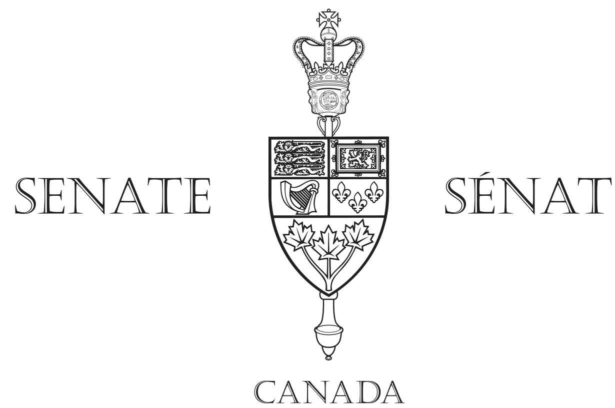

DEBATES OF THE SENATE

1st SESSION 44th PARLIAMENT VOLUME 153 NUMBER 78

OFFICIAL REPORT
(HANSARD)

Thursday, November 3, 2022

The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Thursday, November 3, 2022

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

Prayers.

SENATORS' STATEMENTS

INDIGENOUS VETERANS DAY AND REMEMBRANCE DAY

Hon. Jane Cordy: Honourable senators, I rise today to acknowledge Remembrance Day and Indigenous Veterans Day, both taking place next week.

It would be very difficult to find someone who is not in some way connected to one of these days. Most families have had someone in service, or have lost someone who has served in some capacity or another. In my family, both my father, Private Lauchie MacKinnon, and my brother Commander Charlie MacKinnon served in the Armed Forces. I am proud of the contributions they have made in their service to Canada.

As we honour and remember those who have lost their lives, let us not forget those who have returned from war with scars, both visible and invisible. We must keep veterans at the forefront of our minds throughout the year — not just in November.

I would like to highlight, once again, the wonderful work done by VETS Canada. VETS Canada offers many programs and services from coast to coast to coast in support of veterans across the country. What began as assistance for homeless veterans has evolved into providing support to those facing difficulties of any kind. This can include anything from help in affording a grocery or power bill, to help for those facing an emotional or mental health crisis. The organization consists of just shy of 1,500 active volunteers, most of whom are ex-military or RCMP.

Of particular interest is the Guitars for Vets program that puts gently used guitars in the hands of veterans or still-serving members suffering from PTSD or other service-related disabilities. This program also arranges access for them to free lessons, and the opportunity to participate in songwriting workshops. Past guest teachers have included Alan Doyle and Séan McCann of Great Big Sea. Alan Doyle and Premier Andrew Furey have also generously contributed to Guitars for Vets through their Dollar A Day program.

I would also like to acknowledge the sacrifice made by military families as they live for so long without their loved ones near. Though times and technology have changed from the days of letters across the Atlantic, and we can more easily connect, it is still never the same as a physical hug, or seeing a smiling face in the stands of a hockey arena or in the audience of a school play.

Honourable senators, when you take a moment of reflection — on November 8 and November 11 — to remember those who have made the ultimate sacrifice in service to Canada and to Canadians, I hope you will also take a moment to think about those who continue to live their life in service, despite the indubitable toll it takes, not only on their physical bodies, but on their mental health too.

While I have mentioned VETS Canada, there are many ways to contribute and many programs that offer support to veterans. I am pleased that the Senate is once again taking part in the national Poppy Campaign.

Thank you.

DISTINGUISHED VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of our former colleague the Honourable Grant Mitchell.

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

Hon. Senators: Hear, hear!

REMEMBRANCE DAY

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I rise today in advance of Veterans' Week and Remembrance Day to pay tribute to those men and women who donned the uniform of this great nation, and at Her command went forth to defend those who could no longer defend themselves and to fight for the very freedoms that we enjoy today.

Recently, I was struck by a very powerful image: That of the lone regimental banner of The Royal Canadian Regiment, or RCR, standing, torn and dusty on Hill 355, on the morning of October 23, 1952. B Company of the RCR had just spent the night being pummelled by Chinese artillery and probed by assault troops. So chaotic was the engagement that the Canadians were forced to regroup into small units, cut off from their comrades.

That regimental banner, like the heroes of Hill 355, was battered and torn but not broken. It stood as a reminder of the commitment and resolve of our men and women in uniform who stood tall in the face of adversity, said "Not today" and, through grit and determination, won through.

The image of that banner is a haunting symbol of not only the sacrifices and tribulations our veterans faced in such places as the ridge at Vimy, the ruins of Passchendaele, the beaches in Normandy, the valley and hills at Gapyeong or the grape fields of Kandahar — but also a symbol of the people they came to save and protect.

Like that fluttering and tarnished banner, the South Korean people, too, were worn out, sullied, alone and without hope when nations like Canada answered. Over 26,000 would volunteer to serve in the Korean War, and they, along with their UN allies, ensured that South Koreans, like my family, would have a future free of Communist oppression.

• (1410)

We can never repay the debt we owe to our veterans. All we can do is dedicate our lives to living in their example, and honour their sacrifices through participating in and protecting those precious rights and freedoms won through their actions. Honourable senators, we will remember them.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Haung Yu, Sébastien Maillé, Katalin Toth and Leigh Anne Swayne. They are the guests of the Honourable Senator Ravalia.

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

Hon. Senators: Hear, hear!

HUMAN RIGHTS IN IRAN

Hon. Ratna Omidvar: Honourable senators, I continue on a sombre note and wish to give voice to the brave Iranian women, men, girls and boys who are facing down a brutal regime in Iran. What better way to do this than to use their own words. These words, which I will read out shortly, were crowdsourced by 25-year-old musician Shervin Hajipour who captured their essence and put them to music.

On release of the song, he was, of course, immediately jailed and tortured before being released again. He has gone silent, but the song has gone viral — not just in Iran but, in fact, globally.

I am fortunate enough to understand Persian, and every time I listen to this piece, I go weak in the knees. I am struck by how inclusive the words are, and how they are a musical cry for justice. So here goes.

The song is titled “Baraye” or “For.”

> For dancing in the alleys
> For breaking the taboo of kissing in public
> For my sister, your sister, our sisters
> For changing rusted minds
> For the shame of poverty
> For the longing for a normal life
> For the dumpster diving children and their wishes
> For getting rid of this planned economy
> For this polluted air
> For the dying Tehran’s landmark trees
> For the Persian cheetah about to go extinct
> For the unjustly banned street dogs
> For the unstoppable tears
> For the scene of repeating this moment
> For the smiling faces
> For students and their future
> For this forced road to paradise
> For the imprisoned elite students
> For the neglected Afghan refugee kids
> For all these “for”s that are beyond repetition
> For all of these meaningless slogans
> For the rubbles of the bribe-built buildings
> For the feeling of peace
> For the sun after these long nights
> For anxiety and insomnia pills
> For men, fatherland, prosperity
> For the girl who wished to be a boy
> For women, life, freedom

Thank you.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Yoanis Menge and Ruben Komangapik. 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!

YOANIS MENGE
RUBEN KOMANGAPIK

Hon. Dennis Glen Patterson: Honourable senators, I’m pleased to be able to rise today and pay tribute to Mr. Yoanis Menge and Mr. Ruben Komangapik. These gentlemen are the friends and business partners behind Reconseal Inuksiuti. As the clever portmanteau suggests, they have developed a new hunting project that aims to bring about reconciliation through understanding the importance and significance of the Inuit practice of hunting seals, while also bringing traditional country food to the Inuit in Ottawa and Montreal.

Mr. Menge is a photographer, and his black-and-white photographs of seal hunting are meant to challenge viewers to see the beauty in a tradition that brings a source of sustenance, clothing, income and spirituality to families throughout the North.

Mr. Komangapik is originally from Pond Inlet, although he now describes himself as a nomad.

In a CBC article that was published on October 30, Mr. Komangapik describes how this project advances reconciliation:

> We’re just not talking, we’re actually doing the actions of reconciliation (between) the sealing industry, the animalist and all those people that (hunt) the seal the wrong way. They made a big, big rift between the South and the North seal hunters.

To avoid taking from Nunavut's Inuit, who are among the most food-insecure Canadians in the entire country, this team has decided to hunt in the Magdalen Islands where there is a healthy seal population.

Colleagues, the fact is that Canada is home to over 400,000 grey seals which are the type being hunted. It is a true delight that these gentlemen can take a few of those seals and bring the meat back to the Inuit living in the South who, like Manitok Thompson of Ottawa, believe the meat "tastes like happiness."

As an aside, I would say it's a bonus that they're helping to alleviate some of the huge pressures on fishing stocks caused by adult seals that consume up to 1,500 pounds of food each per annum. Given that there are approximately 8 million grey and harp seals in Canada, I'll leave you to do the math.

I applaud Mr. Komangapik's and Mr. Menge's efforts to break down the stereotypes and misconceptions surrounding the Inuit seal hunt — all done without any government funding or support.

So *qujannamiik* for pushing for reconciliation in this way, and thank you for bringing nutritious, omega-3-rich country food to Ottawa and Montreal's Inuit populations. *Qujannamiik. Taima*.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. Otto Edward Makmot, former member of the National Parliament of Uganda. He is the guest of the Honourable Senator McPhedran.

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

Hon. Senators: Hear, hear!

THE LATE ELABEN BHATT

Hon. Mary Coyle: Honourable senators, I rise today with a broken heart and profound respect as I join millions of people in India, and worldwide, mourning the loss of Ela Bhatt — Elaben — our sister, a world leader, a lawyer, a cooperator, a trade unionist, a banker, a promoter of fair trade and the green economy, a CBC "Ideas" fan, a devoted Gandhian, a feminist, as well as a gentle, powerful and effective revolutionary, and the founder — 50 years ago — of SEWA, the over 2 million strong Self Employed Women's Association of India.

Elaben passed away yesterday in Ahmedabad, India.

A founding member of The Elders, a group of world leaders initiated by Nelson Mandela to promote human rights and peace, Elaben was a woman of vision, wisdom and curiosity with an unwavering dedication to improving the world.

In today's tribute to Ela Bhatt, the headline in the *Hindustan Times* read, "Ela Bhatt sparked a fire that ignited a global movement." The article continues, "Out of nowhere, cart pullers, vegetable vendors and petty workers became an economic brigade with Ela's leadership."

Elaben founded SEWA Bank, India's first women's bank, and the Indian School of Microfinance for Women. She was a co-founder of Women's World Banking. She was a member of the Indian Parliament and headed the National Commission for Women there. Ela Bhatt was a trustee of The Rockefeller Foundation.

In recognition of her work to improve the status of women and the working poor, Ela Bhatt was awarded the Indira Gandhi Prize for Peace, Disarmament and Development, the Global Fairness Initiative Award, the Ramon Magsaysay Award, the Right Liveli*hoo*d Award and the Légion d'honneur from France, as well as numerous honorary degrees, including from Harvard, Yale and Nova Scotia's St. Francis Xavier University.

Colleagues, I had the good fortune of knowing Elaben for more than 30 years. Our common work with women and microfinance brought us together. The Coady International Institute and SEWA remain strong partners to this day.

Honourable colleagues, I wish I could sit on Elaben's porch swing one more time to discuss our beloved families, and her views on our world and the future. But I can't, so I will conclude this tribute with a quote on peace from Ela Bhatt so that you can know her better:

> Absence of war is not peace. Peace is what keeps war away, but it is more than that; peace disarms and renders war useless. Peace is a condition enjoyed by a fair and fertile society. Peace is about restoring balance in society; only then is it lasting peace.

Honourable colleagues, let's honour Elaben by continuing her work for peace and justice. Thank you.

• (1420)

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Dr. Tobias Schmid, Director at the Media Authority of North Rhine-Westphalia, and Dr. Laura Braam, Team Leader at the Media Authority of North Rhine-Westphalia, who are experts in the protection of children from online harms on the internet. They are the guests of the Honourable Senator Miville-Dechêne.

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

Hon. Senators: Hear, hear!

[*Translation*]

PROTECTING YOUTH FROM EXPOSURE TO ONLINE PORNOGRAPHY

Hon. Julie Miville-Dechêne: Colleagues, it is my pleasure to welcome to the Senate Dr. Tobias Schmid and Dr. Laura Braam who represent the Media Authority of North Rhine-Westphalia in Germany.

I rise to highlight how Germany is ahead of Canada in terms of laws and regulations to protect children and youth from online harm. German media authorities have been very generous in sharing information with me on a subject that is very important to me: protecting children from exposure to online pornography.

Germany has already taken action to block an international porn site in Germany, xHamster, because it did not verify the age of its users to ensure that only adults were accessing the site. The German regulator just won a major court battle against MindGeek, Pornhub's Montreal-based parent company, which challenged the constitutionality of these actions.

Dr. Schmid and Dr. Braam are determined regulators and citizens who take their mission very seriously. There's a lot of resistance right now. The major free porn sites don't yet comply with any laws; they don't check their clients' age, be they in Germany or France. The hope is that other countries, such as Canada, Great Britain and Australia, will follow suit. If more countries require porn sites to act responsibly, children will be better protected from being bombarded by pornographic images that can be traumatizing, violent and degrading and that are freely available on the internet.

Thank you.

[*English*]

QUESTION PERIOD

FOREIGN AFFAIRS

COST OF DELEGATION TO THE FUNERAL OF HER MAJESTY QUEEN ELIZABETH II

Hon. Donald Neil Plett (Leader of the Opposition): Senator Gold, yesterday during Question Period you said:

> . . . in the interests of those who have other questions to ask, no doubt of insignificant importance compared to your question, I have nothing further to add to my answer.

Those comments, Senator Gold, are outrageous, and yet they directly reflect one of the core principles of this Trudeau government, which is contempt for the Canadian parliamentary process.

Our parliamentary system, Senator Gold, was built on the premise of a governing party and an opposition party. The opposition has a responsibility, and that is to keep the government in check. We do so by asking questions. Although your government claims to be more transparent and accountable, the reality is quite different, Senator Gold, and your non-answers to our questions make that point very clear.

Senator Gold, let me try this again, and I gave you notice of this question. I trust you will thank me for that, as you usually do when somebody gives you notice.

Who stayed in the infamous River Suite at the Corinthia hotel in London?

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

The death of Queen Elizabeth II was a significant and tragic event for all Canadians. Canada was represented by former prime ministers and the Governor General to pay respects to the monarch who oversaw almost half of our time as an independent country.

As reported in the media, colleagues, the price of hotels surged significantly ahead of the Queen's funeral. Many hotels were sold out in London because of high demand. Availability was limited, given the unexpected nature of the event and the high demand for accommodations from the 500 heads of state and foreign dignitaries, their staff and official delegations.

The Canadian delegation, which totalled 56 individuals, was larger than the typical delegation due to the significance of representing Canada at this historic event. The official delegation stayed at one single hotel in London in order to effectively participate in official events at Canada House and state funeral events. All members of the official delegation stayed at the same hotel, including the Governor General, former prime minister Stephen Harper, former prime minister Paul Martin, former prime minister Kim Campbell and former prime minister Jean Chrétien, as well as their staff members.

Senator Plett: Yet they didn't all stay in that one hotel room. If there had only been 56 people in that hotel room, I would accept that as being very frugal.

Senator Gold, you and I are old enough to remember the old vinyl records where the needle got stuck and it played the same thing over and over again. You remind me of that vinyl record.

We know how many people were there. We know there were prime ministers there, but we also know the Governor General and Stephen Harper did not stay there. Tell me if Paul Martin stayed there. Tell me if Jean Chrétien stayed there. If that's what you're inferring, Senator Gold, I would accept that as an answer.

Canadians deserve the truth. They deserve to be heard, and they deserve transparency from our Prime Minister. This is why I'm asking you these questions.

Yes, it was expensive to stay there. I hear there were rooms that cost $1,700 a night. Not this one. This one cost $7,300 a night for five nights, Senator Gold — a $36,500 invoice for this room alone. Senator Gold, $36,500 is the annual salary for someone working forty hours a week at $18.25 an hour.

How on earth does Prime Minister Trudeau think this expense is reasonable and appropriate, when at the end of the day he is not personally footing the bill but rather asking and expecting Canadians to?

Senator Gold, yesterday, Prime Minister Trudeau slipped and basically admitted in the House of Commons that it was all about him. Will you, Senator Gold, and your government come clean and tell Canadian taxpayers straight up: Was it Prime Minister Trudeau who stayed in that room?

Senator Gold: I do remember vinyl records, Senator Plett, and I remember the innovation of vinyl records where depending on where you dropped the needle, you could get a different ending.

Senator Plett: Why don't I go get one for you?

Senator Gold: I gave you a different answer today than I did yesterday.

Let me say this because the expenditure of public funds is important, and Canadians are hurting right now.

Senator Plett: Not Trudeau.

Senator Gold: I've never dismissed or denigrated the importance of these questions or holding the government to account.

Because there are so many senators who are relatively new to this chamber, let me remind you of what typically — and not, perhaps, inappropriately —

Senator Plett: Answer the question. This is Question Period.

Senator Gold: Then without the —

Senator Plett: Not for you to make statements.

Senator Gold: Without further context, in the year 2012, Prime Minister Harper took two trips, leading a delegation. He went to Davos in 2012. That cost $566,000. Adjusted for inflation, that is $709,000 representing Canada. In the same year, Prime Minister Harper went to China, and was accompanied by a delegation of 30 Canadian chief executive officers. That trip cost $972,000. The Canadian government under Prime Minister Harper covered the expenses of those 30 Canadian chief executive officers. That's frugality.

• (1430)

Hon. Leo Housakos: It's fantastic that the government leader is drawing on past experiences. I will remind some of the new senators who have arrived here that in the pre-Trudeau Senate there used to be Liberal senators sitting in the opposition who would check the public accounts and hold our government to account daily. There are very few left. But you remember those days. Senator Mitchell was definitely part of that crew.

Now, government leader, let me tell you something else about those good old days. When a minister would go somewhere, like London, and spend $16 on a glass of orange juice, the opposition made sure they were held to account. Do you know what happened to that minister? A few days later, she lost her job. That's what's called accountability, and all of us should practise some of it.

Furthermore, I would also like to point out to your earlier answer. Somebody just checked the River Suite at the hotel that you claim was "price surged" during the Queen's funeral, and as of a few days ago, it was still $6,000 a night. So that excuse doesn't hold water.

> It is time to shine more light on government and ensure that it remains focused on the people it is meant to serve. . . .

That's a quote, government leader. That's a quote that I'm not sure you recognize, senator, but it is a quote taken from Justin Trudeau's Liberal platform in 2015.

Senator Gold, do you agree with the objective of shining more light on government? If so, how would you justify your government and your own stonewalling on answering a simple question about who stayed in a suite that cost $35,000? Once we find out who it is, explain to us why? There might be a legitimate explanation. I'd love to hear it. $35,000 for six nights. Who stayed in that suite and why? It's a simple question, and it's in the public accounts. Taxpayers need to know.

Senator Gold: Thank you for the question. I do, of course, accept the legitimacy. As I said, again, I sound like the broken vinyl record perhaps. But I have provided all the information today that I am in a position to provide. In that regard, senator, I have really nothing further to add to the answer I gave to Senator Plett's question.

Senator Housakos: Senator Gold, it would be bad enough if this were a one-time lapse in judgment on the part of this Prime Minister, but it's not. It's a pattern. In the past seven years, Justin Trudeau has broken the law with his vacation on "billionaire islands," has jetted back and forth across the country on the taxpayer dime to go surfing, bungee jumping and to hang out with celebrities. Now, the cherry on top: he stayed in a $7,000-a-night luxury suite with a private butler so he could ham it up at the piano bar with Gregory Charles, all on the taxpayers' dime. Of course, at a funeral mourning the Queen.

Senator Gold, you don't think that's a question worth answering on behalf of the people who footed the bill? At the end of the day, you're the government leader and a member of the Privy Council. But you are also our representative in this chamber. You sit on Privy Council for a reason: in order to provide us accountable answers to questions.

Quite frankly, it's just not appropriate for weeks and days to not be able to answer on behalf of your role to this chamber and through this chamber to the taxpayers: Who stayed in that room? It's not a complicated question.

Senator Gold: Thank you for your question and the commentary that preceded it. Again, I repeat and I know you are not happy with this answer, but I have provided all the information I am in a position to provide, and I have nothing further to add to my statement.

ENVIRONMENT AND CLIMATE CHANGE

2030 EMISSIONS REDUCTION PLAN

Hon. Mary Coyle: My question is for the Government Representative in the Senate. Senator Gold, last week, the United Nations Environment Programme released its *Emissions Gap Report* for 2022. This report highlights inadequate action by a number of countries on the global climate crisis. The report shows that, given its existing policies, Canada is not projected to meet its Nationally Determined Contribution, or NDC, to the Paris Agreement — the national target of 40 to 45% greenhouse gas emissions reduction below 2005 levels by 2030.

This serious gap was identified by independent studies. Analysis by Climate Action Network Canada and Ecojustice Canada supports that conclusion. With COP 27 just around the corner, Senator Gold, could you tell us how and when the government plans to strengthen its climate plan in order to get us on track to meet those crucial 2030 targets?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. The government is responding to the real climate crisis with an ambitious plan to stimulate a clean economy and create sustainable jobs. Indeed, it is an ambitious and achievable sector-by-sector path for Canada to reach our goals for 2030. The steps that are being put into place, that will evolve over time and start to bear more fruit are serious ones.

The plan itself is a product of broad consultation. Input was received from over 30,000 Canadians. It was widely received from the various sectors that were consulted.

The government remains committed to fighting climate change. It remains committed to evaluating the progress that it is making and remains confident that its plan can and will meet its targets.

Senator Coyle: Thank you, Senator Gold. I do hope, though, that gap will be closed. It's good that we have good things happening, but there is a gap and so we need to find a way to close it.

Senator Gold, speaking of meeting those targets, last week, the International Energy Agency released its *World Energy Outlook 2022*. The report suggests that Canada should explore ways to enhance the federal government's role in strengthening its interprovincial connectivity and accelerating key projects of grid modernization and electrification.

We recently heard Senator Mockler speak about the proposed Atlantic Loop, referring to it as a nation-building project. The report also suggests that the federal government should increase funding to support the acceleration of research, development and innovation of clean energy technologies to achieve the 2050 targets.

My question for you, Senator Gold, is: Will these recommendations regarding grid modernization; interprovincial connectivity, including the Atlantic Loop; and research, development and innovation of clean energy technologies be responded to with the forthcoming clean electricity standard and perhaps today's mid-year budget update? Do we have any more clarity on when the clean electricity standard will be announced?

Senator Gold: Thank you for your question. The government is, as I said, taking action to meet not only our 2030 targets, but also to reach net-zero emissions by 2050. Currently, senators, you will know, I assume, that our electricity grid is over 80% non-emitting, and the clean electricity standard will allow Canada to decarbonize other parts of the economy like transportation and the heating of buildings.

The clean electricity standard will result in good and better jobs, cleaner air, existing electricity generation facilities transitioning to non-emitting sources and will ensure that any new power generation built in Canada is clean. The government remains committed to these goals.

On the clean electricity standard itself, to your question, I'm advised that implementation should start in 2024-25.

CROWN-INDIGENOUS RELATIONS

UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

Hon. Marty Klyne: Senator Gold, in September and October, this chamber heard from Minister Miller and Minister Lametti on the government's work to prepare and implement an action plan by June of next year to uphold the United Nations Declaration on the Rights of Indigenous Peoples, known as UNDRIP. We heard that funds have been dispersed to support capacity in consultations. We also heard that the government is looking to Indigenous leadership groups to inform the mechanics of the consultation process.

Senator Gold, is the government confident on delivering a thoughtful and effective action plan on time next year, and is there anything the Senate as a collective can do to support this work?

Hon. Marc Gold (Government Representative in the Senate): Let me answer the very end of your question first. The Senate has already played an important role in its study of UNDRIP and at least in some quarters — a majority of this Senate is certainly in support of UNDRIP moving forward. I think the Senate, through the Indigenous Peoples Committee, statements and inquiries can continue and should continue to shine a light on the progress that still needs to be made so that the government knows that parliamentarians are watching and holding them to account.

To your question, the government is working, as you've mentioned, in consultation and cooperation with First Nations, Inuit and Métis, to ensure the consistency of federal law, to develop the action plan to which you have referred and develop annual reports on progress critical to making sure that we don't falter.

On this last item, I note that these reports are intended to be submitted or tabled in Parliament so that we have a role in overseeing it as well. I'm advised that early work has been concentrated on supporting the participation of Indigenous partners in the UN Declaration on the Rights of Indigenous Peoples Act implementation process, including support for Indigenous-led consultations in this regard. The collaborative work to close the socio-economic gaps — which we are aware of and are too great — to advance reconciliation and renew relationships remains a priority of this government.

I have been reassured that, as it was reiterated by the government on the fifteenth anniversary of UNDRIP, the action plan will be completed within the timeline.

Senator Klyne: I am reassured; thank you.

[*Translation*]

IMMIGRATION, REFUGEES AND CITIZENSHIP

AFFORDABLE HOUSING

Hon. Jean-Guy Dagenais: My question is for the government leader, who certainly won't dare question my preamble, as I'll be quoting figures from the Canada Mortgage and Housing Corporation, or CMHC.

To counter the current housing crisis, the CMHC estimates that Canada will need 3,5 million new housing units by 2030; that is staggering. Quebec will need 1.3 million new housing units by 2030 to establish some sort of normalcy.

The CMHC states that 84% of immigrants entering Canada begin as renters, and it's clear to everyone that the majority of immigrants choose to settle in big cities such as Toronto, Montreal and Vancouver.

When the Minister of Immigration, Mr. Fraser, says he wants to increase the number of immigrants that Canada will welcome by 2025 to 500,000, can you tell us what he saw in his crystal ball as options for housing all these newcomers, when Canadians are already having a tough time finding a suitable place to live at a reasonable price for their family?

Will the minister's lack of compassion force newcomers to stay in a hotel for 12 to 18 months at the taxpayer's expense?

Hon. Marc Gold (Government Representative in the Senate): No, the immigration minister doesn't lack compassion. He set that target for the well-being of Canadian society and the future of our economy.

As for the matter of housing challenges for Canadians or those moving to Canada, the government has taken a lot of measures to do its part to try to increase the construction of new housing units in partnership with the private sector, the provinces and the municipalities. That includes, among other things, a $4-billion investment in a fund for new housing, the Housing Accelerator Fund, in Budget 2022 to help municipalities speed up construction and build 100,000 new housing units.

Budget 2022 also provides for an investment of $1.5 billion to continue the Rapid Housing Initiative to create thousands of affordable housing units. There is also a $2.9-billion advance as part of the National Housing Co-Investment Fund to build and repair 22,000 housing units. Lastly, the budget also includes a $1.5-billion investment to promote and expand cooperative housing.

FRANCOPHONE IMMIGRATION

Hon. Jean-Guy Dagenais: Canada isn't meeting its targets in the fight against climate change. Canada isn't meeting its target for the number of francophone immigrants entering the country. We're all aware of the public service's lack of efficiency in processing immigration files and, while we're at it, the files of migrants arriving at Roxham Road.

As the Minister of Immigration is increasing Quebec's proportional share of immigrants from 50,000 to 113,000, can you tell us how your government can dispute and deny the concerns of Quebec's premier regarding the threat this represents to the French language?

I hope you won't tell me that there's money allocated for that.

Hon. Marc Gold (Government Representative in the Senate): Immigration to Canada, whether to Quebec or elsewhere, is essential to the well-being of our society and our future. As you know, Quebec has a wide range of powers unique in Canada when it comes to how immigrants are selected. Quebec also has full jurisdiction over the implementation of francization and integration programs for newcomers. Furthermore, the Government of Canada is a steadfast partner of the Government of Quebec in supporting its efforts to better receive and integrate francophone immigrants.

In my view, as a Quebecer born in Montreal and now a resident of the Eastern Townships, I am convinced that the vast majority of Quebecers who have daily contact with newcomers would agree that immigration to Quebec, like elsewhere, is a good thing, not only for Quebec and our society, but for the future of the French language, which is very important to us.

[*English*]

FOREIGN AFFAIRS

TAIWAN

Hon. Marilou McPhedran: The importance of the Canada-Taiwan relationship goes beyond Beijing-Taipei cross-strait security. Over 60,000 Canadians live in Taiwan, and more than

200,000 Canadians are of Taiwanese ancestry. Regrettably, Canada ended official recognition of Taiwan as a nation in 1970. Many governments adhere to the "One China" policy, declaring Taiwan independence an out-of-bounds internal issue. Canada trades with Taiwan to the tune of about a combined $10 billion annually, but what do we do when Chinese aggressions, economic manipulations or military threats are issued regarding this democratic island state?

Senator Gold, in my time working at the UN in Geneva, I witnessed how China uses back channel political clout and insinuations that amount to economic threats to work against Taiwan. Taiwan set a high standard for prevention and protection during this COVID pandemic using public health and economic metrics. China has increased its aggressive posture toward Taiwan.

The Hon. the Speaker: Senator McPhedran, as I mentioned yesterday, there are a number of people whom I don't get to on a daily business who want to ask questions. Could you please try to get to your question?

Senator McPhedran: Thank you for the reminder, Your Honour.

Senator Gold, Canadian MPs led by the Honourable Judy Sgro visited Taiwan a few weeks ago, joining lawmakers there who have publicly called on Canada to declare support for this self-governing democracy in the event of an attack or blockade by China as a way to deter any such aggression. What is the government response to this clear and pressing request on behalf of Taiwan?

Hon. Marc Gold (Government Representative in the Senate): Thank you for the question. Canada's relationship with China, which implicates our relationship to Taiwan, is a complicated one, as we all know. It is one that Canada is not alone in having to manage.

With regard to Taiwan, which Canada values as an important partner, and with regard to your question about Chinese aspirations, aggressions and sabre rattling, I will remind you that, in October 2021, Canadian warships joined U.S. warships in sailing through the Taiwan Strait that separates China and Taiwan. Canada is managing its challenging relationship with China in a way that is also deeply respectful of the important ties we have with Taiwan.

• (1450)

Senator McPhedran: In January 2022, Canada announced exploratory discussions with Taiwan on a foreign investment protection agreement, an evidence-based decision. You know the evidence, but I can't go into it in this short period of time.

Senator Gold, Minister Freeland recently called for a re-evaluation of global partnerships and alliances and breaking with autocrats. Does the government see greater partnership with Taiwan as an example of the Freeland doctrine of friend-shoring?

Senator Gold: I'm not sure I can answer the specific question, but I can underline the government's interest in and ongoing consideration of expanding relationships with Taiwan in the trade area. The government has agreed to begin these exploratory discussions on a foreign investment and protection arrangement with Taiwan and will continue to do so.

COST OF DELEGATION TO THE FUNERAL OF HER MAJESTY QUEEN ELIZABETH II

Hon. Denise Batters: Senator Gold, in 2012, former cabinet minister Bev Oda was hounded by opposition parties for a London hotel stay. Her room cost $665 per night. Fast forward, and Prime Minister Trudeau just dinged Canadian taxpayers more than 10 times that amount: $7,300 per night for his opulent 900-square-foot suite in London.

Last week, you tried to "LaurentianSplain" this PM's outrageous expense with, "When's the last time you tried to rent a good hotel room in London?" Yikes. Minister Oda reimbursed her hotel costs. When will this silver spoon Prime Minister reimburse his?

Hon. Marc Gold (Government Representative in the Senate): Again, you are making assumptions in your question —

Senator Batters: He admitted it yesterday.

Senator Gold: — that I'm not in a position to validate.

Senator Batters: Minister Oda also repaid her infamous $16 orange juice bill. I am curious, Senator Gold: Was a complimentary breakfast included in that $7,300-per-night price tag for Prime Minister Trudeau's luxury River Suite? If not, how much are Canadian taxpayers on the hook for that orange juice?

Senator Gold: Again, Senator Batters, with the greatest of respect to you and to this chamber, I am not looking to score points or to be cute. All I can say is that I have no further information that I can share with you at this time, or that I am in a position to share with you, or that I know to share with you. In that regard, again, I'm giving my answer to your question. I hope the chamber will accept that as what I am able to do at this juncture.

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: second reading of Bill C-31, followed by all remaining items in the order that they appear on the Order Paper.

COST OF LIVING RELIEF BILL, NO. 2 (TARGETED SUPPORT FOR HOUSEHOLDS)

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Yussuff, seconded by the Honourable Senator LaBoucane-Benson, for the second reading of Bill C-31, An Act respecting cost of living relief measures related to dental care and rental housing.

Hon. Mary Jane McCallum: Honourable senators, I rise today to speak to Bill C-31, An Act respecting cost of living relief measures related to dental care and rental housing.

I would like to thank Senator Yussuff, Senator Seidman, Senator Omidvar and Senator Simons for their previous speeches, which have increased our awareness and knowledge about dental care in Canada.

As many of you will know, I have been invested in the provision of dental care for 48 years of my life. Dental care is near and dear to my heart, and through my work I have given dentistry the worth that it deserves.

As it pertains to this bill, colleagues, I have concerns regarding the lack of adequate responses to questions raised by me and by other dental health professionals. I'm concerned about this short-term approach when the effective prevention and management of most dental disease requires a long-term view. Moreover, we have provincial models of public health dentistry that provide care already. These clinics need to be better supported and funded to enable them to provide continuing additional care.

Most dental care systems are still structured around acute care service delivery, including emergency care such as pain relief. This traditional approach based on high-risk individual treatment is costly and research has proven its weak effectiveness.

Honourable senators, I have witnessed the children's dental programs that existed in the provinces of Manitoba and Saskatchewan in the 1970s and 1980s. They were successful in completing school-based dental care on school-aged children, mainly in rural areas. The majority of children in the rural towns in Saskatchewan were eventually placed on maintenance, costing the government and taxpayers approximately $80 a year per student. Despite the success stories in these two provinces, the programs were phased out due to pressure from the provinces' dental associations. Here, we can see the struggle between the public health model of dentistry and the business model. Which model will be encouraged to flourish in the proposal before us?

Colleagues, I further noticed in the bill that dental therapists are not included in the bill's definition of "dental care services." The dental therapists both federally and provincially trained in Saskatchewan and Manitoba are licensed health professionals who today provide the majority of services to children in dental offices. However, there are some federally trained dental therapists in Manitoba who are not recognized by the Manitoba Dental Association, or MDA. They continue to work on reserves without licences and without malpractice insurance, to their detriment. These federally trained therapists were trained through the dental faculty at the University of Toronto. I approached the MDA to question why the licensing of these two groups differed, but I did not receive an answer.

There are also Children's Oral Health Initiative, or COHI, workers hired under a federal program who are trained at the community level but work without a diploma. They are allowed to provide treatment of fluoride application even though trained dental assistants are forbidden to do so through their provincial standard of care. It's unimaginable that we have unrecognized, unlicensed providers without malpractice insurance permitted to work on children simply because these children live on-reserve. This is what we call geographic and systemic health racism.

As such, one big question lingers: Will this act be amended to include dental therapists, especially since they license and regulate their own profession in Saskatchewan and are looking at doing the same in Manitoba?

Honourable senators, one example of the fallout from decommissioning the children's dental program was the closing down of the federal dental therapy school in Prince Albert, Saskatchewan, in 2011. The federal dental therapy school, supervised by dentists from U of T, was originally situated in Hay River, Northwest Territories. Yet, because the dental therapists had successfully completed treatment of all the citizens in the town, they had to move the school in Prince Albert. I understand that a new dental therapy school will be ready to start in La Ronge through the faculty of the University of Saskatchewan. I also understand that there are talks ongoing with different schools about dental hygienists who will be trained to be dental therapists.

This issue of a sustainable workforce continues with the other dental health professions. There are existing challenges with the recruitment and retention of oral health clinicians to provide care. When I was in Winnipeg, I asked dentists how they would be able to absorb the influx of children that this bill will result in, and who would be advising these children which offices would provide care. There are over 650 offices in Winnipeg but adequate infrastructure is not in place to handle this increased workload, which they are expected to absorb. I also do not know who would head such an initiative. Many dentists are already booking with their own patients months in advance. Will dentists be willing to displace some of their own patients for an interim program with unknown levels of bureaucratic involvement?

• (1500)

Colleagues, under the heading "Application" in section 8, it states that the application must include the name, address and telephone number of the dentist, denturist or dental hygienist — this is where dental therapists are missing — the applicant intends to have provide dental care services for the person for whom the application is made. The application also requires the month during which the services were provided, or when the applicant intends to have the services provided.

Based on what I have seen working in the field, I can say that very few dentists will provide care while expecting payment at a later date, despite what was said last night at the Finance Committee meeting. Furthermore, many First Nations are refused service due to an inability to prepay.

There are other situations at certain times where insurance companies will inadvertently send cheques to the patient instead of the provider, and then the provider has no recourse to payment when the patient doesn't return the cheque to the office.

What happens if the applicant chooses to go to another provider — which is their right — or if they receive that cheque but don't spend it on the intended care? This is a very profound possibility, as many of these individuals may have to decide if the money they receive is better spent on food or clothing so that their children can have basic living needs.

As we saw, the same situation occurred with the CERB where ineligible individuals sought the benefit because they needed it to meet basic needs. These are profound concerns to be addressed.

Honourable senators, I would like to speak to another successful dental program that is offered for children in Grades 2 to 6 at participating schools in the Winnipeg School Division, which has a high proportion of low-income households. This program is delivered by dental students in the college of dentistry at the University of Manitoba in concert with Variety, the children's charity of Manitoba.

The third- and fourth-year dentistry students, who number 70, work with dental hygienists, dental assistants and supervising dentists to educate and screen children at school. Typically half of those screened require treatment. I was one of the instructors in the early 2000s, and I saw first-hand the extensive needs of children in these urban populations.

In their 2021-22 report, 17 schools were involved and 2,053 students were screened with 21% treated. Dental students administered 733 treatments, improving the lives of 199 children altogether.

Marsha Missyabit, the vice-principal of the Niji Mahkwa School stated:

> This year, our school felt very supported by the dental outreach program. Students that attended the program were very comfortable and had pleasant things to say. Communication was effective and we were accommodated with respect. Thank you for all your support!

In 2019, Variety began supporting SMILE plus, a partnership between the University of Manitoba and the Winnipeg Regional Health Authority that provides free dental care for children in kindergarten and Grade 1 at select schools. These are done through private donations.

Honourable senators, I call attention to these successful programs as they can be used as models for implementation. The universities themselves are great sites for public health model delivery of dental care.

Yet, colleagues, a large concern I have with Bill C-31 arises from discussions I have held with various groups and individuals who are concerned about the inadequate amount of $650. It was quoted these children only require $650 worth of treatment. This amount would allow for an exam, radiographs and only two to three restorations. If this is all they require, then truly these children do not need a lot of work, but I don't believe this to be the case. These children will need full-mouth comprehensive care, especially for groups that have had very little to no access to oral care, as has been stated by some senators.

When I appeared as a witness at the House of Commons Health Committee back in 2003, the committee looked at the amount offered in the Non-Insured Health Benefits program. At the time, it was $800. The committee indicated that this was inadequate, and they were instrumental in raising that amount to $1,000, a number that was still indicated to be inadequate.

Many health professionals have acknowledged that dental care is out of reach for many, including all age groups across the country. Who is most at risk and what is going to be done to provide some equality and equity to these groups?

Many people don't have appropriate and timely dental care for reasons stated by the college of dentistry at the University of Manitoba, which include accessibility, availability, accommodation, awareness and acceptability.

I have said this before: That span between the $70,000 and $30,000 income brackets is huge and has the possibility of negative implications for the $30,000-to-$40,000 income group. In this group, they lack resources like the internet, phones, child care, transportation and the skills to navigate the new, incoming bureaucratic system, which already limited access to care when I was delivering dental care 20 years ago. It still continues to limit access today.

To add to the bureaucracy, the Canada Revenue Agency will be yet another major obstacle, especially if they do not have direct deposit accounts or access to computers.

What I heard in yesterday's speech is that for Canadians to be able to receive their benefit payments swiftly, they will receive an upfront payment. That alleviates some of the burden for those who cannot prepay.

However, how will we assist those parents who do not have bank accounts or financial literacy? How will the government further ensure that this group will be able to access dental benefits equally with the $70,000 income group, who will have more resources?

Honourable senators, I would like to state my serious discomfort with the rushed manner with which this critical bill has proceeded. Is this because there has been a threat to trigger an election if this bill is not passed by December, or that the Canada Revenue Agency wants it passed by November 18?

It needs to be said that working under duress is no way to start this public health dental program. Spending public funding is a responsibility that we must consider diligently, not hastily.

[*Editor's Note: Senator McCallum spoke in Cree*.]

Thank you.

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

Hon. Senators: Question.

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

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

REFERRED TO COMMITTEE

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

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

[*Translation*]

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, November 15, 2022, at 2 p.m.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

(Motion agreed to.)

• (1510)

[*English*]

CRIMINAL CODE
CONTROLLED DRUGS AND SUBSTANCES ACT

BILL TO AMEND—THIRD READING—DEBATE ADJOURNED

Hon. Marc Gold (Government Representative in the Senate) moved third reading of Bill C-5, An Act to amend the Criminal Code and the Controlled Drugs and Substances Act.

He said: Honourable senators, I rise to begin third-reading debate of Bill C-5, which will make important changes to the Criminal Code and the Controlled Drugs and Substances Act.

[*Translation*]

I'd like to begin by thanking the members of the Standing Senate Committee on Legal and Constitutional Affairs for their thoughtful and in-depth study over the course of nine meetings in five weeks. I also want to thank the support staff who made the committee's work possible and the dozens of witnesses who appeared before and submitted briefs to the committee. Even though Bill C-5 is relatively short, it is very important, as evidenced by the level of interest of stakeholders and senators alike.

[*English*]

Its central objective is to bring us closer to having a criminal sentencing regime in which penalties are consistently well suited to the offender and the offence, rather than being a blunt instrument that lands with disproportionate force and frequency on Indigenous people, Black people and members of other marginalized communities.

The bill has three main elements.

First, it changes the way Canadian criminal law deals with simple drug possession, both by requiring police and prosecutors to prioritize alternatives to criminal charges and by having criminal records for drug possession automatically expire after two years.

Second, it removes restrictions imposed in 2007 and 2012 on the use of conditional sentence orders, which are non-custodial sentences that allow some offenders who do not pose a risk to public safety to remain in their communities, subject to conditions like house arrest or mandatory counselling, to mention but two.

Third, the bill repeals a number of mandatory minimum penalties including for all drug-related offences, certain firearms offences, offences related to the importation of weapons like brass knuckles or pepper spray and one offence involving contraband tobacco.

These measures will not solve all the problems of our criminal justice system; colleagues, no single piece of legislation could. But as witness after witness testified at committee, Bill C-5 is a meaningful step in the right direction.

In fact, practising criminal lawyers, including a representative of the Canadian Bar Association, urged us at committee to adopt this bill as soon as possible because there actually are cases currently in the system where the resolution is being delayed in the hope that Bill C-5 will pass soon.

In my previous address to the chamber, I went into detail about the content of the bill — and I'd be happy to do so again in response to your questions — but I'm going to focus my remarks today on the testimony that we heard at committee about the three main parts of the bill.

First, on the subject of diversion for drug possession.

With regard to alternatives to criminal charges for drug possession, there was strong support at committee from The John Howard Society. Its Executive Director, Catherine Latimer, noted the similarity between this aspect of Bill C-5 and a comparable section of the Youth Criminal Justice Act, which she said has been shown to "lead to fewer people coming into the criminal justice system for less serious offences." According to Ms. Latimer, these provisions "allow for individuals with substance abuse issues to be referred to community programs where real assistance may be available."

[*Translation*]

The John Howard Society, the Canadian Association of Chiefs of Police and the National Police Federation, which represents RCMP officers, all underscored the need to increase the resources available for treatment and diversion programs in Canada's communities so that this section of Bill C-5 can reach its full potential. The committee report includes similar observations, which were suggested by Senator Dalphond and which I was pleased to support. As Senator Simons pointed out in the clause-by-clause study, and I quote: "We can't divert people if there's no place to send them." The government agrees and that's why it increased its support to send people to community justice centres, for example.

[*English*]

In his testimony, the minister gave the example of an agreement reached in British Columbia earlier this year between the federal government, the province and the BC First Nations Justice Council to support and expand Indigenous-led community justice programs. The government's intention is to continue supporting these kinds of programs, in conjunction with provincial, territorial and Indigenous partners in British Columbia and across Canada.

The committee also heard from witnesses who argued that nothing short of full decriminalization of all drugs would constitute meaningful change. On this point, I would note that decriminalization of simple drug possession is going to happen in British Columbia early next year, due to an agreement between the province and the federal government. No doubt, we're going to learn a lot from that experience, some of which may be applicable in other parts of the country or, in the future, at the federal level.

The key point is that this change in British Columbia has been preceded by extensive consultation, cooperation and planning, with the province fully on board. We're not there right now in the rest of the country. But what we can do, immediately, is to direct police and prosecutors in every province and territory to avoid laying criminal charges for drug possession in most instances, and that's what Bill C-5 proposes.

I know that some senators have raised concerns about the way police discretion is used, given the reality of systemic discrimination. Again, this is something that the committee emphasized through its observations. It's a fair point, and that's why the bill specifically envisions that records related to diversion, with personal identifiers removed, can be provided to researchers for the purpose of assessing and evaluating police use of discretion.

That work will be facilitated by the government's recent investments in the collection of disaggregated data, particularly in the criminal justice space. The more we understand about how diversion options are used and whether diversion is happening more or less in certain parts of the country or with members of certain communities, the better equipped we will be to identify and address inequities.

Next, to conditional sentence orders.

With regard to the second part of the bill, which proposes to remove restrictions to conditional sentence orders, we heard enthusiastic testimony from a number of stakeholders. Criminal lawyer Michael Spratt gave this part of the bill "straight A's." Tony Paisana, speaking on behalf of the Canadian Bar Association, told the committee that this part of Bill C-5 would be "one of the most important reforms in the criminal law over the past decade, if not the most important."

According to a written brief from the Native Women's Association of Canada, the enhanced access to conditional sentences enabled by Bill C-5 "will immediately begin" decreasing Indigenous women's over-incarceration rates.

[*Translation*]

Conditional sentences have existed in Canadian criminal law since they were introduced in the 1990s by Allan Rock, the then Minister of Justice. For sentences of less than two years, when a judge determines that there's no threat to public safety, offenders can serve their sentence in the community, under certain conditions. Doing so may result in better rehabilitative outcomes since the offender can maintain employment, family and community support ties.

• (1520)

This is particularly important in remote and northern communities, where the closest prison may be hundreds or thousands of kilometres away. It is all the more important when there are children involved who could end up in the care of child protection services if their parent goes to prison.

Raphael Tachie, president of the Canadian Association of Black Lawyers, or CABL, pointed out that conditional sentences are essential tools for combatting recidivism as they can allow for offenders to maintain familial ties and employment and school commitments, while still being held accountable for their crime.

Colleagues, I'd like to take a moment to recognize the opinion expressed in committee, namely by Senator Boisvenu, that conditional sentences can enable dangerous offenders to stay at home or in their community. Honourable senators, I know that that opinion is based on a real concern for the safety of the community and particularly for victims of gender-based violence, and I thank Senator Boisvenu for raising this issue.

Like Senator Boisvenu and others, including Senator Dupuis, we reminded the committee that it's important for women to have confidence in the criminal justice system so that they feel safe when they ask for help.

I also note that the Criminal Code only allows conditional sentences when there's no safety risk. Bill C-5 doesn't change that. What's more, it's important to keep in mind that many people who might benefit from broader access to conditional sentences are themselves victims of gender-based violence.

The Supreme Court of Canada is currently dealing with a case involving an Indigenous woman who helped her husband move drugs under duress, under threats to herself and her daughter. Under current legislation, that woman has to go to prison; she argued that the judge in this case should at least have the option to impose a conditional sentence and that's exactly what Bill C-5 would allow.

[*English*]

Ultimately, colleagues, conditional sentences serve the interests of public safety. It is not a risk-free proposition to send people needlessly to prison. Cutting someone off from their family, friends, employment, education and social supports, and forcing their kids into foster care, can make homes and communities less stable, less safe and can perpetuate cycles of criminality.

Where it is possible and safe to hold people accountable for breaking the law without incarcerating them may not only be the more compassionate thing to do but the safer thing to do. That's why this section of Bill C-5 is so important.

Finally, to the question of mandatory minimum penalties: As I said at the outset, the third part of the bill would repeal a number of mandatory minimum penalties, including all mandatory minimums for drug offences; certain offences involving non-restricted firearms — essentially, hunting rifles; offences involving the trafficking of weapons other than firearms; and one offence related to contraband tobacco.

These types of provisions establish a minimum amount of prison time that sentencing judges must impose for a given offence. They restrict judges' discretion, limiting their ability to take mitigating factors into consideration and to engage more meaningfully with sentencing guidelines, including the need to consider what are known as *Gladue* principles related to the particular circumstances of Indigenous offenders.

Most witnesses strongly supported the repeal of these mandatory minimums. Janani Shanmuganathan of the South Asian Bar Association of Toronto called it "an important step." Criminal lawyer Michael Spratt called it "a very positive step . . . ." Sarah Niman, speaking for the Native Women's Association of Canada, said that the repeal of these mandatory minimums ". . . empowers trial judges to meaningfully engage *Gladue* principles . . . ."

In other words, there was very little disagreement about whether repealing these provisions would be a good thing. The consensus was that, yes, it's a very good thing. The question that came up was: Why does Bill C-5 repeal these mandatory minimums but not others? And should the bill go even further and repeal more, or even all, mandatory minimum penalties, perhaps even including the one for murder?

Colleagues, Canadian criminal law currently contains around 70 mandatory minimum provisions. Bill C-5 would repeal 20 of them.

At committee, the minister's explanation was that, according to government data, the 20 mandatory minimums repealed by Bill C-5 are amongst those that are used most often and that apply disproportionately to Indigenous, Black and other marginalized people. Indeed, according to statistics from Correctional Service Canada, from 2010 to 2020, of all admissions to federal custody where the most serious charge carried a mandatory minimum penalty, over half were for 1 of those 20 offences covered by this bill. That includes 11,630 people who received a mandatory minimum for a drug offence, and, amongst them, over 1,600 Indigenous people and over 1,000 Black people.

That's just federal custody. Sentences of less than two years are served in provincial and territorial institutions, which incarcerate more people than federal prisons, often with higher rates of overrepresentation.

As we heard from University of Ottawa criminologist Cheryl Webster, reliable numbers about provincial and territorial sentences are less readily available. Late in our study, though, we did get an estimate from Statistics Canada that the repealed mandatory minimum penalties in Bill C-5 could affect an average of 9,123 cases across Canada every year.

Ultimately, this is another area where we could benefit greatly from better data, including better disaggregated data. Again, I'm hopeful that the government's recent investments in this area will

make an impact. But what is clear is this: The repeal of mandatory minimums proposed by Bill C-5 could help a lot of people.

Finally, one of the proposals made at committee was something that is often called a "safety valve" or "structured discretion." Basically, it's the idea that the law should allow a sentencing judge to deviate from the mandatory minimum in a particular case if the judge determines that imposing it would be somehow unjust.

A number of witnesses recommended this, and an amendment to this effect was considered at committee. As I said at committee, I largely share the values that underpin this idea, and I think it was very important that committee members gave it due consideration before ultimately deciding not to proceed with that amendment. We had a thoughtful discussion at committee, and valid points were made both for and against this notion.

The government opposes this proposal for two main reasons.

First, credible stakeholders, including the Canadian Bar Association and the Criminal Lawyers' Association, cautioned that this approach could have negative unintended consequences — namely, incentivizing the proliferation of mandatory minimums by shielding them from constitutional challenges.

Second, the government agreed with Raphael Tachie from the Canadian Association of Black Lawyers, who urged us to get Bill C-5 off the Order Paper and into real life as soon as possible. His advice to us was, "We can't let the perfect be the enemy of the good."

Colleagues, it certainly has been a long and challenging journey to get to this point — not just this past year and a half of Parliament dealing with Bill C-5 and its predecessor, Bill C-22, but the last decade, since many of the previous government's so-called "tough on crime" measures were first put in place. We're so close to passing this bill and making a real difference in people's lives. Better to bank the win than to toss politically challenging legislation back into the uncertainty of a minority House of Commons.

• (1530)

[*Translation*]

Again, I want to thank the members of the Standing Senate Committee on Legal and Constitutional Affairs for having seriously considered the content of this bill and making proposals to support its objectives, including by making formal observations in their report, and for having decided to move forward with Bill C-5 as is — not because it's a panacea, but because it's a significant step forward.

The time has come to take this important step.

[*English*]

In a letter to the committee, the Criminal Lawyers' Association called Bill C-5 "an integral piece of legislation in justice reform" and urged us to "move Bill C-5 through the Senate as soon as possible." In the view of the Canadian Bar Association, "It's critical that this bill pass, and pass with haste." The Canadian Association of Black Lawyers said, ". . . we encourage you to work expeditiously to pass this bill so we can start implementing on the ground."

Even witnesses who wanted Bill C-5 to go much further acknowledged it capacity to make a difference. Emilie Coyle, the Executive Director of the Canadian Association of Elizabeth Fry Societies, called this legislation:

> . . . a step toward the goal of seeking to reduce the crisis of structural racism, systemic discrimination and inequality in the justice system.

University of British Columbia law professor Debra Parkes said, "I absolutely agree that lives could be changed by this bill . . . ."

That is the critical point, colleagues. Those are real people who will be unnecessarily imprisoned or imprisoned for longer than is necessary if we don't pass this legislation, and pass it soon.

By way of example, I'll close with something we heard from Janani Shanmuganathan of the South Asian Bar Association of Toronto, whom I mentioned before. She notably argued one of the landmark cases related to mandatory minimums at the level of the Supreme Court of Canada. She told us about a client of hers, a 26-year-old man with an alcohol addiction but no criminal record who used a pellet gun from Canadian Tire to hold up a convenience store for $100 so he could buy some beer. He was caught and he confessed within hours.

Between the time of his arrest and the time of his sentencing, he turned his life around. He enrolled in university, started a meaningful relationship and not only began attending Alcoholics Anonymous but actually became an AA facilitator.

He arrives for sentencing. The sentencing judge expressed deep regret at having to impose a one-year mandatory minimum sentence, saying, "It's heartbreaking to send this person to jail, but I have no choice." According to Ms. Shanmuganathan, that unnecessary incarceration imposed significant psychological and financial consequences on her client. He suffered a mental breakdown while in jail.

That's why she spoke passionately in favour of Bill C-5 at committee and urged us to pass it fast. She told our committee:

> I have clients who are hanging on to this bill passing . . . . I have actual clients for whom this bill would change their lives.

Colleagues, the government is not proposing to pass Bill C-5 and then hang a "mission accomplished" banner on the criminal justice system. There remains a great deal of work to do to make our justice system more effective and more just. That will include legislation, investments and many other policy tools to address the underlying causes of criminality and the social alienation that plagues our society. But this bill, as it is, will do a lot of good. Colleagues, please, let's turn it into law.

Thank you very much.

Hon. Denise Batters: Senator Gold, I noticed that you mentioned pepper spray in the context of mandatory minimum sentences in your speech again, just like in your second-reading speech. After that speech, I asked you how many people in the last five years in Canada were convicted of that pepper spray offence who received the mandatory minimum sentence. I speculated, given the discretion of police prosecutors and courts, that the number would be next to zero. You replied that you didn't know. I asked why you put it in your speech as an example if you didn't know. You repeated that you didn't know and said that I could ask officials at committee.

So I did. The Department of Justice Canada officials couldn't give me an answer, either that day or via their written response later.

Again, I contend that the number of people who are convicted of a pepper spray offence that attracts a mandatory minimum sentence would be next to zero. Senator Gold, why do you continue to use that pepper spray mandatory minimum sentence example when you have nothing to back it up after weeks?

Senator Gold: There are a lot of people who get charged, convicted and sentenced to the mandatory minimum for illegally importing a prohibited weapon. However — thank you for your question; I would like to answer it, please. The data we have doesn't distinguish between various types of weapons, so we don't know whether any of those instances involve pepper spray. You're quite right.

The point, though, is a broader one. It's that the offence of trafficking in a prohibited weapon could contain a broad range of behaviour and degrees of culpability, from organizing illicit shipments of switchblades to driving across the border with a can of pepper spray in your glove compartment. Not all of this behaviour merits the mandatory one-year jail term that the Criminal Code currently provides. Again, this allows judges in such circumstances, whatever the actual prohibited weapon might be, to consider the exercise of discretion when it is warranted, when public safety is not otherwise at issue.

Hon. Kim Pate: Senator Gold, so many of us support the objectives of Bill C-5 to repeal mandatory minimums and decrease the overrepresentation of Indigenous and Black people and members of other marginalized communities in prisons.

Just this week, the Office of the Correctional Investigator released their 2021-22 report, confirming that Indigenous women continue to be the fastest-growing federal prison population and that they are now 50% of federal prison populations, two out of three of those classified as maximum security and 76% of those in structured intervention units, the supposed replacement for solitary confinement. Of the incarcerated Indigenous women, 86.2% are assessed as high-risk and high-need. The majority are incarcerated for violent offences and serve long sentences, largely as a result of their responses to violence first perpetrated against them.

The incarceration of Indigenous women most often results in their children being apprehended by the state, as you have indicated, which further contributes to cycles of institutionalization for Indigenous children, families and communities.

Could you please explain how this bill in its current form will not implicitly defeat its own objective by continuing exponential increases in incarceration of Black, Indigenous and racialized or otherwise marginalized people, especially Indigenous mothers?

Senator Gold: Thank you for your question. I think in my third-reading speech, in which I referred to testimony, we had evidence before us that it would, in fact — though it doesn't go all the way to eliminating all mandatory minimums — address a significant number — half of the cases — for which mandatory minimums were actually imposed.

We also heard testimony, to which I also referred, that this would have a significant impact on the overrepresentation of Indigenous women, Black people and other marginalized groups, who are caught up in the system.

Therefore, although it doesn't go as far as many witnesses would want — and as far as you and many senators, perhaps, would want — it will make a real and tangible difference. In that regard, again — not to repeat the third-reading speech — this is a positive step forward, which you and many other witnesses acknowledged. It will make a real difference and will be a step toward addressing this overrepresentation.

• (1540)

I was at pains to mention, toward the end of my speech, that much more needs to be done to address the underlying causes. Much more needs to be done to provide the resources to communities to take full advantage of the repeal of these mandatory minimums and the creation of possibilities for diversion and for better integration and helping to rehabilitate those who don't pose a risk to public safety. This will make a real difference. That's what we heard at committee, and that's why I support this bill.

Senator Pate: Thank you. We certainly heard that. We also heard, though, from scholars like Professor Debra Parkes and PhD candidate Elspeth Kaiser-Derrick — leading scholars in this area — that, in fact, it will make virtually no difference in terms of the incarceration rates of Indigenous women, in large part because of the context in which they are incarcerated and the fact that mandatory minimum penalties drive so many guilty pleas. I believe the figure that Elspeth Kaiser-Derrick quoted was 77% of the Indigenous women's cases that she looked at. In addition, Debra Parkes mentioned that approximately half of the Indigenous women who are being jailed for life sentences are women who have responded to violence.

It strikes me that the evidence presented at committee actually shifted much further toward the need to go further. I'm curious, what are the next steps that the government is proposing to address these issues to create what you describe as the need for more compassionate and safe environments?

Senator Gold: The evidence and testimony at committee, in my respectful opinion, demonstrated that this bill would make a real difference, even if it didn't go as far as others would want, and even if it — as no bill could — went so far as to eliminate systemic discrimination and racism in our system. In fact, there are so many social causes and determinants that are beyond the reach of any piece of legislation.

The government has made significant investments in providing and empowering Indigenous communities to take greater control of their justice processes, including policing but not limited to that, and working with communities to fund and support pilot projects in a number of areas.

The fundamental point — and let's return to Bill C-5 — is that this bill addresses a real problem, provides a real solution, and I underline it's not only with regard to mandatory minimums, but also with regard to the diversion away from drug offences. This is especially important for people to not be caught up in the justice system at an early age. Rarely does it do anybody any good to be caught up in the justice system, often provincial to start with, and removed from their families and their ability to maintain proper social ties.

This bill will make a difference. It's a step in the right direction. It's the product of a long-standing effort by this government, along with other parties in Parliament, to finally begin to reverse the failed policies of a previous government in the matter of criminal justice, and it's worthy of our support.

[*Translation*]

Hon. Pierre-Hugues Boisvenu: I rise today, honourable senators, to speak to the third reading of Bill C-5, An Act to amend the Criminal Code and the Controlled Drugs and Substances Act.

Current statistics show that crime in Canada — that is, violent crimes against the person — is rampant and increased by 5% in 2021 and in recent years. The scourge of domestic violence, sexual assault, femicide, missing persons and human trafficking is only getting worse and we need urgent and immediate solutions. Lives depend on it and too many lives are being lost when they should be protected.

Unfortunately, instead of proposing legislative measures to fight these crimes, the Liberal government prefers to take a lax approach by proposing laws that will further lighten the sentences of the most dangerous criminals.

Let me give you a few examples to support my arguments. In 2018, the Auditor General's report identified numerous flaws in Correctional Service Canada's release and community supervision process, flaws that led to the death of a 22-year-old woman. I'm sure you remember Marylène Levesque, who was murdered, stabbed 30 times, by a repeat offender in 2020. Instead of addressing the problems identified by the Auditor General, Justin Trudeau's government chose to introduce Bill C-5.

My second example is the many gun crimes that are wreaking havoc in cities like Toronto, Montreal and Vancouver. In recent months, several young people under the age of 18 have died in shootings involving illegal weapons. The year 2021 was the darkest year in decades in the city of Montreal. Instead of responding to the families of the victims and taking action to stop this wave of violence, the Liberal government prefers to introduce a bill that will eliminate 11 minimum sentences involving firearms.

Taking steps to obtain a firearm with the intent to commit a crime is an intentional and premeditated act. Minimizing the gravity of a criminal act committed with a firearm is dangerous. I'd like to read you a quote from Justice Harris:

> A person with a gun in their hands has a god-like power over life and death. Virtually all that is necessary is to point at another person and to apply a few pounds of pressure on the trigger in order to end a human life. . . . The ease of killing with a gun . . . is an exigent danger to us all.

He added, "Such immense power with so little reason must be opposed with everything at our disposal."

My third example relates to the fact that, for years now, Canada has been dealing with an urgent drug problem, one of the worst aspects of which is the increasing number of people addicted to fentanyl, an opioid that kills at least 20 Canadians every day. Instead of cracking down on drug dealers and implementing measures to help people overcome their addiction, the Liberal government has opted to eliminate all minimum sentences in the Controlled Drugs and Substances Act, including those associated with drug trafficking, exporting and production. Honourable senators, do you honestly believe that eliminating these minimum sentences will fix Canada's opioid problem? The answer is obvious.

I'd just like to quote from a speech by my colleague, MP Larry Brock, who was a Crown prosecutor in Ontario for 18 years:

> I invite members to think about that for a moment. This soft-on-crime, ideologically driven Liberal government believes that those who traffic and produce fentanyl, the most deadly and lethal form of street drug, which is being sold to millions of addicts, is causing an opioid crisis, and results in daily overdoses and deaths, should not expect to receive a minimum period of incarceration. It is utterly shameful and dangerous.

Honourable senators, the part of this bill that concerns me the most is the increase in conditional sentences. The Minister of Justice wants to give judges the opportunity to use conditional sentencing for certain types of crimes by repealing paragraphs 742.1(e) and (f) of the Criminal Code. Nine of these offences are offences against the person including sexual assault, which has increased by 18% since 2021; criminal harassment, which increased by 10% in 2021; and human trafficking, which has increased by 44% since 2019. The most recent statistics indicate that 80% of men who assault women receive a conditional sentence and these crimes have been increasing for years.

This bill is dangerous for women. The government also wants to expand eligibility for conditional sentence orders to offenders who have been found guilty of crimes such as kidnapping, abduction of persons under 14, being unlawfully in a dwelling-house, causing bodily harm by criminal negligence and assault with a weapon or causing bodily harm. These are not small, trivial crimes. They are serious, disturbing crimes.

All of these crimes against the person are often committed in situations of domestic violence. As I've often said, the victims of this scourge, those who are killed, are most often women and children, and the numbers keep rising year after year.

• (1550)

In 2021, intimate partner violence increased by 3% for the fifth year in a row. One hundred and seventy-three women were murdered; 55% of those killings were the result of intimate partner violence. This scourge accounts for about 30% of crimes against the person since 2009. In Quebec, intimate partner violence increased by 28%; in New Brunswick, by 39%. Any move to expand conditional sentences for these crimes would pose a major risk to women who are victims of intimate partner and family violence because fewer victims of intimate partner violence and sexual assault would report these crimes. That is unacceptable, considering the fact that we regularly use the media to encourage them to report their attacker.

Lastly, expanding conditional sentencing would encourage people to reoffend. Bill C-5 would allow a significant number of criminals to serve their sentence at home. That puts victims at risk, particularly those from Indigenous communities, where everybody knows everybody and people live in close proximity.

According to data on conditional sentences from the early 2010s provided by the Syndicat des agents de la paix en services correctionnels du Québec, CSN, 44% of criminals who receive conditional sentences don't comply with their conditions. I want to quote testimony in the House of Commons from Jennifer Dunn, Executive Director of the London Abused Women's Centre, on April 29, 2022. Ms. Dunn is opposed to this part of the bill:

> Women and girls are five times more likely than men to be victims of sexual assault, and sexual assault is a violent crime on the rise in Canada. With conditional sentencing, many women will be stuck in the community with the offender, which places them at even higher risk.

That's why, honourable senators, I wish to propose an amendment to Bill C-5 that wouldn't allow conditional sentences to extend to crimes against the person and crimes potentially committed in the context of spousal or domestic violence. While I was unable to convince the majority of my colleagues on the Standing Senate Committee on Legal and Constitutional Affairs to vote in favour of this amendment, I'm confident that this place will take another moment to reflect.

Colleagues, considering the statistics that are available and that show an increase in sexual assault and domestic violence, and given the strong social disapproval of such crimes, I believe it is dangerous and unfair to sentence a sexual abuser, kidnapper or stalker to house arrest rather than imprisonment. The Senate must be cautious and wise. However, if it were to accept the government's intention to expand conditional sentences, it would have to look closely at the sentence conditions.

To conclude, honourable senators, this bill is dangerous for women, because the government has not included any conditions that a convicted person who receives a conditional sentence for domestic violence or sexual assault should be subject to, such as therapy. With Bill C-5, what the government is offering to women victims of domestic violence is an enhanced "810." However, as we know, according to the University of Montreal study conducted in 2019, 50% of abusers don't abide by the "810," which is the order directing them to stay away from victims. What you're offering victims today with Bill C-5 means they will continue to live in fear. Victims expect more from you.

MOTION IN AMENDMENT

Hon. Pierre-Hugues Boisvenu: Therefore, honourable senators, in amendment, I move:

> That Bill C-5 be not now read a third time, but that it be amended in clause 14, on page 3, by replacing lines 19 to 21 with the following:
>
> "**(iii)** section 318 (advocating genocide);
>
> **(2) Section 742.1 is amended by adding "and" at the end of paragraph (d) and by replacing paragraphs (e) and (f) with the following:**
>
> **(e)** the offence is not an offence, prosecuted by way of indictment, under any of the following provisions:
>
> **(i)** section 221 (causing bodily harm by criminal negligence),
>
> **(ii)** section 264 (criminal harassment),
>
> **(iii)** section 267 (assault with a weapon or causing bodily harm),
>
> **(iv)** section 270.01 (assaulting peace officer with weapon or causing bodily harm),
>
> **(v)** section 271 (sexual assault),
>
> **(vi)** section 279 (kidnapping),

(vii) section 279.02 (material benefit — trafficking),

(viii) section 281 (abduction of person under age of 14), and

(ix) section 349 (being unlawfully in a dwelling-house).”.

Some Hon. Senators: Hear, hear.

Hon. Pierre J. Dalphond: Would Senator Boisvenu agree to take a question? Since we’re repeating the debate a bit and we already had it in committee, Senator Boisvenu, I understand that the list of offences that you propose adding that will make a release in these conditions impossible, isn’t exactly the same list that currently exists in the Criminal Code. What led you to remove some of the offences that were in the Criminal Code and add others in their place?

Senator Boisvenu: The ones we were looking at are the ones that are in the bill. As I said earlier, these are the most common offences and they go hand in hand with family violence. I’m adding them because according to the data I obtained on conditional sentences, currently 80% of men who assault a woman serve a conditional sentence. On average, that sentence is six months. Removing crimes from the Criminal Code or adding even more domestic violence crimes to the Criminal Code will ensure that fewer men will be incarcerated and that more men will be released. When we see that in many cases the conditions are not respected, especially orders to stay away from the victim, I think that we’re putting women’s safety at even greater risk.

Senator Dalphond: If I understand correctly, it’s the same amendment that was presented to the committee? That list is the one that is currently in the Criminal Code, except for certain elements that were deleted and others that were added?

Senator Boisvenu: Yes, that’s right.

Senator Dalphond: In the case of the two you deleted, I understand that you agree with the government that they need to be removed?

Senator Boisvenu: If I’d come up with a long list, very few of my colleagues would have been inclined to make drastic changes to Bill C-5, so I’m focusing on crimes associated with domestic violence in particular. It often starts with harassment and sexual assault, and the situation always gets worse if those crimes aren’t severely punished when they’re committed in a context of domestic violence. You can be certain that in 2023, 2024 and 2025, the number of murdered women will increase.

Senator Dalphond: Thank you very much.

[*English*]

Hon. Paula Simons: Honourable senators, I want to begin by expressing my deep appreciation for the work that Senator Boisvenu has done over many years to support the rights of women who are living in situations of domestic violence. Just today, at the Standing Senate Committee on Legal and Constitutional Affairs, we heard about his Senate public bill that is also dealing with some of these same issues. I don’t think anyone in this chamber would want to deny to Senator Boisvenu the kudos he rightly deserves for his long-standing commitment to this question of social justice.

In the last few days in this chamber, we have heard remarkable speeches from our colleagues, including Senator Boniface, Senator Hartling and Senator Manning, dealing with this same issue. The scourge of domestic violence, whether intimate partner violence or violence between parents and adult children in this country, is a tremendous burden on the soul of the nation and on our criminal justice system. As a journalist working at the *Edmonton Journal*, I covered countless heartbreaking stories of families destroyed by the domestic violence. I had the privilege of being able to interview Dr. Alan Benson, the very proud husband of Senator LaBoucane-Benson, who dedicated much of his career to working in this field and serving on the Family Violence Death Review Committee in the province of Alberta that dealt with some of the most horrific incidents.

• (1600)

I don’t want anyone in this chamber to mistake me as somebody who is soft on domestic violence. It is true that conditional sentences need to be applied extremely carefully in cases where a domestic abuser is in the same community as the victim. That should be obvious. You obviously don’t want to have a catch-and-release system where you let someone — who is a very present danger — out on the street so that he can harass, stalk, assault and kill victims in the worst incidents.

That being said, I believe that the list contained in Senator Boisvenu’s amendment is far too broad and casts far too wide a net for offences that we would wish to exclude from the potential of a conditional sentence.

I want to go through some of them. The first one listed in the amendment is section 221: causing bodily harm by criminal negligence.

In my years covering court cases in Alberta, I saw an extraordinary range of cases that involved criminal negligence. In some cases, that criminal negligence is so atrocious, so thoughtless, so selfish and so mean-spirited that it rises to the very highest standard of an atrocious crime.

But, in other cases, criminal negligence can be something far less morally repugnant. Before we would add something like criminal negligence to a list, we need to understand that there’s a continuum. There is a spectrum, and this kind of criminal negligence may be perfectly well-suited to a conditional sentence, while other kinds of criminal negligence call out for jail time.

Section 264 touches upon criminal harassment. Now, anyone who is a politician in public life, anyone who has lived in Ottawa through the last 10 months, knows what criminal harassment can be at its most minor, and potentially at its most dire.

We can all imagine a case where criminal harassment is an outrageous shock to the conscience, and the person involved is rightly deserving of jail time. We can all also imagine that the

best thing for someone found guilty of criminal negligence might be to leave them under house arrest and take all their computers away.

Again, we don't want to cast so broad a net that we deny judges the discretion to use a conditional sentence where warranted.

Section 267 relates to assault with a weapon or causing bodily harm. If someone is shot, or attacked with a knife, and caused that kind of bodily harm, clearly a custodial sentence might be the right solution. You can also imagine assault with a weapon being somebody who is hit — I've seen some things in the courts, and I would think, "That's a weapon?" But the court considers it a weapon, and that might include Senator Gold's favourite, pepper spray, or it might include hitting somebody with a garden implement.

Section 270.01 relates the same, specifically for assaulting a peace officer, which should outrage the conscience of the nation. We can all imagine a situation where someone who assaulted a peace officer should go away to jail for a very long time. We can also imagine police officers trying to break up some scuffle, or melee, and being hit over the head with a placard, and maybe we would not consider that something that needs custodial time.

I don't want to bore us by going through the list, but I will go to the last one. Section 349 relates to being unlawfully in a dwelling-house. If you have trespassed into someone's home to assault them, absolutely, but being unlawfully in a dwelling-house can also be a Criminal Code offence if you are squatting in a home, squatting in an abandoned building to use drugs, or taking shelter in an abandoned home to protect yourself while living on the streets.

When my daughter was at law school, she had an imaginary case where someone got lost while camping on the beach and broke into somebody's summer cabin to stay warm. I believe she was acting for the prosecution in the moot court and demanded the maximum penalty, but I suggested to her that if somebody was really in distress and lost in the woods, breaking into a cabin for the night was not the worst of offences.

I take notice of Senator Boisvenu's completely correct point that we must not be frivolous in the use of conditional sentences, especially in cases involving domestic violence and domestic harassment. But, with the greatest of respect, I would ask us not to support this amendment, because I do not think it will accomplish what Senator Boisvenu wishes it to do. It will, instead, deny the judges autonomy, discretion and responsibility to apply conditional sentences when warranted and where necessary.

Hon. Denise Batters: Senator Simons, you started to go through the list of some of the offences. The first one you listed was criminal negligence. You didn't mention that it is causing bodily harm by criminal negligence.

Then you said you didn't want to go through them all because that would take too long, potentially, but you skipped over sexual assault, kidnapping and human trafficking. Don't you think those are the ones where there may be fewer examples of situations where it would be appropriate to have conditional sentences — where those particular offenders would be back in the same communities as the people that they victimized?

Senator Simons: Senator Batters, you're a lawyer, and I am not; I've been an observer in courtrooms for a long time.

In terms of sexual assault, it's my understanding — and please correct me if I am wrong, because I don't have your legal background — that a sexual assault can be anything from a violent, heinous rape to someone exposing themselves in the park. I think we need to understand that sexual assault covers a whole spectrum of the human condition and of human sin. It's really important that we not impose a cookie-cutter solution, because the sexual assault committed by a rapist who jumps out at you in the parking lot and assaults you viciously is quite different, I think, from the kind of sexual assault when a guy who feels you up in the bar. I don't care to be felt up in the bar. Actually, it has been a long time since it happened. Sorry — I went for low-hanging fruit. That was not a tasteful joke, and I apologize.

My point is there is a wide variety of offences that can be deemed sexual assault.

For kidnapping, there is a difference between a kidnapping for ransom and for custodial interference, which is often charged as kidnapping. Again, I'm not excusing a parent who abducts a child in violation of a custody order, but, again, that is a different thing from an armed ransom attempt.

These are all very difficult questions, and I, in no way, want to minimize the dangers that criminals pose in our society. I, in no way, want to minimize the dangers in domestic situations where people are often trapped by economic and social circumstances. And when justice finally steps in, they need the courts to be there to protect them. I just feel that this particular amendment casts too wide a net.

Senator Batters: Senator Simons, what you referred to would probably be indecent exposure. For many of these offences, if it's not appropriate to charge with the more serious offence, as some of these are listed here, the police, the prosecutors and the courts would deal with them on the appropriate sort of charging basis.

In regard to the other offence that you referred to earlier — being unlawfully in a dwelling-house — maybe you would recall that sort of offence can often be used when an ex-spouse is stalking and potentially going to harm their spouse. There have been very significant cases that deal with that.

I think Senator Boisvenu has actually tried to make sure that the type of charges that he's dealt with here are the ones that are the most serious — potentially dealing with domestic violence. Wouldn't you agree that is the sort of thing that we should be worried about, especially when dealing with conditional sentencing, where we could have those offenders back in the community to hurt those people?

• (1610)

Senator Simons: As I have said, I would trust that the responsible members of the judiciary would not give out conditional sentences like Halloween candy. Those would be reserved for the very specific fact-based cases where they were appropriate. In no way would I suggest that somebody who breaks into a house and is in the house unlawfully to menace the residents of the house should be treated in the same way as somebody who gets lost in the woods in the winter and breaks into a cabin to not freeze to death.

[*Translation*]

Senator Boisvenu: Would the honourable senator accept a question?

[*English*]

Senator Simons: Do I still have time?

The Hon. the Speaker pro tempore: We have three minutes.

[*Translation*]

Senator Simons: Yes, if you like.

Senator Boisvenu: Senator, you used a word that made what little hair I have left stand on end a bit. You said that you trust that judges aren't handing out conditional sentences like candy, but that's what they're doing. Eighty per cent of men charged with spousal abuse receive a conditional sentence. This bill will ensure that 90% of men will receive a conditional sentence. What message does it send to society to say, "Men, if you beat your wife for 10 years, you'll get to serve two years at home," knowing that 40% of offenders don't comply with their conditions? Then they can get closer to their wives.

Don't you think that's what's already happening when you say "candy"?

[*English*]

Senator Simons: I don't know the source of that figure. If it's true, it curls my hair, and I've got curly hair.

I agree with you. I don't think that men who have been a violent menace to their spouses should just be — as I said, I used the phrase "catch and release" before. It's very important, especially when a man is showing the signals that his behaviour could escalate, that we deal with that properly. I just don't think this particular amendment gets to the heart of what you are trying to do, and I absolutely agree with what you're trying to do.

[*Translation*]

Senator Boisvenu: I have another question. The last three or four rulings of the Supreme Court in matters of domestic violence, and those of the Quebec Court of Appeal in particular, found that judges need to impose harsher sentences. We need to send Canadian society a clear message. Does Bill C-5 send a tough message regarding domestic violence?

[*English*]

Senator Simons: I think a clear message does need to be sent to society that we will not tolerate domestic violence and we will not tolerate the minimizing of domestic violence. I think Senator Manning's speech the other day was profoundly moving. The stories he told from his own community — I don't want to say they should inspire us — should move us to stand with you, with Senator Boniface, with Senator Hartling, with Senator Audette and with all the senators who have dedicated their lives to fighting domestic violence. I think that this is a time on this topic when we can wisely put aside any kind of ideological or party/partisan politics and speak with one voice in this Senate that this is something we will not condone and will not tolerate.

(On motion of Senator Duncan, debate adjourned.)

EMPLOYMENT INSURANCE ACT
EMPLOYMENT INSURANCE REGULATIONS

BILL TO AMEND—THIRD READING—MOTION IN AMENDMENT—MOTION IN SUBAMENDMENT ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Duncan, seconded by the Honourable Senator Clement, for the third reading of Bill S-236, An Act to amend the Employment Insurance Act and the Employment Insurance Regulations (Prince Edward Island), as amended.

And on the motion in amendment of the Honourable Senator Ringuette, seconded by the Honourable Senator Petitclerc:

That Bill S-236, an Act to amend the Employment Insurance Act and the Employment Insurance Regulations (Prince Edward Island), as amended, be not read a third time, but that it be referred back to the Standing Senate Committee on Agriculture and Forestry to hear from the Parliamentary Budget Officer concerning his office's fiscal analysis on the bill; and

That the committee report to the Senate no later than November 15, 2022.

And on the subamendment of the Honourable Senator Black, seconded by the Honourable Senator Dagenais:

That the motion in amendment be not now adopted, but that it be amended by:

1. adding the words "additional witnesses, including" between the words "to hear from" and "Parliamentary Budget Officer" in the first paragraph; and
2. by deleting the final paragraph.

Hon. Pat Duncan: Honourable senators, I rise today to speak to Senator Black's subamendment to refer Bill S-236 back to the Agriculture and Forestry Committee for further study.

Listening carefully to former Senator Griffin's speech as she moved this bill on the eve of her retirement, I acted upon instinct and proposed to take on the sponsorship of the legislation. Honourable senators, may I take a few moments to elaborate on that instinct, especially as it relates to this subamendment?

Serving as a member of the opposition in the Yukon Legislative Assembly, I was made aware of a situation with the Yukon Health Care Insurance Plan Act. Babies adopted from out of country were required to fulfill a three-month residency before being granted health care. Everyone in this chamber, especially in light of the discussions about the shortage of Tylenol, can appreciate that no parent with an ill child in Canada wants to be told they will have to wait three months or pay for that visit to the doctor or the hospital. The situation was blatantly unfair to those newly adopted children. The then health minister endured my questions in the legislature as I pestered the government to make a change.

Following my retirement from the legislature, I worked in health care registration and saw from the public servant level how complicated changes to rectify a situation can become when lawyers and legal draftspeople get involved, as described by our colleague Senator Cotter. Ultimately, the changes to the legislation to provide these adopted babies with health care, when they were finally passed, required references to the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.

As if health care registration was not complicated enough, especially when you have expectant mothers awaiting the processing of their application for immigration, which was taking forever — and they were trying to prove that they were legally entitled to be in Canada — I went on to manage the adjudication of workers' compensation claims and then to serve as the workers' advocate.

The preamble to the Yukon Workers' Compensation Act, as the legislation was called until this year, reads in part:

> . . . believing that improvements to the workers' compensation system are desired to ensure that the workers' compensation system continues to meet the changing needs of workers and more adequately reflects the true costs, in both human and economic terms, of injuries arising out of the workplace and enable a wholistic approach to the rehabilitation of injured workers;

And, again, in part, the act reads:

> And whereas the government has confidence in continuing to delegate to the Workers' Compensation Health and Safety Board the trusteeship of the compensation fund to manage it in the best interests of its main stakeholders, namely workers and employers;

This understanding that government can delegate to a board that funds be managed in the best interests of the workers and employers, a sense of fairness and the understanding of Senator Griffin's representation of a smaller region is what motivated me to instinctively stand.

Those who have worked with me know that I believe very strongly that as a servant of the public, whether elected, hired or appointed, my raison d'être is, "How can I help you today?" That was and is why I sponsored the bill.

As part of my work at the Yukon Workers' Compensation Health and Safety Board prior to becoming the workers' advocate, I also received Foundation of Administrative Justice training.

Honourable senators, after my initial review of the Parliamentary Budget Officer's costing note, which was released in September, I interpreted that the passage of this specific P.E.I. matter would devolve to a money matter, which is beyond the Senate. We cannot authorize the expenditure of money. From the work at the National Finance Committee, which also reviewed the issue that this legislation tries to fix, I surmised that this question would be resolved by the House of Commons and that, at a minimum, us adopting this bill would prompt the government to act to resolve the specific situation described in the bill. The government did resolve this situation during the pandemic, when all Islanders were able to receive the same benefits. That expired in September.

Honourable senators, just as legislation is interpreted differently, there are differing views throughout this chamber and elsewhere on the Parliamentary Budget Officer's report. I have the utmost respect for every honourable senator in this chamber. The overwhelming opinion views the Parliamentary Budget Officer's report as new evidence that has not yet been reviewed by the committee. The Foundation of Administrative Justice training guides us that with new evidence, the case should be heard again.

This subamendment recommends that the Agriculture and Forestry Committee review the new evidence and that they be the master of their proceedings to determine how and when the committee should do this.

• (1620)

I thank Senator Black, who proposed the subamendment, and Senator Ringuette for the amendment. I offer my support for referring the bill back to committee without imposing restrictions, should the Senate so wish.

Thank you, honourable senators.

Hon. Dennis Glen Patterson: Honourable senators, I rise today on Senator Black's subamendment to the motion that would return Bill S-236 to the Standing Senate Committee on Agriculture and Forestry for further study. Being that I am a lawyer, and given Senator Cotter's speech on Tuesday, maybe I should stay out of this debate, but I won't.

I am not an expert on P.E.I. Employment Insurance and the impact that one zone versus two would have on the working poor, who have been central to our conversations on this bill to date. I am, however, somewhat knowledgeable about how our committees work.

I have found that our committees do excellent work when they have the ability to hear all sides of an issue and the time to thoughtfully consider those viewpoints as they decide how to move forward with new information. For studies, that means thoughtful and impactful recommendations. For bills, it can mean amendments or observations.

I've sat in this chamber and listened carefully to the debate on this bill. I've noted the Parliamentary Budget Officer's report, but I've also noted the letter sent to all senators and addressed to one senator in particular, which takes a different view. Senator Ringuette addressed this letter in her speech on Tuesday.

I'm not an expert on this matter. I've certainly not spent a week researching it, but I do believe that committees should be masters of their own destiny, and that includes being able to choose witnesses that they feel are credible and that they feel will give compelling testimony.

Unless we're calling in a minister to answer pointed questions on something, I'm loath to support only calling one witness on anything. Much like there are two sides to every coin, there are multiple facets to every issue. Whether that means calling in labour groups and/or poverty groups from P.E.I. in this case, I will leave that to the committee to decide, but that is why I support the first part of Senator Black's subamendment, which would clarify the ability of the committee to call other witnesses as they deem necessary.

As a former chair, deputy chair and member past and present of several steering committees, I also appreciate how difficult it can be to organize a committee schedule and get witnesses confirmed in a timely fashion. I also recognize that today is the Thursday before a break week, and it might well take some time to get the necessary agreements to issue invitations, et cetera, making the original reporting deadline of Senator Ringuette's motion difficult — and by this I mean nigh impossible — to meet. That is why I support the second part of Senator Black's subamendment, which would give the committee more time to do its work.

I'll be voting in favour of Senator Black's subamendment, and I would encourage colleagues who believe that committees should keep control of their witness lists and timelines to do the same.

Thank you.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion in subamendment of the Honourable Senator Black agreed to.)

BILL TO AMEND—THIRD READING—MOTION IN AMENDMENT ADOPTED AND BILL REFERRED BACK TO COMMITTEE

On the Order:

> Resuming debate on the motion of the Honourable Senator Duncan, seconded by the Honourable Senator Clement, for the third reading of Bill S-236, An Act to amend the Employment Insurance Act and the Employment Insurance Regulations (Prince Edward Island), as amended.
>
> And on the motion in amendment, as amended, of the Honourable Senator Ringuette, seconded by the Honourable Senator Petitclerc:
>
> That Bill S-236, an Act to amend the Employment Insurance Act and the Employment Insurance Regulations (Prince Edward Island), as amended, be not read a third time, but that it be referred back to the Standing Senate Committee on Agriculture and Forestry to hear from additional witnesses, including the Parliamentary Budget Officer concerning his office's fiscal analysis on the bill.

The Hon. the Speaker pro tempore: Are honourable senators ready for the question on the amendment as amended?

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

(Motion in amendment agreed to, as amended.)

CRIMINAL RECORDS ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Pate, seconded by the Honourable Senator Miville-Dechêne, for the second reading of Bill S-212, An Act to amend the Criminal Records Act, to make consequential amendments to other Acts and to repeal a regulation.

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

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

REFERRED TO COMMITTEE

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

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

LANGUAGE SKILLS ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Carignan, P.C., seconded by the Honourable Senator Housakos, for the second reading of Bill S-220, An Act to amend the Languages Skills Act (Governor General).

(On motion of Senator Duncan, debate adjourned.)

[*Translation*]

CORRECTIONS AND CONDITIONAL RELEASE ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Pate, seconded by the Honourable Senator Griffin, for the second reading of Bill S-230, An Act to amend the Corrections and Conditional Release Act.

Hon. Pierre-Hugues Boisvenu: Honourable senators, I rise today as the critic for Bill S-230 entitled An Act to amend the Corrections and Conditional Release Act, which was introduced by the Honourable Kim Pate.

Bill S-230 is based in part on the amendments adopted by the Senate during study of Bill C-83 in 2019, amendments that weren't accepted by the government when the bill passed. Introduced in response to two provincial supreme court rulings, Bill C-83 sought to put an end to what we used to call "solitary confinement," which was deemed unconstitutional.

At the time, the courts ruled that, as practised in Canada, solitary confinement contravened the Canadian Charter of Rights and Freedoms. The government introduced structured intervention units, SIUs, to replace solitary confinement.

In the speech she gave at second reading in November 2021, Senator Pate first made a substantive criticism of Bill C-83. In her estimation, the bill was a mistake as it failed to really address the constitutional issues raised by the courts. She stated that the government had promised to put an end to solitary confinement in federal prisons and that it hadn't kept its promise.

Bill S-230 was introduced to fix some of the problems with Bill C-83 and act on the recommendations of the Standing Senate Committee on Social Affairs, Science and Technology, which, I should point out, hasn't received a response from the government either.

Bill S-230 lays out four very specific objectives in its summary:

> **(a)** require that, if a person who is sentenced, transferred or committed to a penitentiary has disabling mental health issues, they will be transferred to a hospital;
>
> **(b)** ensure that a person may only be confined in a structured intervention unit for longer than 48 hours on an order of a superior court;
>
> **(c)** allow for the provision of correctional services and plans for release and reintegration into the community to persons from disadvantaged or minority populations by community groups and other similar support services; and
>
> **(d)** allow for persons who are sentenced to a period of incarceration or parole ineligibility to apply to the court that imposed that sentence for a reduction if there has been unfairness in the administration of their sentence.

• (1630)

The objectives of the bill I just cited would result in major amendments to the Corrections and Conditional Release Act. I also have serious reservations about whether it is legal and feasible, particularly with respect to clauses 4, 5 and 11 of the bill.

Clause 4 of Bill S-230 adds a section to the Corrections and Conditional Release Act requiring that any inmate with a disabling mental disorder be transferred to a hospital.

The requirement for a commissioner to systematically transfer inmates to the hospital simply because of a disabling mental health condition seems problematic to me in many respects. It would, in effect, transfer a federal responsibility to the provinces, which raises serious concerns. Have all the provinces been consulted, as I did with my Bill S-205 with the justice ministers? Do the provinces have the medical, physical and financial capacity to increase the number of institutionalized patients in their facilities? If so, how do we ensure the safety of hospital staff and other patients?

The bill doesn't define "disabling mental health issues." We know that mental health is a complex subject and a big concern in both our prisons and our communities. Many inmates in Canada, both male and female, have varying degrees of mental health issues. These issues can vary, depending on the case, and there are some degrees of disability that definitely don't require transfer to a hospital.

I would remind senators that it is possible to access health care services in prison. I saw it for myself when I visited and spoke with various correctional workers. According to the Correctional Service of Canada's statistics, 35% to 40% of male inmates and 50% of female inmates have some sort of mental health issue. In theory, the senator's bill could result in nearly 5,000 inmates being transferred to provincial health care facilities, and that doesn't even include inmates in provincial detention centres who could also end up being affected by this bill.

This clause, as written, would replace detention centres with hospitals, which is implausible from a judicial point of view. Furthermore, the bill gives no indication of the length, or review, of the hospitalization period. These ambiguities in the bill suggest that inmates could spend their entire sentence in a hospital, even if their mental state doesn't require hospitalization. If applied in such a way, this clause is in direct conflict with the Mental Health Commission of Canada, whose mandate is to manage the institutionalization or non-institutionalization of not criminally responsible criminals.

Moreover, the bill contravenes section 15.1 of the corrections act, because detention in a hospital would prevent inmates from accessing programs or services in detention facilities that can help them succeed in their correctional journey and eventually reintegrate into society. This is completely contrary to what section 15.1 of the act states.

I would remind senators that Canada's justice system already provides for the assessment of a person's ability to cope with legal proceedings, throughout the process. When a court renders a verdict, it has the discretion to take into account the mental state of the accused and to impose a fair and appropriate sentence. In my opinion, it is unthinkable that an inmate who faced legal proceedings and who was sentenced by a court for the crime they committed to automatically be transferred to a hospital simply because they're supposedly suffering from a disabling mental health issue. This approach would be medically irresponsible and unfair to the victims and their families.

The solution isn't to offload the federal government's problem onto the provinces; rather, we need to take responsibility and commit to improving psychiatric services in federal penitentiaries. Just because I'm suggesting that we improve those services doesn't mean that we shouldn't look for solutions other than incarcerating people with mental health issues, far from it. I share Senator Pate's goal, but what she wants to do is exactly what many provinces did in the 1980s and 1990s with their deinstitutionalization policies. We all remember what happened there. Quebec, for example, closed over 50% of its psychiatric beds without giving families and communities the resources they needed to take care of many of these patients who ended up living on the streets of our big cities and now even our small communities.

If we pass Bill S-230 without giving some serious thought beforehand to how Canada deals with mental health — which we have to admit is a pathetic failure — all we will do is exacerbate homelessness in our cities. This is a major social issue. Does the Senate want to see more homeless people with mental health problems on our streets rather than in federal penitentiaries?

This approach is absurd considering that sick people will go from the penitentiary to the hospital, from the hospital to the street, from the street to the court and from the court to the penitentiary. Honourable senators, that social dynamic is called a revolving door. We need to stop it from revolving. Mental health services in Canada are underfunded, and your bill, Senator Pate, isn't in order if it doesn't include upstream funding for solutions that come before incarceration.

Honourable senators, I'd like to talk to you about the reality of the situation when it comes to psychiatric services for incarcerated offenders in Quebec. Consider the example of the Philippe-Pinel Institute, a well-known psychiatric treatment centre located in the east end of Montreal. Barely 48 hours ago, *Le Journal de Montréal* reported that the institute submitted a letter to the Montreal courthouse to inform the court that the institute is currently unable to respond to the exponentially increasing volume of requests for psychiatric assessments of offenders. The Philippe-Pinel Institute typically receives about 40 requests for psychiatric assessment each year, although the agreement with the government provides funding for 15 assessments.

The provinces, including Quebec, are already overburdened in their ability to manage this clientele. It would be irresponsible to add to their task by sending them the offenders covered by Bill S-230, when in the last year alone, the numbers have exploded by 50%, with more than 60 applications, because of court delays.

Let's not forget that the Criminal Code provides that a psychiatric assessment is to be carried out within 60 days and, in the event of a problem, the court may, if it is convinced to do so on reasonable grounds, extend that reporting deadline by 30 days. This means that the deadlines are systematically extended. The Pinel Institute is overwhelmed. It has only six experts to take on the many assessments and two of them are retiring within the next 18 months. As such, I'm sure, honourable colleagues, that you understand that the provinces already have more than enough on their plate and they can't absorb even more without this disastrous mental health situation getting worse. Again, this worrisome situation proves that we have to seriously consider the capacity of the provinces to manage this federal responsibility.

Honourable senators, I'd now like to talk about clause 5 of Bill S-230, which deals with SIUs. As I was saying a little earlier, structured incarceration units were created to replace solitary confinement in order to comply with Canada's Constitution and international standards established by the United Nations entitled the Nelson Mandela Rules. At present, the units are in compliance with the Nelson Mandela Rules when the inmates in the structured intervention units are allowed to spend at least four hours per day outside their cell in addition to having at least two hours of interaction with other inmates and participating in activities and programs. The health of these inmates must also be closely monitored. Therefore, I disagree with Senator Pate, who stated that Canada practises torture in its penitentiaries. In my opinion, this analysis is incorrect and based on a relatively subjective interpretation of the international standards, unless Senator Pate can give us her definition of torture.

• (1640)

To fix the system created by Bill C-83, Bill S-230 provides that stays in an SIU must be limited to just 48 hours, and only a superior court judge may extend this period.

This new system introduced by the bill is unfeasible and unrealistic in practice, and would also be restrictive for the inmates themselves. Take, for instance, an inmate who's transferred to an SIU for security reasons. A 48-hour period would be too long in many cases to rule out any threat to his security, and an application to a higher court for an extension could take more than 48 hours to process. The inmate would therefore be transferred back to the general population despite the risk to his safety. This would be contrary to Senator Pate's objective, as it could put the inmate's safety at risk, and prison management could be blamed for being lax.

The SIU is a tool available to the Correctional Service of Canada to help inmates safely reintegrate into the prison population. Some of them even prefer to remain in the SIU for personal safety. I have observed this when I have visited penitentiaries, and you have to be naive about prison life to be unaware of this.

Bill S-230 doesn't set out any exceptions to the rule; therefore, an urgent court order would be required to extend an inmate's time in an SIU. Without such an order, the inmate would be returned to prison, which could jeopardize his safety.

Colleagues, clearly this provision would complicate the detention centres' work and add to the work of the superior courts, not to mention the additional resources that would be used to manage this judicial process. There could be cases of inequality based on the geographic location of the detention centres. Some are much farther from the courthouse than others, making it more difficult for them to obtain a court order within the 48 hours provided for in this bill. This rigid approach would be contrary to Senator Pate's goals. The current system is working, so let's let the prison authorities deal with what is within their jurisdiction. As the saying goes:

[*English*]

If it ain't broke, don't fix it.

[*Translation*]

Now I want to talk to you about clause 11 of the bill, which seeks to enforce its fourth objective, to apply to the court that imposed a sentence for a reduction of the period of incarceration or parole ineligibility if there has been unfairness in the administration of the sentence. This clause would create a new recourse under the Criminal Code, allowing the trial court to change the sentence it handed down in order to grant a reduced sentence to an inmate who experienced unfairness in the administration of their sentence.

Although I oppose such a provision in principle, I also believe it would be challenged before the courts and unenforceable from a legal perspective and under the Criminal Code. The Criminal Code doesn't allow a judge to change the sentence delivered for the reasons listed in the new proposed section in the bill. Generally, a court can't re-examine a decision it made and change its ruling. This clause of the bill shows a lack of knowledge of the Canadian justice system because this legal responsibility belongs to Canada's appellate courts.

Senator Pate's bill calls into question the fundamental principle of the definitiveness and stability of rulings. We can foresee that the proposed new remedy for reducing a sentence could not really be enforced and implemented by the courts, because it would be asking a court that has handed down a sentence to re-examine it and change it based on new considerations that have absolutely nothing to do with the principles of criminal justice that the courts must adhere to in order to render a fair and appropriate sentence.

I would nevertheless like to remind senators that other legal and constitutional remedies already exist to meet the objectives. Section 10(c) of the Canadian Charter of Rights and Freedoms already provides a remedy by granting the right to have the validity of a deprivation of liberty determined by a superior court justice. The Criminal Code provides for the same remedy when, for example, a detention centre decides to place an inmate in an SIU. In support of my remarks, I would like to cite a relevant passage from the Supreme Court of Canada:

> Habeas corpus is a remedy, developed by common law and enshrined in section 10(c) of the Canadian Charter of Rights and Freedoms, that allows an inmate to have the Superior Court determine the validity of their deprivation of liberty and, if it is unlawful, to obtain release. In the correctional context, habeas corpus allows inmates to challenge a loss of residual liberty decided by the authorities, that is, a significant restriction of liberty in comparison to the relative liberty they would normally have in a penitentiary setting. Loss of liberty implies a decrease in freedom in comparison to an initial state. Deprivation of liberty is unlawful when it results from a jurisdictional error, an error of law or a lack of procedural fairness or when it is unreasonable.

Clause 11 of Bill S-230 is therefore unnecessary because of the many remedies that already exist and that serve the same purpose as those set out in Bill S-230. This bill would also be burdensome for correctional services, which would lose a significant amount of discretion already vested in the independent correctional courts and our courts, which have already indicated as a matter of principle that they will not micromanage.

Honourable senators, I do understand the purpose of this bill and Senator Pate's very noble intention of creating a more just, more humane justice system for criminals, but I am not convinced that Bill S-230's proposed new amendments will achieve the initial objectives. Bill S-230 might actually be more restrictive for offenders themselves, some of whom may not wish to be incarcerated in hospital or removed from an SIU after 48 hours.

In conclusion, I hope I have made it clear to you all that I cannot support Bill S-230. However, I would once again invite Senator Pate to join me in setting up a meeting with Canada's health and public safety ministers so we can ask them to reinstate the At Home/Chez Soi community program, which was very

popular in a number of cities across the country. It yielded convincing results, reducing the number of people with mental health problems who ended up back in the justice system.

Senator Pate, I am sincerely offering to collaborate with you to turn federal penitentiaries not into psychiatric institutions, but into institutions that take in criminals who have no place on our streets. I hope, Senator Pate, that we will soon have the opportunity to study this bill at committee. Thank you.

[*English*]

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

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

REFERRED TO COMMITTEE

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

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

INCREASING THE IDENTIFICATION OF CRIMINALS THROUGH THE USE OF DNA BILL

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Carignan, P.C., seconded by the Honourable Senator Wells, for the second reading of Bill S-231, An Act to amend the Criminal Code, the Criminal Records Act, the National Defence Act and the DNA Identification Act.

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

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

REFERRED TO COMMITTEE

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

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

• (1650)

CRIMINAL CODE
CANADIAN VICTIMS BILL OF RIGHTS

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Boisvenu, seconded by the Honourable Senator Seidman, for the second reading of Bill S-238, An Act to amend the Criminal Code and the Canadian Victims Bill of Rights (information about the victim).

Hon. Kim Pate: Honourable senators, I rise today to speak to Bill S-238. I thank Senator Boisvenu for his ongoing commitment to support those who are victimized.

My work with women and children who have experienced horrendous violence, have received virtually no protection and then experience the full force of the criminal legal system when they act to repel or otherwise respond to the violence perpetrated against them give me another perspective on the intricacies of this issue. While I understand the intention behind this bill and recognize the importance of Senator Boisvenu's objective of protecting victims from harm being posted online, this is unfortunately not all this bill is doing.

Senator Boisvenu in his speech said that this bill:

> . . . amends the Criminal Code to prohibit any offender or accused from posting images or information about their victim or keeping existing images of their victim on social media either during legal proceedings or after being convicted.

However, that is not what the bill says.

The bill gives the broad-stroke removal of the entire right to free speech and removes the right for an accused person to publish, distribute, transmit or make accessible on the internet "any information concerning the victim of the offence in question."

Provisions for this purpose, and the purpose that Senator Boisvenu has, already exist. For example, when it comes to bail, in the provision on judicial interim release, paragraph 515(4)(g) of the Criminal Code states:

> . . . the justice may direct the accused to comply with one or more of the following conditions specified in the order:
>
> . . . comply with any other specified condition that the justice considers necessary to ensure the safety and security of any victim of or witness to the offence . . . .

While I am confident it is not the intent of the bill as drafted, it could also preclude women who after years of abuse, defend themselves or their children and end up charged, convicted and imprisoned. This bill could preclude them from seeking justice

when — but for the day — they were the victim. There is nothing in this legislation to protect women who were victims themselves of abuses and who are now imprisoned for fighting back.

We have seen many instances where women who speak about their abusers are already vilified. This legislation could also further silence and punish them.

Some of you might be thinking, "Surely not, such provisions won't be used that way."

There are many examples of this where women — especially Indigenous women — after years of abuse, are criminalized themselves for using force, sometimes lethal force, in response to the violence they experience. Perhaps the most egregious being the case of Yvonne Johnson as an example of how the application of this bill could be overly broad and can actually be used against women who were victims themselves. Yvonne Johnson spent nearly two decades in prison for first-degree murder of a man who was accused of sexually abusing her infant daughter. In 1998, she co-wrote a book about her troubled past, history of sexual abuse, the experiences of colonialism, residential schools and intergenerational trauma that she experienced that culminating in her being in prison.

Her co-author, well-known author Rudy Wiebe, decided that the book should also include a review of her role in the homicide because he wanted to expose the systemic biases as well as the sexist and racist myths and stereotypes that contributed to Yvonne being held more culpable than her three co-accused. Her experience of childhood sexual abuse and the fact that she was the mother of the infant child were used to attribute more motive to her than even to her husband — the father of the same child — and to the two other co-accused.

The book, *Stolen Life*, was used against her, and, in addition to delaying her conditional release, has effectively re-silenced her.

We don't need another bill that attempts to treat one symptom of the problem with a broad stroke and therefore creates numerous problems in the process. Instead, let's address the ideas and attitudes that fuel all forms of violence — especially misogynist and racist violence — in all facets of our criminal legal system while simultaneously implementing the sorts of robust social, health and economic support systems that can truly assist women to escape and ultimately help us to end all violence.

Meegwetch, thank you.

Some Hon. Senators: Hear, hear.

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

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

[*Translation*]

REFERRED TO COMMITTEE

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

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

[*English*]

RADIOCOMMUNICATION ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Patterson, seconded by the Honourable Senator Cormier, for the second reading of Bill S-242, An Act to amend the Radiocommunication Act.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Patterson, bill referred to the Standing Senate Committee on Transport and Communications.)

LEBANESE HERITAGE MONTH BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Cordy, seconded by the Honourable Senator Dalphond, for the second reading of Bill S-246, An Act respecting Lebanese Heritage Month.

Hon. Leo Housakos: Honourable senators, in the words of a famous senator, I will be brief this evening.

I rise to participate in debate on Bill S-246, an act respecting Lebanese Heritage Month designating the month of November as Lebanese Heritage Month, a motion that has been sponsored by the Honourable Senator Cordy, and seconded by the Honourable Senator Dalphond. Of course, I am the critic of the bill, but a very friendly critic of this bill.

I think each and every one of us should recognize that this is an important bill — important for the Canadian Lebanese community and for all of us. Even though I heard through the years some senators sometimes rise and say that we have too many designated dates and months, the reality of the matter is that Canada is essentially strong because of all the sums of all our parts. It is imperative that all our parts feel that Canadian family and recognition.

Of course, the Lebanese community is one of those communities that has made tremendous contributions. They first arrived in this country in 1880, and through a river of immigration have come and flowed into the country decade after decade, making huge contributions in all walks of life. When they arrived here, many of them through Pier 21 in 1880 — they arrived like all of us did. It doesn't matter if we are direct immigrants or children of immigrants. We all have fled someplace in the world because of conflict, poverty or political strife. We all come to this country, and what do we seek? We seek freedom, democracy and opportunity. It doesn't matter if it's the people who are Indigenous to this land or the two founding peoples of this Confederation or everybody in between.

• (1700)

We've all come here and we have laid our stake and we've built. The Lebanese community who came here — the first arrivals in 1818 — they all engaged in various trades: the mining industry, agriculture, of course. Many of them were itinerant peddlers who sold and bought products from coast to coast and they flourished, and they have made their contribution in many ways.

The first immigrant who arrived right here in Ottawa — her name is Annie Midlige — and she settled in Ottawa, colleagues, in 1895 and started her own fur trading company. Imagine; she wasn't intimidated by the Hudson's Bay Company whatsoever. She started her own company right here in Ottawa and she flourished.

In British Columbia there were two brothers, Abraham and Farris Ray, who began their careers in Victoria as itinerant peddlers.

In Alberta, the first Lebanese immigrants who arrived there were a gentleman named Ali Abouchadi, later known as Alexander Hamilton, and his uncle Sine Abouchadi. In 1905, they started peddling goods between Edmonton and Lac La Biche. By the 1920s, Mr. Alex Hamilton was one of the most successful businessmen in that particular town.

In Prince Edward Island, by 1905, there were two dozen Lebanese licensed peddlers on the Island, and before you knew it, they had branched out into various enterprises and businesses.

Of course, in every part of the country we see the Lebanese community. They've set up vibrant communities in terms of cultural centres, religious centres, and, of course, they are famous for their great entrepreneurial spirit. Who hasn't enjoyed Lebanese and Mediterranean food like I did, of course, today at lunch? In every region of the country, they have very much become part of the fibre of our diet in many ways.

Colleagues, it's more than that. They're integrated very well. They're multilingual immigrants when they arrive here. In large part, of the 250,000-strong Canadians of Lebanese descent, many are in the most beautiful city in this country, Montreal, my own town, where they are business leaders, community leaders and academics.

Senator Gold will also recognize that. I think this is one issue we will be in agreement about. I think they've made a fantastic contribution.

Further to that, when they arrived here, they did what they had to do, like all immigrants. My late mom always said to me — I asked her, "What was the driving reason you came here?" She said:

> Look, where I came from you would work as hard as you want and it seems you'd never be getting anywhere. When you come to Canada, it's very simple. You work hard, and the harder you work, the further you get.

A couple of weeks ago, I was walking into one of my favourite ice cream parlours. There is a gentleman named Sam; he is of Lebanese descent. He owns three parlours across the city of Montreal, a very successful man. He immigrated back around 25 years ago. He works extremely hard and is well-to-do. I said, "Sam, you're working very hard. You are of a certain age. You don't need to be working this hard." He said:

> Look, Canada afforded me great things. Because where I came from I worked very, very hard and I didn't seem to get anywhere. Here, the harder I work, the further I get, and it's a wonderful thing.

It just brought literally word for word the memories that my late mom shared with me, someone who came through the Port of Halifax in 1957 with a dream.

The Lebanese community, every single one of the immigrants, came with a dream and have attained that dream. If you look at the success stories in all walks of life — I did a little bit of research and, of course, senators, MPs, business people and academics. Right in this chamber, when I first arrived here, of course, there was my former colleague senator Mac Harb. Very quickly I learned he was of proud Lebanese descent. Parliamentarians on the House side: former parliamentarians like Allan Koury, who was elected in Hochelaga-Maisonneuve as a Conservative in Montreal in 1988; Maria Mourani, who was elected; and Eva Nassif; and, of course, my good friend Fayçal El-Khoury, who is currently the Member of Parliament for Laval—Les Îles; and, of course, Ziad Aboultaif, my good friend, I think, from the riding of Edmonton Manning, who is a great representative of the Lebanese community.

Former premier Joe Ghiz from Prince Edward Island. Colleagues, not only is he of Lebanese descent but he was also the first premier elected in Canada who was not of European descent, and that was a historic and a proud element that the Lebanese community celebrates all the time.

Walter Assef, the Mayor of Thunder Bay, Ontario. Eddie Francis, the Mayor of Windsor.

Of course, in the academic field, Henry Habib — Professor Habib; Dr. Justine Sergent, a famous neurologist in Canada; Professor Gad Saad, who teaches at the John Molson School of Business, which I know Senator Loffreda is very much affiliated with.

Lebanese Canadians are very proud of artists like Keanu Reeves, who was born in Beirut and raised in Toronto. Of course, all of us, Canadians of all origins are very proud of the fact that Keanu Reeves is someone of Lebanese and Canadian background.

Of course, Kristina Maria, a singer my kids informed me about. It's a little bit more their speed; I'm still the old guy. My kids call me "boomer." So here I am.

Of course, Marwan Hage, who played in the Canadian Football League for the Hamilton Tiger-Cats. And, of course, we all know Nazem Kadri, the Stanley Cup champion who is now playing for the Calgary Flames.

And there is a long list of entrepreneurs and business people, starting with Kevin O'Leary, who have made great contributions to this country.

It doesn't end there. The Lebanese community didn't only come here in order to work and succeed commercially, academically and professionally, but they were ready to fight when it was time for that freedom that they cherish so much and that opportunity called Canada. Many Lebanese Canadians answered the call to service in World War I and World War II and proudly fought for their freedom, so much so giving up their lives for their country called Canada.

Lieutenant Edward F. Arab, the young lawyer who was so proud of his Lebanese heritage, heroically died for Canada on the front line in Belgium. Charlie Younes was also killed while bravely fighting in action. There were many more who served and were wounded and injured, like Samuel Ross. The list goes on and on.

We thank them for their contribution to our society. Of course, the vast majority of Lebanese immigrants came to Canada between the years of 1975 and 1990. They were fleeing civil war in Lebanon, which reiterates the point that most of us have come here fleeing something and looking for something better.

I think this is a very worthy bill. I don't think it requires any more debate or discussion. I thank Senator Cordy for putting forward this very worthy bill, and I add my voice to it and full support. Colleagues, I urge you all to support it through second reading and send it on to committee. Thank you.

Some Hon. Senators: Hear, hear.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Cordy, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.)

JUSTICE FOR VICTIMS OF CORRUPT FOREIGN OFFICIALS ACT (SERGEI MAGNITSKY LAW)

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

On Other Business, Senate Public Bills, Second Reading, Order No. 24, by the Honourable Leo Housakos:

> Second reading of Bill S-247, An Act to amend the Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law).

Hon. Leo Housakos: I request that further debate be adjourned in my name for the balance of my time.

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

Hon Senators: Agreed.

(Debate postponed until the next sitting of the Senate.)

(*At 5:10 p.m., the Senate was continued until Tuesday, November 15, 2022, at 2 p.m.*)

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