone in this chamber.

Honourable senators, it has truly been a pleasure to sit alongside you and serve Canadians with you in this chamber. Whether we agree or disagree, it is a pleasure to work with each and every one of you. I bid you all a safe and restful summer, and look forward to seeing you all again very soon. God bless.

Hon. Senators: Hear, hear!

[*Translation*]

Hon. Raymonde Saint-Germain: This evening, it is the fifth year that I am pleased to see at this pre-eminent moment that we are first and foremost an institution of human beings, of people who have much in common, indeed much more than we may let on during our debates.

This evening, it is time to thank people. First, I wish to thank the Speaker of the Senate, the Honourable Senator George Furey, who shoulders heavy responsibilities with great dignity and an infallible democratic spirit. Personally, I appreciate your wisdom and excellent guidance when pointing out our misinterpretation of the Senate's rules and practices, no matter our seniority or place in this chamber. I also want to thank Senator Ringuette, our Speaker pro tempore, who conducts herself with respect for the same values of dignity, justice and fairness.

I also wish to congratulate senators of all groups and caucuses who distinguished themselves during this parliamentary session by receiving honours and accolades from institutions, organizations, civil society groups and even, in some cases, institutions outside Canada. Congratulations to each and every one of you. Your expertise and dedication make you a credit to the Senate.

Like the Speaker, the Speaker pro tempore and all senators, you discreetly challenge us to ensure that our personal conduct does not tarnish the institution or the work we do every day.

I am so appreciative of my colleagues, the leaders of all of the other groups, and the Government Representative, Senator Gold, and his team. Thank you, Marc.

I also thank the illustrious Leader of the Opposition in the Senate, Senator Plett. Thank you, Don. I want to thank and congratulate all of them. What Senator Plett said is true. Quite often, with good will and honesty, we've been able to find solutions. It's teamwork, I think, and as they say, opposites attract. It's interesting to see it from this perspective.

I also want to thank the other woman among the group of Senate leaders, Jane Cordy, who is always open and willing to work together. Jane, I truly appreciate you. I also want to thank Scott Tannas. I've found the way for him. I'm not sure if he's gotten lost, but I've found my way. I also enjoyed our conversations and the fact that we often have different opinions but we always want to be effective and work in the best interests of the Senate.

• (2210)

[*English*]

At the end of the day — literally — I'm proud to say that all of us have operated in a way that has allowed the Senate to fulfill its duties in a responsible manner. Despite having to adapt to the challenges of many of us working remotely, hybrid sittings and hybrid committee meetings — which included but were not limited to forgetting to press the "mute" button and being reminded too often to switch channels before speaking — I still believe we delivered a solid performance.

For that, we must also thank the employees of the Senate Administration that have supported us in these challenging times. I will not repeat because my colleagues did it before me, and I'm conscious that we are at the end of the day, but I wish to convey a truly heartfelt thanks to everyone who makes our work in committees and in Parliament possible.

Even if Don highlighted this, a special word in this special time for the Parliamentary Protective Service. With the current cynicism of our political discourse, you have risen up to the task of tackling threats to our parliamentarians and our democratic institutions. Your service is essential not only to us but also to Canadian democracy.

While I believe that we have been up to the task in this period of uncertainty, we always need to strive for the best, as Canadians expect us to do. We must prioritize and always keep in mind the added value we can bring to the work of the other place.

As such, many challenges still lie ahead. I will keep some suspense for the fall. This page is with regard to the many challenges, so in September, I will be back with those.

In the meantime, I wish that we leave today in a positive spirit, with hopes of a return to more normality when we come back in September but also with a duty to remember the Canadians who suffered and are suffering from this pandemic and the colleagues we lost along the way.

Colleagues, myself and all the members of the Independent Senators Group — especially my colleagues in the facilitation team, Senators Dean and Petitclerc and Senator Duncan in the bright Whitehorse, Yukon, today — wish you all a restful summer with your families and friends. Come back in good shape. Challenges await us. Thank you, *meegwetch*.

Hon. Senators: Hear, hear.

Hon. Jane Cordy: Honourable senators, on behalf of the Progressive Senate Group, I would like to take a moment to offer heartfelt thanks to those who have allowed us to do our jobs despite the challenges of the past few years. The list is a long one. It takes a village to do these hybrid proceedings successfully.

Firstly, there is our tech support at information services and our interpreters who face the real possibility of injury every day doing their job. Interpreters — who would have thought? Our wonderful, talented pages are young people who always make me feel so positive about our future. There is also the Usher of the Black Rod, Greg Peters, our table officers, our clerks, all employees in the Chamber Operations and Procedure Office, Senate communications and broadcasting, protective services and corporate security, maintenance and building staff, all other employees of the Senate Administration as well as the staff in each and every senator's office. We rely on all of you every single day. For 25 months, you have gone above and beyond the call of duty. Without you, we could not be here. My progressive colleagues and I wish you a restful summer of fun and relaxation. We are blessed to have your experience and wisdom.

I would also like to thank my fellow leaders and facilitators, Senators Gold, Plett and Tannas and, in particular, my newest colleague, Senator Saint-Germain, who helps put us one step closer to gender parity among leadership.

Hon. Senators: Hear, hear.

Senator Cordy: Together over the last few months, the five of us have had some disagreements and at times some very tense meetings — or as Senator Gold says, "passionate meetings" — but we have always come together in the end with a view as to what is best for serving Canadians no matter which part of the country we call home.

By the way, disagreements are a good thing because you are forced to look at perspectives that are different from your own and that you may not have considered. Thank you, Speaker Furey, for your wisdom and patience in guiding us through our deliberations. Of course, thank you to our Speaker pro tempore, Senator Ringuette, for the job that you do.

Finally, I would like to thank my caucus colleagues for the joy that our small but mighty group gives us. To our leadership team, Pierre Dalphond, Pat Bovey and Brian Francis, thank you for your support, guidance and friendship. To all members of the Progressives, it truly is a pleasure to work with you each and every day. We have frank and serious discussions where all views are shared and heard, and we do it all with a sense of common purpose, with respect for one another and often with a lot of laughter. We truly enjoy working together, and I have no doubt that is evident in everything that we do. I am honoured to be working with you, and I ask that you take time to relax and enjoy time with your families over the next few weeks. Love you, all.

To our Progressive staffers, you are amazing people. You give us support for all our work and even make us look pretty good. So love to all of you, also. I know you work hard. You play hard. Please take some time to relax this summer.

To all honourable senators and to all staff, I wish you a safe and restful summer. I hope you spend more time with your families and with your friends, and, please, take the time to recharge before September. As Senator Gold said, time passes far too quickly. Maybe it is our age, Senator Gold, since we're pretty close in age.

I look forward to working with all of you and maybe some brand-new senators when we return in the fall. Have a wonderful summer. Best wishes and thank you to each and every one of you.

Hon. Scott Tannas: Honourable senators, I too want to extend my very best wishes to all senators, our staff and employees of the Administration who serve us so well. I want to, of course, associate myself with all the expressions of gratitude and respect that were spoken by my leadership colleagues.

I want to thank my leadership colleagues for the work they do and the way in which they conduct themselves in our meetings, deliberations and negotiations. It is a privilege to work with such wonderful people.

A lot has happened this session. A number of kind of unexpected, odd, unusual and significant things have happened. I want to share some highlights that come to mind that I will remember about the last few months.

Work-related, Parliament's Special Joint Committee on Medical Assistance in Dying was brought back into existence post-election to continue an important Senate initiative of reviewing the law.

We weren't back here very long in February before we involuntarily hosted the "Freedom Convoy" in Ottawa. I frankly have never seen anything like it. The enthusiasm of the participants, unusual as they were, was something that I don't think any of us who were here and walked the streets will ever forget.

We also saw the very first use of the Emergencies Act. That was historic. I think the Senate distinguished itself in the debate just prior to the withdrawal that was watched by hundreds of thousands of Canadians.

Senator Patterson: During the debate.

Senator Tannas: I think we earned a lot of respect that day.

• (2220)

We continue to do what we need to do to support Canadians who are experiencing financial hardship. We have, perhaps, become a little bit inured to the amount of money that we have put in the hands of Canadian families and businesses to see them through these difficult times. I hope that era is over, for everybody's sake.

One of the most striking memories will be Ukrainian President Zelenskyy and his historic address to our Parliament. He shared his powerful, inspiring words. I was not here; I was at home. But I cried with my wife as we listened to his words, and I felt like I was a part of history.

Some past good work that continues to show itself is in the form of the interim report on the implementation of Bill S-3 that deals with eliminating gender discrimination in the registration provisions of the Indian Act. It will be tabled shortly and it will likely be historic in its impact.

Senator Patterson: Hear, hear.

Senator Tannas: That was work of the Senate that took something that was largely symbolic and made sure it was real.

We sat for roughly 59 days this session, with more and more senators attending in person as the months went on. This fall, we have bravely decided to come back and take up our work in person.

Some Hon. Senators: Hear, hear.

Senator Tannas: It has been an unforgettable session in so many ways.

On behalf of the Canadian Senators Group, I would like to thank senators and all staff for their commitment to fulfilling the nation's business on behalf of Canadians. It is truly a privilege to work with each and every one of you. Have a good summer.

Hon. Senators: Hear, hear.

The Hon. the Speaker: Senators, before moving to the adjournment, I would like to take a moment to join our Senate leadership and thank those who have made our work here possible. It goes without saying that behind the vital work of all senators are the extraordinary staff in our offices and in each directorate across the Senate Administration.

[*Translation*]

Every member of the Senate family brings their expertise and experience to the table and plays a crucial role in ensuring our institution runs smoothly.

[*English*]

I know I speak for all senators as I extend a heartfelt "thank you" to each and every member of the Senate family who support us in our work every day, no matter how long those days tend to be on occasion. I would like to say a special "thank you" to Mr. Greg Peters, the Usher of the Black Rod, and to all our wonderful pages. I wish those pages who are moving on to new challenges the best of success and the best for your futures.

I would also like to thank the staff of the Library of Parliament, the Parliamentary Protective Service, the International and Interparliamentary Affairs Directorate, the stenographers and others in Debates and Publications, Translation Bureau and Mr. Till Heyde and the staff of the Chamber Operations and Procedure Office. Their tireless work keeps our institution running smoothly. Without their professionalism and dedication, I have no doubt we would descend into total chaos. Please know that your hard work does not go unnoticed.

[*Translation*]

I know I speak for all senators when I say just how much we appreciate your work.

[*English*]

We would also thank — and I would like to thank especially — all of our families and loved ones who make so many sacrifices so that we can do the important work that we do on behalf of all Canadians.

To my colleagues, I wish you all an enjoyable summer in the company of family and loved ones and, for at least some part of the summer, time away from your phones.

I wish everyone a very happy, healthy and safe summer recess.

Hon. Senators: Hear, hear.

[*Translation*]

SITTING SUSPENDED TO AWAIT ROYAL ASSENT

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate): Honourable senators, with leave of the Senate and notwithstanding rule 5-5(j), I move: That the sitting be suspended to await the announcement of Royal Assent, to reassemble at the call of the chair with a five-minute bell.

The Hon. the Speaker: If you do not give leave, you must say nay. The sitting is therefore suspended to await receipt of a message from the Crown concerning Royal Assent.

[*English*]

The bells will start ringing five minutes before the sitting resumes.

(The sitting of the Senate was suspended.)

[*Translation*]

(The sitting of the Senate was resumed.)

• (2250)

ROYAL ASSENT

The Hon. the Speaker: informed the Senate that the following communication had been received:

RIDEAU HALL

June 23, 2022

Mr. Speaker,

I have the honour to inform you that the Right Honourable Mary May Simon, Governor General of Canada, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 23rd day of June, 2022, at 10:28 p.m.

Yours sincerely,

Christine MacIntyre

Deputy Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bills Assented to Thursday, June 23, 2022:

An Act to amend the Constitution Act, 1867 (electoral representation) (*Bill C-14, Chapter 6, 2022*)

An Act for granting to Her Majesty certain sums of money for the federal public administration for the fiscal year ending March 31, 2023 (*Bill C-24, Chapter 7, 2022*)

An Act for granting to Her Majesty certain sums of money for the federal public administration for the fiscal year ending March 31, 2023 (*Bill C-25, Chapter 8, 2022*)

An Act to give effect to the Anishinabek Nation Governance Agreement, to amend the Sechelt Indian Band Self-Government Act and the Yukon First Nations Self-Government Act and to make related and consequential amendments to other Acts (*Bill S-10, Chapter 9, 2022*)

An Act to implement certain provisions of the budget tabled in Parliament on April 7, 2022 and other measures (*Bill C-19, Chapter 10, 2022*)

An Act to amend the Criminal Code (self-induced extreme intoxication) (*Bill C-28, Chapter 11, 2022*)

[*English*]

ADJOURNMENT

MOTION ADOPTED

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate): Honourable senators, with leave of the Senate and notwithstanding rule 5-5(g), I move:

> That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, September 20, 2022, at 2 p.m.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

(Motion agreed to.)

(*At 10:58 p.m., pursuant to the order adopted by the Senate on May 5, 2022, the Senate adjourned until Tuesday, September 20, 2022, at 2 p.m.*)

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