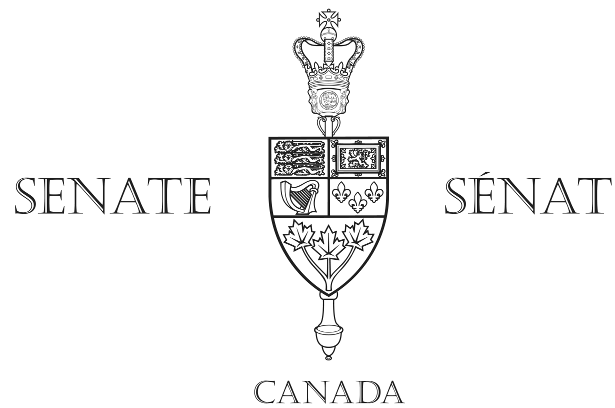
SENATE  SÉNAT

CANADA

DEBATES OF THE SENATE

1st SESSION 44th PARLIAMENT VOLUME 153 NUMBER 105

OFFICIAL REPORT
(HANSARD)

Thursday, March 9, 2023

The Honourable GEORGE J. FUREY,
Speaker

CONTENTS

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

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

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

THE SENATE

Thursday, March 9, 2023

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

Prayers.

SENATORS' STATEMENTS

BLACK HISTORY MONTH

Hon. Brian Francis: Honourable senators, every February, Canadians celebrate Black History Month. It is an opportunity to honour the legacy and contributions of Black Canadians to their communities and to their country.

The theme for Black History Month this year was "Ours to tell." This theme represents:

> . . . both an opportunity to engage in open dialogue and a commitment to learning more about the stories Black communities in Canada have to tell about their histories, successes, sacrifices and triumphs.

In that spirit, senators and staff of the Progressive Senate Group, or PSG, participated in a full day of educational training sessions last month. Our day began with a fascinating glimpse into the often-untold history of African Canadians and their contributions to Canadian society.

This history lesson came from Aly Ndiaye, better known as Webster, who is one of the pioneers of the hip hop movement in Quebec. I was pleased to learn that he was recently appointed to the Historic Sites and Monuments Board of Canada. His voice will be an important addition.

We also heard from Victoria Gay-Cauvin who provided us with key information with respect to systemic racism as it relates to economic development. With this context, Frantz Saintellemy offered concrete steps that we can take toward improvement.

These sessions were an invaluable tool to help us learn, but also reminded us how much more needs to be done to combat racism in this country. Though Black History Month may be over, our work continues.

Honourable senators, I am grateful to have the opportunity to learn from our colleagues, and I would particularly like to thank both Senator Wanda Thomas Bernard and Senator Amina Gerba for all the work they do. I am proud to call them both colleagues and friends. They are but two African-Canadian women who are setting an example for future generations, and who are leading the way to combat stigma and racism.

The Progressives have a shared vision that states that we are inspired by the Algonquin word *Mamidosewin* which means "meeting place and walking together." This principle guides us — not only in the reconciliation with Indigenous Peoples, but also in righting the wrongs of all forms of racism in this country.

On behalf of the PSG, I would like to thank Senator Amina Gerba and her staff for organizing such a meaningful day of educational training. We look forward to learning more as we move forward together.

Wela'lin. Thank you. *Asante*.

2023 CANADA WINTER GAMES

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, to mimic Senator Manning, I rise today to bring you chapter 3 of "Myla Plett's Curling Adventures."

Our story last left off with Myla and Team Plett having won gold at the Alberta Under-18 Girls Curling Championships, the Alberta Under-20 Championship and the Canada Winter Games trials.

This meant that their next stop was the Canadian Under-18 Curling Championship in Timmins, Ontario, which ran from February 5 to February 11 at the McIntyre Curling Club.

The curling club and Curling Canada put on a world-class event, and I'm happy to report that Team Plett went 9-0 to emerge the Canadian Under-18 Girls Curling champions for the second straight year.

Colleagues, the most difficult team they faced in Timmins was the Nova Scotia team, where they were forced into an extra end in order to break a tie. As it turned out, Team Plett would soon face this same team once again at the Canada Winter Games.

This year, the games were held in Prince Edward Island from February 19 to March 4, which my wife Betty and I had the privilege of attending.

Upon our arrival in Charlottetown, and at the opening ceremonies, we received a great reception from Premier Dennis King and the people of P.E.I., where all 3,600 athletes, coaches and support staff, along with the thousands of visitors, were designated as honorary Islanders for the entire winter games.

And throughout the week, Betty and I were also warmly greeted by Senators Brian Francis, Percy Downe and Stan Kutcher, along with our former colleague Senator Diane Griffin, who made us feel very much at home as they hosted us at different lunches and dinners.

Colleagues, what a week of curling it was. Finishing the round robin tied with Nova Scotia — with identical 4-1 records — Team Plett won their quarter-final and semifinal games. Then, they found themselves, once again, pitted against the same team from Nova Scotia in the final. Nova Scotia played an outstanding game, besting us in the final and clinching the gold medal — with Team Plett winning the silver.

I want to offer my sincere congratulations to the Nova Scotia girls' team consisting of Sophie Blades as skip, Kate Weissent as third, Stephanie Atherton as second and Alexis Cluney as lead. They fought hard for their gold medal and should be proud of their performance.

On a side note, the Nova Scotia boys also won the gold medal. To my granddaughter Myla Plett and her teammates, Alyssa Nedohin, Chloe Fediuk and Allie Iskiw, congratulations on your silver medal. You once again demonstrated excellent sportsmanship and continue to make us proud. I know that all my Senate colleagues will be waiting with bated breath for chapter 4 of this series, when I update them on your success at the Canadian under-21 curling championships in Quebec at the end of March.

• (1410)

Colleagues, I invite you to join me in congratulating all of the athletes who competed at the prestigious Winter Games in Prince Edward Island and wish them well in their continued training as they pursue excellence in their chosen sport. Thank you, colleagues.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Felix Daniel Uiyaki Aupalu, Founder and Program Director of All Arctic. He is the guest of the Honourable Senator Coyle.

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

Hon. Senators: Hear, hear!

THE LATE PETER A. HERRNDORF, C.C., O.ONT.

Hon. Mary Coyle: Honourable senators, today I rise to tell you the story of a great Canadian who has been lauded for his leadership and outstanding contributions to the arts and media sectors in Canada.

Peter Herrndorf, a towering giant — both literally and figuratively — in both of those sectors and in the places where they intersect, sadly passed away last month surrounded by his magnum opus — his beloved family — Eva Czigler, his wife, and Katherine and Matthew, his children. I was so happy to know that Peter had become a grandfather to baby Nico just months before his passing.

Yes, Peter Herrndorf was the Renaissance man of Canadian journalism, the dream publisher, the godfather of Canadian arts, the media mogul, one of Canada's greatest cultural leaders, the man of big vision and big heart, as he has been rightly credited in the outpouring of tributes to this wonderful man.

His innovative, extraordinary and transformational contributions to our National Arts Centre; our national broadcaster, the CBC; TVOntario; *Toronto Life* magazine; the Luminato Festival; the Stratford Festival and many others are clear evidence that Peter deserved these accolades.

However, what I would like to highlight today is that Peter Herrndorf also had an influence on so many other aspects of Canadian nation building, ones that are far harder to quantify.

Like many Canadians, I was fortunate to be in Peter's orbit. Like others, I was a person with a cause that Peter took an interest in.

I first met Peter when he was the new president and CEO of the National Arts Centre, NAC, and I was the new director of the Coady International Institute at StFX University in Nova Scotia. Peter attended an event that we held in Centre Block. He liked what he heard and offered to help me.

Peter ended up hosting events for us at his home in Toronto and at the NAC. Those events bore important fruit for our institution, supporting community leaders internationally and in Canada.

Peter also became my friend and mentor and would be there to offer advice whenever we spoke on the phone or met in person, like in 2018, when I was a newly appointed senator to this chamber. He took me out to dinner to fill me in on the Ottawa scene.

Colleagues, my experience was quintessential Peter Herrndorf — while excelling at his rather important "day job" transforming Canada's performing arts scene, Peter Herrndorf was causing huge positive ripples in so many other important sectors across Canada and around the world.

Colleagues, Peter Herrndorf was a national treasure. May he rest in peace.

Wela'lioq, thank you.

[*Translation*]

INTERNATIONAL WOMEN'S DAY

Hon. Pierre-Hugues Boisvenu: Honourable colleagues, this year, I decided to speak to International Women's Day on March 9.

You're probably thinking I'm a bit late, or you may be wondering why I would talk about this on March 9. To me, every day of the year should be a day for talking about women's rights. Shouldn't we reflect on the importance of recognizing women's rights every day of the year, instead of just one day a year?

My mother reminded me of this every day. At 18, she already had a university degree. She went on to have 10 children and taught for 35 years, until she was 65. My mother never needed to remind me or any of my brothers or sisters to respect her rights. She instilled in us the fundamental value — or duty, I would say — of respecting her as a woman and as a mother.

Ever since my daughter Julie was murdered 20 years ago, the fight for women's rights, especially the right to be better protected, has been in my DNA. The death of my daughter Isabelle a few years later reminded me that the fight for this fundamental right to be recognized was central to women's sense of security in our society, and that as many men as possible must

be part of that fight. In my head and in my heart, I know it is not just women who must wage this fight. Above all, it must be fought by all men, by fathers, brothers, husbands, friends and all men who are important in the lives of all women and girls. Men must dedicate themselves to standing alongside their mothers, their sisters, their wives and their friends so that these women do not fight this battle alone.

The theme for International Women's Day 2023 is "Every Woman Counts." I'm thinking of every woman and girl who lived through the horrors of violence as a child or as an intimate partner because she was a woman who "didn't count," and who had injuries inflicted on her by a man because she was a woman.

Today, women are gradually taking back control over their lives because they are reclaiming the right to speak up and to speak out. This empowerment is fragile because female victims have lost trust in the justice system. That loss of trust is a deep scar that will heal if, and only if, we make it a priority in this place.

Honourable senators, let us take a moment to think about the 185 women who were murdered in 2022 because they were women. Today, let's recognize that every one of these murdered women counted, but we failed to protect them.

To give true meaning to the theme of International Women's Day, let's make a commitment to make women safer in 2023. Honourable senators, we need to make this commitment, because every woman counts.

THE LATE MARCEL A. DESAUTELS, O.C.

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate): That was very touching, Senator Boisvenu. Thank you.

On Tuesday, January 31, Saint-Boniface lost a true hero when the visionary philanthropist Marcel A. Desautels passed away.

This Franco-Manitoban will be remembered primarily for his contributions to post-secondary education in Canada, to which he donated tens of millions of dollars. The University of Manitoba, the Université de Saint-Boniface, the University of Toronto and McGill University all benefited from his generosity and named several of their faculties and scholarships after him.

He was an accomplished businessman who headed up Creditel, one of the country's biggest credit agencies with 16 offices, which he sold to an American competitor.

As president of the Université de Saint-Boniface, I can personally attest to Mr. Desautels' devotion not only to that university, but also to the University of Manitoba. For example, in 2008, he donated $20 million to the Faculty of Music. It was the biggest private donation ever made to the University of Manitoba and one of the biggest ever made to a music department in Canada.

In 2009, he was the lead donor and president of VISION, the Université de Saint-Boniface's biggest-ever fundraising campaign, with a $15-million target. A building bearing his name was inaugurated at the Université de Saint-Boniface in 2011 and is now home to the health sciences program and the school of social work.

However, his remarkable philanthropic work is not the only reason to remember this francophone lawyer and businessman. He attributed much of his success to the classical education he received from the Jesuits at the Collège de Saint-Boniface. Marcel Desautels would voluntarily spend many hours meeting with students to encourage them and offer his personal support for their endeavours. He became a source of inspiration.

Marcel Desautels' story is the story of a true visionary. It shows how, with determination, a citizen can leave their mark not only locally, but nationally. Most importantly, for Canadians, Mr. Desautels exemplifies what it means to give back to the community.

Rest in peace, dear Marcel.

• (1420)

[*English*]

PERSECUTION OF BAHÁ'Í PEOPLE IN IRAN

Hon. Mobina S. B. Jaffer: Honourable senators, I rise to speak about the persecution of Bahá'ís in Iran. Recently, we have heard a lot about the persecution of women in Iran. The Bahá'ís have suffered persecution in Iran for over 40 years. The Bahá'í faith is a peaceful religion that has been persecuted in Iran for over 40 years.

Despite representing the largest non-Muslim religious minority in Iran, Bahá'ís have been systematically denied their basic human rights, including the freedom to practise their religion, access to education and employment.

This has resulted in the reimprisonment of two former leaders of the community Mahvash Sabet and Fariba Kamalabadi — both grandmothers and powerful symbols of resilience. Mahvash and Fariba were previously imprisoned for 10 years on false charges and now face the possibility of another 10 years behind bars. Their advanced age and poor health make their situation even more heartbreaking. Their imprisonments solely on account of their religious beliefs are unjustifiable and indefensible. However, their courage in the face of adversity serves as an inspiration to us all.

As members of the international community, we have a responsibility to stand in solidarity with all Iranian women, including women like Mahvash and Fariba. Their release, along with that of all prisoners of conscience in Iran, must be our top priority. It is our duty to urge government leaders to get involved and raise this issue in various forums, like the current Human Rights Council in Geneva.

The reimprisonment of Mahvash Sabet and Fariba Kamalabadi has had a significant impact on the Bahá'í community, both in Iran and around the world. Honourable senators, as you know, there are many Bahá'ís living in Canada.

First and foremost, it has caused immense pain and suffering for the families of these two women, who have already endured a decade of separation and anxiety during their previous imprisonment. Their reimprisonment has also sent shockwaves through the Bahá'í community, which has long been a target of persecution in Iran. The Bahá'í community has responded to the reimprisonment of Mahvash and Fariba with widespread condemnation and calls for their immediate release.

Honourable senators, despite the challenges the Bahá'ís face, they keep fighting. I urge you all to please stand with them and not forget their plight.

ROUTINE PROCEEDINGS

TREASURY BOARD

2023-24 DEPARTMENTAL PLANS TABLED

Hon. Marc Gold (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the Departmental Plans for 2023-24.

[*Translation*]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

FIFTH REPORT OF COMMITTEE TABLED

Hon. Diane Bellemare: Honourable senators, I have the honour to table, in both official languages, the fifth report (interim) of the Standing Committee on Rules, Procedures and the Rights of Parliament entitled *Equity between recognized parties and recognized parliamentary groups* and I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

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

NATIONAL FRAMEWORK ON CANCERS LINKED TO FIREFIGHTING BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-224, An Act to establish a national framework for the prevention and treatment of cancers linked to firefighting.

(Bill read first time.)

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

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

ARAB HERITAGE MONTH BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-232, An Act respecting Arab Heritage Month.

(Bill read first time.)

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

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

[*English*]

QUESTION PERIOD

FOREIGN AFFAIRS

ELECTION INTEGRITY

Hon. Donald Neil Plett (Leader of the Opposition): Government leader, why is the Prime Minister completely incapable of coming clean with Canadians and telling us the truth? Whether it is reporters or parliamentarians, no one is getting a straight answer from him. Global News reports that the foreign intelligence assessment branch of the Prime Minister's own department, leader, the Privy Council Office, prepared a special report in January 2022 intended for the Prime Minister and senior PMO staff. It stated:

> A large clandestine transfer of funds earmarked for the federal election from the PRC Consulate in Toronto was transferred to an elected provincial government official via a staff member of a 2019 federal candidate.

Yesterday, in the other place, the Prime Minister was asked repeatedly about this. He did everything but answer the questions. Why not, leader? Why can he not come out and tell us the truth?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. I think the assumption behind your question, though, is misleading. I won't repeat everything that I said yesterday.

The Prime Minister and the government have put into place a number of measures to address the situation of not only what has happened in the past, but also how we can protect ourselves in

the future. That includes the reference to the National Security and Intelligence Committee of Parliamentarians, or NSICOP, which I understand is accepted; and the National Security and Intelligence Review Agency, or NSIRA, which will set its own mandate and scope of study; the appointment of a special rapporteur; the launch of public consultations to guide the creation of a foreign influence transparency registry, the establishment of the national counter foreign interference coordinator; and Public Safety Canada will coordinate our efforts to combat foreign interference.

• (1430)

These processes are the appropriate ones given the sensitivity and classified nature of the information that's relevant to these issues. The leaking of information — to which reference was made yesterday, and is rampant throughout the media — is not the way for a responsible parliament to deal with these issues.

Senator Plett: Well, of course, my question was why didn't he answer the questions not what is he doing on the side, but you mentioned the National Security and Intelligence Committee of Parliamentarians, or NSICOP. Another document provided to Global News was an unredacted copy of an August 2019 report prepared by the National Security and Intelligence Committee of Parliamentarians.

This committee reports directly to the Prime Minister, and he and his office approve redactions or edits to their reports before they are made public. By the way, leader, this is a committee that the Prime Minister has been bragging about that all registered, recognized parties are part of. Ironically, he is failing to appoint somebody from the official opposition in the Senate to that committee but appoints supposedly independent senators and not somebody from the Conservative Party of Canada.

I am curious about that, leader, why is that not happening?

My question is — and I will continue with this — Global News says that this report:

> . . . offered several examples of alleged Chinese election interference from 2015 to 2018 that involved the targeting and funding of candidates.

The Prime Minister would have seen this report, leader. He saw it and did nothing about it. I have to wonder if he wants the leaks of both this report and the Privy Council Office, or PCO, report investigated the same way that he wants the Canadian Security Intelligence Service, or CSIS, whistle-blowers hunted down.

Leader, you said this committee would get to the bottom of this in a responsible and prudent way. Maybe we need to have a Conservative on the committee from the Senate. That might help us.

How is a secret committee whose reports the Prime Minister already ignores going to do that?

Senator Gold: The position of the government is clear. It has confidence in the committee of parliamentarians. It welcomes the work that it did. As I said, I commend to all senators that report on foreign interference. He continues to have confidence in the members who represent all parties.

It will —

Senator Plett: Some of —

Senator Gold: — fall upon us as parliamentarians to assess the quality of the work that is done through all of the processes that I underlined.

I do want to also underline the fact that much of what is being reported in the media comes from anonymous, leaked sources which I regret seems to be a currency in this debate. We, as Canadians and as parliamentarians, should be careful to applaud and approve the leaking of classified information by those who take oaths to preserve it.

Hon. Leo Housakos: Today, colleagues, the defence from the government leader is fake news — we cannot trust *The Globe and Mail* and we cannot trust legitimate news outlets. Interesting.

Senator Gold, several times in your replies to our questions yesterday, you said that we need to get serious about allegations of dealing with foreign interference in our electoral system. I can assure you, Senator Gold, that we have been very serious and consistent in asking these questions for a very long time. It is time your government gets serious when it comes to dealing with foreign influence in our country and electoral system. We have had a Prime Minister in the last few days who has been flip-flopping his stories non-stop on all these allegations. He's been vacillating, and we've seen no action whatsoever except for a number of stall tactics and trying to keep Canadians in the dark.

Now, all of a sudden, we have a special rapporteur who is going to solve the problem. Well, Senator Gold, we have an Ethics Commissioner right now advising that your cabinet ministers undergo specialized ethics training because his office is just too busy over at the other place. We have a record number of outside consultant contracts that your government has given out, and they've done that in the midst of a bloating civil service. In the meantime, your government cannot provide basic services. Now, he needs someone, of course, to advise him on how to deal with allegations of foreign interference on an election campaign where the allegations claim he participated with his party in that interference.

My question is about the Prime Minister regurgitating an announcement that they will hold public consultations in implementing a foreign agents registry — we've heard that now over the last few days. High time we do the right thing. The United Kingdom, the United States, Australia — they already have this legislation in place, government leader.

Public consultation by your government was announced more than a year ago that they were going to do this. Has a date been set for these consultations? No. Has the methodology been established? No. What steps have been taken to launch this public consultation? None.

The question is simple: What concrete action has been taken other than these announcements that have never been followed through on?

Senator Gold: Well, you have certainly included various measures in your question. The consultation is one of a suite of measures that I have already announced, and it's the position of the government that this combination of measures is going to address the problem in the most appropriate way.

Senator Housakos: These announcements were made a year ago. This problem that has now arisen because of courage on the part of CSIS officials who obviously were exasperated by the Prime Minister — and they had to go to the media to get this out in the public — is that they have no faith in this government. There is a bill before this chamber that sets out the implementation of a foreign agent registry. It mirrors a bill that had been tabled in the other place in the previous Parliament and ignored then by the government as well.

Both were drafted with wide consultation from the diaspora and the very communities that are being intimidated. It has been a full year that this bill has been sitting here, and Mr. Trudeau, senators, could not be bothered to speak once on this issue. There has been one speech, no follow-up except procrastination on it. It is the job of parliamentarians to study such things. That is what the public expects us to do. It is our role and our obligation.

Why don't we do our job? Why doesn't your government embrace Bill S-237, send it to committee for study, for review and get it past this place quickly as we have done with other bills that we think are of public importance? We've seen how we come together quickly on issues of public importance and get bills over to the other side quickly. We can do that with Bill S-237 and get the ball rolling instead of wasting another year in consultations and maybe have another election before we get anything done.

Senator Gold: Thank you for your question. I respect, and the government respects, the work of public bills in the Senate.

As you know — and, indeed, it is a position that your leader has taken with me and which I accept and respect — the negotiation on the passage of non-government bills is left to the leaders of the parliamentary groups and is not the responsibility of the Government Representative Office.

FINANCE

TASK FORCE ON WOMEN IN THE ECONOMY

Hon. Tony Loffreda: My question is for the Government Representative in the Senate.

Nearly two years ago, I asked the question on the government's action plan for women in the economy. Yesterday was International Women's Day, so I thought it would be appropriate to ask you about the work of the task force that was created to advance gender equity and address systemic barriers and inequities faced by women in the economy, particularly within the context of the pandemic and the recovery.

Eighteen incredible women served on the panel, and I understand they must treat all discussions, recommendations and reports as confidential. According to its terms of reference, the task force operated for 12 months and should have concluded its work by late 2021.

Senator Gold, I have no doubt the task force has done exceptional work and provided the government with sound advice. I believe Canadians, particularly those within the business community, would also benefit from its recommendations. Can you confirm that the task force conducted and concluded its work, and has a report been produced?

Hon. Marc Gold (Government Representative in the Senate): Thank you, senator, for the question and for underlining the important work. I do not know for sure, and so I will have to make inquiries. I will report back as soon as I can.

Senator Loffreda: Thank you for the answer. I will impatiently await that response.

• (1440)

Beyond providing the minister with advice on assisting women in regaining full employment and improving labour force participation during the pandemic, the task force was also tasked with considering broader and longer-term issues related to gender equality and women's well-being, such as the gender wage gap and women's under-representation in leadership positions.

Can you provide us with how the advice of the task force helped shape and influence some of the policy choices the government made over the past two years that have had an impact on women and the economy?

I understand from your first answer that you do not have the report, but maybe, when you do provide a written response, you could include those answers.

Senator Gold: I certainly will. You are quite right, I can't answer specifically how the task force report might have influenced things. Addressing gender equity, equality and inequality is an ongoing process. It didn't begin with this task force, and it will not end with the report.

There are a number of measures that the government has taken that have tangible and important benefits for women across the country. A national system of early learning and child care will have an enormous impact on the ability of women to participate in the labour force. The labour force participation rate for Canadian women in their prime working years is at a record 85.6%.

There have also been improvements, since this government took office, in the participation rate to which I just referred. It has risen by approximately 3% since then. I will make those inquiries, senator, and get back to you.

[*Translation*]

HEALTH

DISCRIMINATION BASED ON SEXUAL ORIENTATION

Hon. René Cormier: Senator Gold, the Health Canada directive on sperm donors that disqualifies men from donating if they've had sexual relations with other men in the past three months is extremely troubling. Since we know that sperm donations are subject to rigorous testing before they can be used, this directive is discriminatory and perpetuates the stigma against men with HIV/AIDS. A lawsuit has been filed with the Ontario Superior Court of Justice in order to change this directive.

Senator Gold, why doesn't Health Canada make its directive on blood donation more inclusive and non-discriminatory against gay and bisexual men, like Canadian Blood Services and Héma-Québec did recently?

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

The government is committed to ensuring that the Safety of Sperm and Ova Regulations continue to be based on the most recent scientific data and techniques in the field of assisted reproduction. Given the recent changes to the blood donor screening criteria of both Canadian Blood Services and Héma-Québec, which you mentioned, the government is exploring whether similar updates may be appropriate in the context of sperm and ova donations.

The government is committed to supporting policies that are safe, non-discriminatory and scientifically based. Health Canada is aware that an application has been filed with the Ontario Superior Court of Justice and is currently reviewing it. We can't comment any further at the moment.

Senator Cormier: Thank you for that answer. We will wait to see what the government does next.

A recent report on access to justice for trans people unequivocally stated that the justice system does not provide effective solutions to trans people's legal problems. Disturbingly, the report states that many trans people avoid the legal system altogether because participating in it involves discrimination and, at times, danger.

Senator Gold, without overstepping its jurisdiction, how will the federal government respond to this report in order to make the justice system more accessible to trans people and more tailored to trans realities?

Senator Gold: Thank you for the question.

Jurisdictional limitations are indeed a factor here. That being said, I will look into this with the government to check on the progress or status of this report in relation to regular discussions between the Minister of Justice and his team, and his provincial and territorial counterparts.

[*English*]

HEALTH TRANSFERS

Hon. Larry W. Smith: My question is for the Leader of the Government in the Senate, Senator Gold.

At the meeting of the first ministers last month, the federal government announced additional health care transfers to the provinces and territories. While health care funding remains a major issue for the provinces, a lack of licensed doctors is becoming more and more concerning. It has been reported that there are an estimated 13,000 mostly foreign-trained doctors who are unable to practise in Canada today as a result of the discriminatory red-tape policies across the country.

The Prime Minister has made several promises — including in 2019, 2021 and most recently in 2023 — to help provinces and territories hire thousands of doctors and health care staff.

Senator Gold, has the federal government put into action its promises of helping provinces hire additional doctors and health care staff? Can you provide us with specific details of actions taken by the government instead of just pledging funds?

Hon. Marc Gold (Government Representative in the Senate): Thank you, Senator Smith, for the question. The licensing of physicians is a provincial and territorial responsibility exclusively. There is a problem because the provinces and territories have been slow to liberalize their rules to allow for the easier accreditation of those with degrees from elsewhere.

Indeed, the problem is not restricted to doctors coming from outside of Canada; there are problems within Canada. There have been interesting and welcome initiatives from the Atlantic region, but, still, work needs to be done.

You made mention of doing things other than providing funds, but we should not gloss over the fact that the injection of federal funds into the provincial system and the enhancement of those funds — almost $200 billion over 10 years to improve health care services — go a long way to give the provinces the ability to absorb new doctors and to pay for new doctors — as well as other health care professionals, one should add.

The Minister of Health works with his counterparts across the country on a regular basis. I will make inquiries as to how the subject of licensing is progressing on the agenda and report back. The ability of the federal government, and indeed Parliament, to legislate in this area is quite limited by virtue of the Constitution.

Senator Smith: The government's new immigration targets will create additional demand pressures on the health care system. These new immigrants will require access to hospitals, family doctors and other health-related services. Immigrants also bring with them a wealth of knowledge and expertise in every sector of our economy, including health care.

Is the federal government working with provinces, territories and foreign credential recognition programs? Are there specific progress details that you could provide?

Senator Gold: I do not have more details than to say how pleased I am — and I think we should all be — that the federal government has concluded agreements with nine provinces. Discussions are ongoing with the remaining province and the territories.

These discussions, as you know, and the structure of these arrangements include bilateral funding arrangements, which will be tailored to the needs and requests of the provinces and territories. Again, I have every confidence that the discussions that have gone on and will continue to go on in the structuring and crafting of these bilateral agreements will take into account the issues that you raise, but, again, I will make inquiries and report back.

AGRICULTURE AND AGRI-FOOD

LIVE HORSE EXPORTS

Hon. Pierre J. Dalphond: My question is for Senator Gold, the Government Representative.

In the last election, the Liberal Party promised Canadians that the live export of horses for slaughter would be banned, yet horses continue to suffer. On March 1, 2023, *The Globe and Mail* reported about the continued practice of shipping draft horses to Japan by cargo plane, up to four in each crate, without food or water for 25 to 30 hours.

Senator Gold, when is the government going to act on its promise to ban this kind of shipment to Japan?

• (1450)

Hon. Marc Gold (Government Representative in the Senate): Thank you. What you describe is troubling, to say the least. Indeed, the ban on the export of live horses is part of Minister Bibeau's mandate letter.

I have been informed that the government is in discussions with key stakeholders and is evaluating different approaches to determine the best course of action. In the absence of a ban on the export of live horses for slaughter at present, the CFIA, or Canadian Food Inspection Agency, continues to enforce the relevant regulations to ensure that horses are fit for travel and, importantly, are transported humanely.

[*Translation*]

Senator Dalphond: I understand that the government is looking into this, but I would point out that the U.S. government banned this practice 17 years ago. In Canada, in the last five years, 14,500 horses have been shipped to Japan to become raw sushi for wealthy people. Don't you think it's time to put an end to this practice rather than finding humane ways to send them to slaughter in Japan?

Senator Gold: That is the government's goal and it was included in the mandate letter. I will make inquiries to see what progress is being made. I will come back to the Senate with an answer.

[*English*]

CANADIAN HERITAGE

SPORT CANADA

Hon. Marilou McPhedran: My question is to Senator Gold. One day after International Women's Day, I want to acknowledge the courage and perseverance of thousands of women and girls who played soccer and other sports in Afghanistan until the Taliban returned to power in August 2021 and are now at extreme risk just because they are female and athletes.

In Canada, girls' soccer has been growing in popularity for years, with a high of 85,000 girls playing in organized leagues, soccer federations and school clubs. But now a decline in enrollment is anticipated, directly linked to ongoing equity disputes and the disgraceful second-class treatment given the Olympic gold-medal-winning Canadian women's national team.

Yesterday, the *Toronto Star* reported that promising young female athletes are becoming disillusioned by what they see. Despite reaching an interim funding agreement last week — only secured after the team was prepared to strike and threatened with lawsuits — players still state that the fight for permanent funding and equity is far from resolved.

Senator Gold, Sport Canada funds more than 58 national sports federations, ranging from alpine skiing to curling, hockey, soccer and wrestling. Additionally, it funds another 31 national multisport service organizations and related sports support bodies.

Can you inform this chamber if attention is being given to whether the inequities and injustices suffered by these world-class women's soccer players are not also systemic in all the sports relying on federal public dollars?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question and for underlining what, sadly, we all know has been the case and remains the case: the historical gap in funding and support that is, no doubt, still the case in too many areas between men's and women's sports, as it is still between men's and women's wages.

I don't know the specific answer, Senator McPhedran. I will make inquiries and try to get an answer as quickly as I can.

Senator McPhedran: In addition to that inquiry, Senator Gold, I wonder if you could add a more specific question, which is the extent to which the Government of Canada allows for non-disclosure agreements to be used against athletes where there are disputes and resolutions.

Senator Gold: I will certainly add that to my question.

Senator McPhedran: Thank you kindly.

[*Translation*]

FOREIGN AFFAIRS

CANADA-CHINA RELATIONS

Hon. Pierre-Hugues Boisvenu: Senator Gold, yesterday I asked you about the Chinese government's growing influence in Canada. Your answer wasn't really satisfactory. You said, and I quote:

> One must be willing to learn and change when faced with facts and situations like the one Canada . . . [is] experiencing right now. . . . [This] is why the Canadian government is taking meaningful action to protect us and to reassess many aspects of our relationship with China.

This morning, we learned that the RCMP is investigating three Chinese police stations in Longueuil and Montreal. There are already five in Toronto and there must be some in Vancouver, which has a large Chinese community.

The Prime Minister's inaction dates back to 2018, when he wanted to allow Chinese armed forces to operate on Canadian soil and the Canadian army opposed the idea. Doesn't it seem like the Prime Minister lacks political judgment?

Hon. Marc Gold (Government Representative in the Senate): Not at all, colleague. What we've learned about these police stations in Brossard, not far from where I live, in Montreal and elsewhere is very concerning. I hope the investigations that are under way will produce results.

Let me reiterate that the government and the Prime Minister are taking this matter seriously. There are measures in place, including independent police investigations, to combat this kind of meddling in our democracy.

Senator Boisvenu: The influence of the Communist Party in Canada is a well-known fact. A Longueuil city councillor of Chinese descent confirmed it. Clearly, the Chinese Communist Party is exerting influence in Canada.

If the Prime Minister is neither naive nor an accomplice, and if he is not showing a lack of political judgment, why is he opposed to an independent inquiry in the other place? Why won't he let his chief of staff testify? Why is this process, in particular the appointment of a rapporteur, not taking place in cooperation with the other three political parties?

Senator Gold: Thank you for the question. Concerning the fact that the Chinese representative is boasting about that country's influence, let me paraphrase distinguished journalist Chantal Hébert and say that boasting about their influence is part of their job.

Nevertheless, we're taking this seriously. I am not going to waste the time we have left in Question Period by repeating once again why the government believes the processes put in place are more appropriate for finding the answers we need.

[*English*]

ANSWERS TO ORDER PAPER QUESTIONS TABLED

NATIONAL DEFENCE—INFRASTRUCTURE

Hon. Marc Gold (Government Representative in the Senate) tabled the reply to Question No. 37, dated November 23, 2021, appearing on the *Order Paper and Notice Paper* in the name of the Honourable Senator Plett, regarding the Department of National Defence infrastructure.

NATIONAL DEFENCE—MILITARY FAMILY APPRECIATION DAY

Hon. Marc Gold (Government Representative in the Senate) tabled the reply to Question No. 142, dated March 30, 2022, appearing on the *Order Paper and Notice Paper* in the name of the Honourable Senator Housakos, regarding Military Family Appreciation Day.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Marc Gold (Government Representative in the Senate): Honourable senators, I have the honour to table the answers to the following oral questions:

> Response to the oral question asked in the Senate on April 26, 2022, by the Honourable Senator Petitclerc, concerning the Canada Disability Benefit.
>
> Response to the oral question asked in the Senate on December 15, 2022, by the Honourable Senator Cordy, concerning the Great Lakes Fishery Commission.

EMPLOYMENT AND SOCIAL DEVELOPMENT

CANADA DISABILITY BENEFIT

(*Response to question raised by the Honourable Chantal Petitclerc on April 26, 2022*)

> On June 2, 2022, the Minister of Employment, Workforce Development and Disability Inclusion (EWDDI) introduced Bill C-22, Canada Disability Benefit Act, to establish a new Canada disability benefit. After being studied and amended by Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, the Bill received all-party support in its third reading on February 2, 2023, before being referred to the Senate where it will be debated and studied.
>
> In the spirit of Nothing Without Us, the government will continue to engage with Canadians with disabilities and other stakeholders to inform the design of the benefit and future regulations. Engagement activities began in summer

2021 with ministerial round tables and an online public survey. Consultations have also taken place throughout 2022, and community-led engagement as well as Indigenous-led engagement through national Indigenous organizations is continuing into winter and spring 2023.

The legislation also recognizes the critical role that provinces and territories play in providing supports and services to Canadians with disabilities and the importance of engaging with them. Federal, Provincial and Territorial Ministers Responsible for Social Services met in July 2021 for an initial discussion on the proposed new benefit and discussions with provincial and territorial governments have been ongoing since, including bilateral meetings between the Minister of EWDDI and provincial/territorial counterparts.

FISHERIES AND OCEANS

GREAT LAKES FISHERY COMMISSION

(*Response to question raised by the Honourable Jane Cordy on December 15, 2022*)

The government is committed to preserving our freshwater resources and protecting the Great Lakes from invasive species, given their cultural, social and economic significance to both Canada and the United States.

The Great Lakes Fishery Commission (GLFC) is vital to controlling sea lampreys, conducting research and maintaining cooperation and coordination among Canadian and American agencies in the management of the Great Lakes fisheries.

As part of Budget 2022, the Government of Canada announced new funding of $44.9 million for Fisheries and Oceans Canada to ensure the continued success of the commission in contributing to the health of the Great Lakes. This increased funding, which takes Canada's annual support for the work of the commission to $19.6 million, demonstrates our commitment to improving the Great Lakes fishery, ensures continued Canadian sea lamprey control activities and supports the GLFC's research agenda and its coordination of binational fisheries management across the Great Lakes.

Payment for the current fiscal year has been made and departmental officials and commission staff are working together closely in planning for future activities.

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: third reading of Bill C-39, followed by second reading of Bill C-22, followed by all remaining items in the order that they appear on the Order Paper.

• (1500)

CRIMINAL CODE

BILL TO AMEND—THIRD READING

Hon. Stan Kutcher moved third reading of Bill C-39, An Act to amend An Act to amend the Criminal Code (medical assistance in dying).

He said: Honourable senators, I rise today to speak at third reading of Bill C-39, which extends by one year the implementation day for medical assistance in dying — mental disorder as the sole underlying condition, or MAID MD-SUMC. Once again, I would like to acknowledge that our debates which address sensitive issues such as suicide can be distressing to some and that seeking help when you need it is a sign of strength.

During second reading, I spoke to the scope and purpose of the bill and the reasons why the extension is necessary. Today I will remind us of those reasons, and I will also spend time addressing some of the misinformation that has coloured public understanding of the complex issues surrounding end-of-life choice and has sadly crept into medical professional and parliamentary discourse on the topic of MAID MD-SUMC.

The one-year extension will allow for readiness within our health care systems through cooperation between federal, provincial and territorial governments, regulators and providers. In my opinion, readiness means that four conditions have been met: one, that the model practice standard is finalized, published and distributed to regulators in each province and territory; two, that the certified MAID training program has been completed and is available for access by MAID practitioners; three, that the updated reporting requirements have been fully implemented, and the government has begun to gather the data that will be critical for ongoing assessments of the MAID system in Canada; and four, that the government has had the time needed to review the report of the Special Joint Committee on Medical Assistance in Dying.

Colleagues, we are addressing one of the most important legislative challenges that Canadians have faced and, as Senator Martin said in her second-reading speech, a "complex and deeply personal" issue. We are dealing with an issue that will go down in our history as a touch point in the evolution of our understanding of the individual rights and autonomy of those who are living with a mental disorder. This is of the same depth, complexity and nature as two other health-related issues that we have previously grappled with: contraception and women's reproductive rights. This evolution in our thinking reflects a movement towards a more compassionate society in which we respect and value each other regardless of who we are, who we love or how we choose to die.

This evolution also reflects how Canada is moving to health provision in which the traditional autocratic paternalism of the past is being replaced by patient-centred care. Now we expect that health care providers collaboratively work with patients to create the compassionate conditions in which competent individuals can make free and informed decisions about their own bodies in life, as well as when contemplating death.

The complex issues that we are dealing with in MAID MD-SUMC require careful critical thought, respectful discourse, a deep understanding of the nuances involved and a willingness to put the interests of those who are intolerably suffering ahead of unbending ideology or political expediency. Addressing these complex issues also requires us to avoid creating or spreading misinformation and to call it out when we encounter it. We can respectfully disagree with each other. After all, that is an integral part of democratic discourse. That said, this is not the same as misinforming ourselves and each other.

Since the coming into force of Bill C-7, my office and I have been following the public discussions about MAID for mental disorder as a sole underlying condition in mainstream and social media. We have also carefully reviewed all the debates on Bill C-39 recently held in the other place. Personally, I have had the privilege of being part of the joint committee on MAID, as a number of other senators here have also had, and being privy to the many hours of witness testimony and the reading of many briefs.

As a result of this research and deep exposure to the complexities and nuances that surround MAID MD-SUMC, I have identified three areas of misinformation that have characterized public and parliamentary debate in the last year. I will share those with you, as engagement with this issue will not likely end with the passing of Bill C-39. As we all go forward, knowing what some of the common types of misinformation are can help us in our research, discussions, deliberations and in our conversations with each other, regardless of what viewpoints we may hold. They are the following: MAID is replacing access to mental health care; MAID MD-SUMC is a slippery slope; and MAID is another name for suicide. I will take each and examine their origins.

Before doing so, however, let us be clear about how misinformation arises. Some of it is deliberate, initiated by actors who do not like how our society is evolving and who respond to this by the creation and distribution of misinformation. Some of it may be inadvertent, where well-meaning people are swept up into an emotional state and accept what is being promoted without a deep understanding of an issue and careful consideration and critical analysis of what information they are sharing.

I discussed the false statements that have been made about MAID MD-SUMD replacing access to mental health care and that individuals in an acute crisis can access MAID in my second-reading speech. Let me be very clear. People who are suicidal or in an acute mental health crisis will not qualify for and will not receive MAID.

Individuals who request and receive approval for MAID MD-SUMC will have experienced a substantial amount of different kinds of mental health care for a prolonged period of time. They can also withdraw their consent at any time during the minimum 90-day period. Their intolerable suffering is not because they could not access mental health care; it is because none of the many interventions that have been tried over long periods of time have worked sufficiently well to alleviate their intolerable suffering. Sadly, for mental illness, as for other types of illnesses, not every person who is severely suffering finds the relief that they seek with any of the treatments that we have. Thankfully, this is a very small number of people, but it is still a group of individuals who suffer intolerably.

That is why for those who suffer intolerably, decisions as to MAID MD-SUMC eligibility must be made on a case-by-case basis. As I discussed on Tuesday, there is no “cookbook recipe” for determining if a person’s suffering is irremediable and intolerable. There are substantive clinical considerations for sure, and these have been identified in the expert panel report and in the model practice standard. Psychiatrists, using a two-stage Delphic process have also reached a consensus on what this means clinically. The regulatory bodies will further address these in their MAID practice standards, just as they do for all medical care.

It is essential for us to understand that clinical interventions for complex medical conditions are always done case by case, using evidence-based medicine and patient-centred care. Decisions on how and when to intervene eventually come down to a jointly made agreement between the one who suffers and those doing what they can to help alleviate that suffering. That is how modern health care is meant to work. The phrase “to cure sometimes, to relieve often, and to comfort always” aptly captures this patient and healer collaboration.

Another common misinformation argument made about MAID MD-SUMC is that it is a slippery slope — a classic example of a logical fallacy. Of the three different types of slippery slope fallacies, the causal slope variety is the one most frequently found in MAID MD-SUMC discourse. This is defined in the following way:

> Causal slopes . . . revolve around the idea that a relatively minor initial action will lead to a relatively major final event.

While the outcome of this so-called slippery slope is not clearly identified, the presumed conclusion is that if MAID is offered for MD-SUMC, then in a short period of time, very large numbers of individuals who suffer with mental illnesses will receive MAID and/or that other horrific and untoward events will occur. A key component of this type of fallacious misinformation argument is that no evidence is provided to prove that what is predicted to happen will actually happen. Furthermore, it often

confuses the expected and usual uptake of a new intervention as proof of the existence of a slippery slope and substitutes emotional angst and fear for rational consideration.

• (1510)

Here is what an expert review of the slippery slope fallacy had to say:

> In general, slippery slopes are primarily associated with negative events, and as such, slippery slope arguments are frequently used as a fear-mongering technique. As part of this, slippery slope arguments often include a *parade of horribles*, which is a rhetorical device that involves mentioning a number of highly negative outcomes that will occur as a result of the initial event in question.

Unfortunately, the slippery slope fallacy has been perpetuated in media, in speeches in Parliament and during testimony provided to the joint committee on MAID.

The slippery slope fallacy also ". . . ignores or understates the uncertainty involved with getting from the start-point of the slope to its end-point."

Therefore, the person making the argument has no idea what will actually happen. But they are certain that what they fear will happen will certainly happen and on this basis they promote this argument.

The misinformation distributed using a slippery slope fallacy can be substantial and have harmful impacts on the health and well-being of individuals and populations. It needs to be countered by pointing out the logical fallacy that this argument is based on and by providing data that addresses the fear that the argument is meant to encourage.

Let's unpack the slippery slope fallacy as it pertains to MAID MD-SUMC in Canada. In the case of MAID MD-SUMC in Canada, we can look to evidence from other jurisdictions to determine the truth of such arguments. We can study jurisdictions that have introduced MAID MD-SUMC to determine if there is an ever-increasing and very large proportion of the population that is receiving MAID for a sole mental condition.

There is data to examine from the Netherlands and Belgium. In those jurisdictions, MAID MD-SUMC was introduced over a decade ago. We can examine the percentage of people accessing MAID for mental and behavioural disorders as a proportion of those accessing MAID once the pattern of use has been established.

Here is what the data shows us. In Belgium, in the last five years — for which the Library of Parliament was able to provide data to me — the proportion of people who accessed MAID for mental disorder as the sole underlying medical condition was as follows: 2017, 1.7%; 2018, 1.4%; 2019, 0.8%; 2020, 0.9%; 2021, 0.9%.

Let's put these numbers in a different perspective. In 2021, the population of Belgium was 11.59 million. The total number of persons receiving MAID MD-SUMC was 24 — that is 0.00020% of the population. Clearly, there is no slippery slope in Belgium.

In the Netherlands, the numbers are as follows: 2017, 1.2%; 2018, 1.0%; 2019, 1.0%; 2020, 1.2%; 2021, 1.5%. Again, I'll put these numbers in perspective. In 2021, the population of the Netherlands was 17.53 million. The total number of persons receiving MAID MD-SUMC was 115, that is, 0.00065% of the population — no slippery slope in the Netherlands either.

This data lines up with the recent study by Jordan Potter, published in *Medicine, Health Care and Philosophy* in 2018, titled, "The psychological slippery slope from physician-assisted death to active euthanasia: a paragon of fallacious reasoning." Professor Potter concludes:

> . . . (1) employing the psychological slippery slope argument against physician-assisted death is logically fallacious, (2) this kind of slippery slope is unfounded in practice, and thus (3) the psychological slippery slope argument is insufficient on its own to justify continued legal prohibition of physician-assisted death.

Colleagues, as practitioners of sober second thought, it behooves us to call out this misinformation based on the fallacious slippery slope argument when we come across it. Indeed, we could identify the phrase "slippery slope" as a yellow light warning us that what follows could be a fallacious argument.

A third area of mushrooming misinformation directed toward MAID MD-SUMC relates to the issue of suicide. Here the logical fallacy called the "jingle fallacy" — yes, there is a logical fallacy called the jingle fallacy — has been extensively used to muddy the reality and to call into question the primary purpose of MAID itself: an end-of-life choice made by a competent person who is suffering intolerably and who meets all requirements established by law.

A jingle fallacy is the erroneous assumption that two things are the same because they bear the same name — Logic 101, I remember. With MAID MD-SUMC, commentators using this logical fallacy state that MAID is suicide either because this medical practice had previously been called "physician-assisted suicide" or because, for their own reasons, they are using emotional rhetoric to activate the fear factor in others.

A very recent example of this is found in a media story on MAID MD-SUMC in which the following quote appears:

> . . . when you introduce legislation that allows someone to prematurely end their life with the assistance of a medical practitioner, that is then doctor assisted suicide. By definition, that is suicide.

In this case, nomenclatural confusion may have contributed to the ease with which this type of misinformation has spread. Indeed, it was the 2016 joint House and Senate report that

reviewed many of the terms used to describe this end-of-life intervention and settled on the term "medical assistance in dying," possibly to avoid this confusion.

As a reminder to us all, the 2016 joint committee report was titled *Medical Assistance in Dying: A Patient-Centred Approach*. Those who have not yet had the opportunity to read it may want to do so. Those who have read it will recall that the third recommendation was:

> That individuals not be excluded from eligibility for medical assistance in dying based on the fact that they have a psychiatric condition.

This committee also grappled with and accepted a definition of "grievous and irremediable," which is similar to what the expert panel recommended in 2022.

If we listen closely to the suicide misinformation narrative, we will find that at no time is there any attempt made to critically parse how MAID and suicide are the same. The statement is simply made that they are, and that is that. So instead of blindly accepting this statement as truth, let us compare death by suicide and death by MAID. If MAID is indeed the same as suicide, these two types of events should have many similarities.

Suicide is often impulsive. MAID MD-SUMC requires a minimum of 90 days' waiting and is not impulsive. Suicide is often violent, resulting in traumatic experiences for family members or first responders who come upon the body. MAID MD-SUMC does not result in that type of traumatic experience.

Suicide is a secretive and lonely act, often committed by an individual in desperate circumstances. Family and friends are avoided, not included. MAID is not a secretive and lonely act and usually occurs in the presence of family and/or friends.

Suicide often results in unresolved grief and lasting mental anguish for those left behind. Rates of depression, psychiatric admission, suicide attempts and death by suicide are increased in family members who are in bereavement from a suicide. For families involved in MAID, this experience results in grief and feelings of loss that are similar to those of families involved in palliative care experience and does not mirror the negative outcomes found in families who have experienced the loss of a family member to suicide.

Colleagues, you can decide for yourselves how these two items are similar or different. In my estimation, they do not share the same characteristics and are clearly not the same.

Perhaps, however, there are other ways that suicide and MAID could be the same. Let's explore this possibility. If suicide and MAID were the same phenomenon, they should be similar in their population demographics. Further, if suicide and MAID affect the same population, the introduction of MAID should decrease rates of suicide. If, on the other hand, as some have argued, the availability of MAID will increase suicide rates in the population, the introduction of MAID should be followed by increased rates of suicide. Let's check these possibilities out.

• (1520)

First, regarding the assertion that MAID and suicide affect the same populations, this is false. The age distribution of MAID deaths and suicide deaths is different. The gender distribution of MAID deaths and suicide deaths is different.

Second, the assertion that MAID will increase or decrease suicide rates in Canada is also false. The suicide rates in Canada did not increase or decrease significantly since the introduction of MAID. This difference in MAID as compared to suicide demographics in Canada and the lack of MAID impact on suicide rates in Canada strongly suggests that the population that chooses MAID and the population that dies by suicide are not the same population. This data simply does not support the contention that MAID and suicide are the same phenomenon.

What about other countries in which MAID is available? Are they the same as Canada or different? Here the data supports the same conclusion: They are not the same. I will quote from a review of this data in Belgium and the Netherlands by Dr. Tyler Black, who was a witness at the special joint MAID committee:

> The following is a comparison between countries that enacted death with dignity legislation (Belgium and the Netherlands) and neighbouring countries that did not. Comparisons between countries have several challenges, but there is no empirical support for the notion that suicide rates increased or differed in MAID-legislated countries versus those that didn't.

This had a control group in it. Again, it's not the same there either.

Another component of this MAID-is-suicide misinformation is falsely arguing that suicide is unique to MAID MD-SUMC, a comment that is easily debunked by simply turning to the facts. For example, in the same recently published media article, a self-identified opponent of MAID MD-SUMC stated:

> The traditional form of MAID with a reasonable foreseeability of death allowed MAID to actually operate on a plane that didn't intersect with suicide.

So let's look at this assertion. I addressed this during my second reading speech on Bill C-7 and will quote myself:

> . . . the presence of a severe and chronic illness is, by itself, an elevated risk factor for suicide. This elevated risk is not only found in persons with a sole mental disorder.
>
> For example, the Canadian Community Health Survey found that, in young adults, attempted suicide was four times higher in those with chronic illnesses such as asthma and diabetes. Suicide rates in persons with cancer are twice as high as in the general population and eight to ten times higher in persons with Huntington's.

In a study of suicide and chronic pain, Fishbain et al. found that the rate of suicide in chronic pain patients was two to three times greater than in the general population. Tang and Crane, in a global review of suicide and chronic pain, found that the risk of death by suicide is at least double in those with chronic pain.

A similar pattern of significantly increased rates of suicide in chronic illnesses occurs with other chronic illnesses, including cancer. A recent global meta-analysis published in *Nature Medicine* in 2022 by Heinrich and colleagues reported that the suicide rate was 85% higher for people with cancer than in the general population.

Colleagues, according to Health Canada data for 2021, over 65% of all people who chose a MAID death had cancer as the underlying condition. Remember, suicide deaths in cancer patients are 85% greater than in the general population.

It is false to say that chronic diseases that are not mental illnesses do not have similar concerns about suicide. That is just completely wrong. So why is this misinformation being spread? Whatever the reason may be, our role in providing sober second thought behooves us to follow the data, not pontifications or personal opinions.

As I wrap up this speech, I will turn to another issue that, in my opinion, has been poorly addressed in all these discussions: that of the need to improve rapid access to effective mental health care for all who require it. This is something I fought for my whole professional life and continue to do so.

When I graduated medical school in the 1970s, the number one mental health care need was rapid access to effective care for all those who required it. When I completed my residency in psychiatry in the 1980s, the number one mental health care need was rapid access to effective care for all those who required it. When I entered the Senate, the number one mental health care need was rapid access to effective care for all those who required it. According to the World Health Organization, the expenditure for mental health care should be about 10% of the total health care budget. The Canadian Mental Health Association calls for that number to be about 12%.

This is not solely a federal government issue. Provinces and territories set budget allocations for health and mental health. In my research, the proportion of health care budgets allocated to mental health care fall between 5% and 7% in most provinces and territories — well below required amounts.

We keep hearing that mental health care is on a priority list. Well, colleagues, let's take mental health care off the priority list and put it on the equitable funding list.

We currently have a national push and environment to move beyond talk to implementation. There is now a federal Minister of Mental Health and Addictions. There is discussion of a targeted mental health transfer fund. Perhaps this will result in the federal government providing more support for improving rapid access to high-quality mental health care for all who need it.

Perhaps this will be the impetus that provinces and territories require to step up their investments in mental health care and also to invest in what works and not what ticks a box.

Honourable senators, we need to keep up the pressure on all levels of government to equitably invest in improving rapid access to effective mental health care for all Canadians. But this pressure is not because of MAID MD-SUMC. It is because we need this to happen, MAID or no MAID.

As we prepare to go to a vote on Bill C-39, I thank you for allowing me to share concerns I have about the misinformation surrounding MAID MD-SUMC and for your continued support for doing better for those Canadians living with mental illness. They deserve compassionate, equitable treatment throughout their life journey, and that includes the end of life.

Colleagues, thank you for your attention and your careful consideration to the complexities and nuances of the MAID MD-SUMC debate.

For the many reasons that we have discussed this week, in my opinion, it is the right thing to do to delay implementation for MAID for mental disorder as a sole underlying condition by one year.

Wela'lioq, thank you.

Hon. Fabian Manning: Honourable senators, to say in most cases that you are pleased to speak on a piece of legislation — that's usually how you start your comments, but, believe me, I'm not necessarily pleased to be speaking on Bill C-39.

While I have great respect for Senator Kutcher and, certainly, his opinion, I respectfully disagree with much of what he has said. When we started the debate on medical assistance in dying back in 2016, every weekend I travelled home to Newfoundland and Labrador and I went to see my dad who spent the last two years in bed before he passed away in May of that year. I struggled with MAID at that time for obvious reasons, and I still struggle with parts of it today.

What concerned me in 2016 still concerns me in 2023. One of those concerns was what we call the opening of the barn door. I don't necessarily agree with what Senator Kutcher said in relation to some of the slippery slope concerns, but we could also lean in that direction.

My concern back then was, and is today, that when we start this process, where do we draw the line? When does there come a time when we look and say that we need to put the brakes on? We had a parliamentary committee, and I congratulate them on their work, and I know everybody does this for the right reason when talking about extending MAID to children.

My concern is the snowball effect. We all know the story of the snowball at the top of the hill. We let it roll down. As it rolls down, it picks up speed and it gets larger and larger. By the time it reaches the bottom of the hill, in some cases, it is too large to handle. My concern also is the vulnerable people who are out there who are suffering from mental health illnesses. Certainly, I agree with Senator Kutcher in talking about more resources, such as finance resources and human resources. They are lacking right across this country, and they are lacking in my home province of Newfoundland and Labrador. We need to have more financial resources and human resources put in.

• (1530)

It is the evolution of mental health illness over time. I look back at our parents' generation, and they had no — or very little — understanding of mental health; I remember this while growing up as a young boy in my hometown of St. Bride's. Now I know — I didn't know then — that there were people in that community who were suffering — and still are — from mental health issues. But our comment was always "There's something wrong with him, or something wrong with her." It wasn't mean-spirited in any way, shape or form. It was just the way it was. It was the lack of understanding, lack of education and lack of knowledge. Maybe, more importantly, it was the lack of having a conversation about it.

Today, most of us — and I do not pretend in any way, shape or form to have an understanding of mental health that Senator Kutcher may have in his profession — have a limited understanding of mental health issues. We all read, we all listen and we all have a great opportunity here in this chamber to hear others talk about it — to hear from people with a background in dealing with mental health. We can understand more, and educate ourselves more, so that we can pass that on to others. That is a privilege that we have here in this chamber that many across this country don't have.

As I said, in today's generation — because we're talking about it more, and because it is not a taboo subject anymore — we are gaining a limited understanding of mental health issues. The present generation — our children — are developing a much better understanding. I truly believe that, and I truly hope that, because they are gaining a much better understanding, they will, in turn, have much better ways of dealing with mental health issues in the future.

Mental health is unpredictable. It is not like physical health when we have a broken leg or broken arm. There are very troubling diseases that people live with for their lifetime.

Respecting, and showing respect, love and understanding to people suffering with mental health is something that we all need to work toward.

The purpose of Bill C-39, as put forward by the government, is to extend it for another year. If I believed that we are extending it for another year to ascertain across the country if we are doing the right thing regarding mental health issues — or we are trying to figure out if we are doing the wrong thing in bringing this forward — I may find some way of being able to support it. But I truly believe, in my humble opinion, that the reason we have Bill C-39 is because there has been such a backlash across the country from people who are very concerned about where MAID is going, and very concerned about the snowball effect. I think that is why we are sitting here today dealing with a piece of legislation that is asking for another year.

The government is not asking for another year to determine the path they want to travel. They are asking for another year so they can, hopefully, bring the numbers up on the polling that's been done in order to ensure their side of the story is being accepted.

Again, I have some great concerns with how that's been done.

I'm not a medical doctor; I'm not a psychiatrist. I have not received training in health care; I have not received training in the legal side of things. I am just an individual who is aware of several people who are living with, and have lived with, for their lifetime, poor mental health issues — people, in my view, who require help and assistance from all levels of government and all levels of the health care profession. They don't need help in dying.

I understand the sensitivity of this issue, and I respect everyone else's opinion. Some people have different backgrounds than I have. Some people have different ways of dealing with things in how they accept — or don't accept — mental health issues. I am not going to judge anybody else on their opinion of that.

I respectfully disagree with assisted dying, I respectfully disagree with the extension that we're talking about here today and I respectfully disagree with extending assisted dying to children.

I think we should be talking about counselling, and bringing more counsellors in. I think we should be talking about therapy — extra therapy. I think we should be talking about ways to try to deal with this very serious issue that we face in this country today.

I am not going to belabour the point. I just wanted the opportunity today to say a few words in order to put my opinions on the record — for what they may be worth.

It's very ironic because I was travelling to Newfoundland last week, and I stopped at a local business. I'm always looking for books — I love to read — especially books related to Newfoundland and Labrador in any way, shape or form — particularly, the history of the province and the people that made the place that I'm so proud to call home. I stopped into a store, and I picked up a book — and the book is called *From The Shadows: Surviving the Depths of Mental Illness*.

I also believe in faith. There is a reason for everything — again, in my humble opinion.

From The Shadows is written by E. Pauline Spurrell who suffered mental illness issues all her life. She lives in the small community of Hillview in Newfoundland with her husband Don; they have for almost 40 years. They have one son, Andrew. It's a compelling story — I will not get into all the details today — but for anyone who wants to become educated about the concerns of how people deal with mental health, or for anyone who wants to learn from someone who has lived it within very tragic circumstances, I suggest that you buy a copy of her book.

After a joyful early childhood, E. Pauline Spurrell suffered trauma that led to unhinged teenage years and a turbulent adult life. She was diagnosed — and misdiagnosed — with numerous mental illnesses. She endured a seemingly endless cycle of prescription treatment and failure until, one day, enough was enough. Following the years lost in the depths of despair, she fostered ideologies of self-discovery. Spurrell created tools to understand her disorders and the resulting impacts on her life. She reclaimed priority, found the inner child she had left behind and emerged from the shadows as a portrait puzzle of perfect imperfections.

I had the opportunity yesterday — after reading her book last week — to speak to Spurrell for about an hour on the phone in order to gain some insight. Again, I don't have the background; I just have the privilege to be here in the Senate of Canada to participate in the debate on important legislation like the one we have before us. I spoke to Spurrell, and she is now living a full and happy life. She is still suffering from bouts of mental illness, mind you, but she found a way out. She was medicated to the hilt with medication that I wouldn't even bother to try to pronounce here today.

She found a way out. There were times when she was in desperate situations; you can read about it in her book. The trauma is unbelievable. But she found a way out.

In reading the book, I found a reason not to be supportive of assisted dying for people who are suffering from mental health illness. I found a reason to stand here today and say a few words and to tell you the story of people like Pauline who found a different way, who found an avenue from a life of despair, a life of trauma, a life of tragedy. And she found a way to be able to live a full and happy life with her husband, Don, her son Andrew and her family and friends.

• (1540)

These are not easy discussions, honourable senators. In all my time here, we have had many pieces of legislation dealing with financial issues, and from time to time we can agree and disagree on how we deal with the fiscal policies of this country.

We have, from time to time, dealt with legislation that is very personal and brings out different parts of us that we don't even know we have, sometimes. This is one of those pieces of legislation.

I believe the snowball effect of medical assistance in dying is not going to stop with Bill C-39. I strongly believe that, for those who have the opportunity to spend more time here, we will be dealing with another part of that snowball in the not-too-distant future.

As I said, I'm no expert. I'm no expert on dealing with some of these serious issues, but I am a person who is living a life, and I respect the opportunity for others to live theirs.

Thank you.

Some Hon. Senators: Hear, hear.

[*Translation*]

Hon. Julie Miville-Dechêne: I rise to speak briefly in support of Bill C-39 at third reading. The bill delays, by one year, eligibility for medical assistance in dying in cases where mental illness is the sole underlying condition.

As my colleagues Senator Manning and Senator Kutcher have mentioned, this is a very difficult issue. It's not easy to talk about medical assistance in dying. I'm feeling quite emotional after listening to my colleagues, so I will continue.

I support this delay, which will give experts another 12 months to try to refine the guidelines around this extremely rare practice globally. More fundamentally, however, I don't see any need to act too quickly on such a serious issue, especially in light of the critical shortage of psychiatric resources.

I have always believed that the issue of medical assistance in dying for people with psychiatric illnesses can't be boiled down to just individual rights or a constitutional analysis. Mental illness is more complex than physical illness, because it often progresses slowly and unpredictably. Unlike degenerative neurological diseases, whose course is known and predictable, it is not uncommon for the psychological suffering associated with mental illness to improve over the medium and long terms.

The federal government outpaced the Government of Quebec on this file before conducting a similar review. Less than a month ago, in mid-February, the Government of Quebec introduced a bill that does not extend medical assistance in dying to patients suffering solely from mental illness.

This exclusion was recommended in the report of the Select Committee on the Evolution of the Act respecting end-of-life care, after extensive consultation with the public and experts. The report states, and I quote:

> Self-determination is not the only principle that should be taken into account in this discussion. The protection of vulnerable persons, the ability to consent and the risk of abuse are all elements that enter into the equation.

The Quebec report notes that psychiatrists are divided on the incurability and irreversibility of certain mental disorders. That division reflects the complexity of these illnesses, which are more unpredictable than physical illnesses.

Consequently, there is a real risk of making medical assistance in dying available to a patient too soon. Senator Kutcher, I do not believe that I am participating in what you referred to in your speech as a misinformation campaign on this matter by saying that. I think that there are fundamental differences of opinion in the medical profession, which is why we need to be very careful.

The Quebec report cites psychiatrists who explained that suicidal thoughts are inherent to certain mental disorders. What's more, the response to psychiatric treatments varies. Alleviated suffering can be a long time coming, after months or years of psychiatric treatment, assuming such treatment is available. I will quote another excerpt from the same report:

> We heard the testimonies of several individuals who, after years of unsuccessful treatments, managed to achieve a better balance. These witnesses told us that if they had been eligible for medical aid in dying, they would undoubtedly have applied for it at a time when their health condition seemed hopeless. Today, these same persons are doing much better and are able to cope with their illness because they have received a correct diagnosis and appropriate treatment. Thus, the uncertainty surrounding the trajectories of mental disorders prompts us to be very cautious.

The testimony that made the biggest impression on the select committee came from the Association québécoise de prévention du suicide, the Quebec association for suicide prevention. According to the association, expanding MAID would have an impact on people with suicidal tendencies. There is concern that it could send the signal that death is a legitimate or appropriate option for people with mental disorders. This would undermine years of suicide prevention efforts. I should point out that this does not mean that these suicidal patients would access MAID, but their distress could increase. Let me remind you that Quebec is a pioneer in medical assistance in dying, yet Quebec's elected officials decided not to rush into the specific issue of eligibility where mental illness is the sole underlying condition, because there are too many differences of opinion.

I also want to point out two things that I think reinforce how important it is to take the time to think about these sensitive issues. First, Quebec now leads the world, with 7% of deaths in the province resulting from MAID. That is higher than Ontario and even long-time pioneers Belgium and the Netherlands. The fact that the rise in MAID was markedly faster in Quebec than elsewhere prompted the chair of the Quebec select committee to investigate the cause and launch a consultation, while advocating for better access to palliative care.

Second, it seems as though, in Quebec at least, it is now easier to get medical assistance in dying than it is to get comprehensive palliative care, and yet both of these options should be available under Quebec law, which guarantees all citizens access to both medical assistance in dying and palliative care, whether at home or in a health care facility.

Some tragic events that occurred in Quebec recently exposed flaws in the system. Andrée Simard, widow of former Quebec premier Robert Bourassa, was denied palliative care during the last three days of her life at St. Mary's Hospital in Montreal. According to her daughter, Michelle Bourassa, with whom I spoke at length, Ms. Simard died in a lot of pain because she was not given any palliative sedation. Ms. Simard forbade her family to use her fame to get preferential treatment. Her daughter chose to fight in memory of her mother so that all dying persons are treated fairly and with humanity, whether they choose palliative care or medical assistance in dying.

That's why, even though these issues don't fall under federal jurisdiction, I think that the availability and quality of palliative care and psychiatric services are a prerequisite for expanding medical assistance in dying. We can't legislate in a vacuum, in the abstract universe of the Charter of Rights, with no regard for what care is actually available to patients. As responsible legislators, we need to think about the applicability and actual consequences of the laws on which we vote. In this case, we need to prevent the current trend of the health care system getting around providing access to care by expanding access to medical assistance in dying. Better access to psychiatric care is a prerequisite for treating people's suffering. That is also how we show our compassion. For all of these reasons, I will be voting in favour of Bill C-39. Thank you.

Some Hon. Senators: Hear, hear.

• (1550)

[*English*]

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, I rise today in a very unusual position. It is not every day that I find myself compelled to speak about ill-conceived and objectively shortsighted legislation while committing not to stand in the way of its passage. But in this case, the government has tied our hands, as the alternative to the passage of Bill C-39 is much more dire.

As Senator Manning said in his eloquent, emotional speech, we disagree with each other, but I respect everyone's opinions in this chamber even though they may be different than mine. I respect my colleague Senator Kutcher and his opinion, but I do want to make a few comments about what I find very troubling about his comments a few minutes ago.

Suicide is the act of intentionally causing one's own death. We can call suicide by something else, but it is suicide. If somebody intentionally chooses to take his or her own life, even if they solicit the help of somebody, let's at least call it what it is.

When the good senator says that somebody who is suicidal will not be given access to suicide — when we are, in fact, passing a bill that does exactly that — I find that mind-boggling because calling it MAID is still not taking away from the fact that one is intentionally causing one's own death and, in this case, soliciting the help of someone.

I want to make it clear at the outset, for anyone listening, that allowing this bill to pass should not in any way be interpreted as an endorsement for the legalization of assisted suicide for mental illness. Quite the contrary. If this bill does not pass on March 17 — that's next week, colleagues — Canadians suffering from mental illness as the sole underlying condition will be eligible to end their lives with the assistance of a medical professional.

While I believe that the Liberal government should be abandoning this dangerous expansion altogether, those of us who remain steadfast in our opposition will take advantage of this delay and continue to fight for the many vulnerable Canadians struggling with mental illness, trying to keep them alive.

Two years ago, at third reading of Bill C-7, an amendment was moved in this chamber to remove the exclusion of mental illness for eligibility, with a sunset clause of 18 months. The government, shockingly, accepted this amendment but proposed a new arbitrary expiry date of 24 months, therefore bringing us to March 17, 2023.

The government's endorsement of this amendment came after Minister Lametti stated at our Legal and Constitutional Affairs Committee and at the House of Commons Justice Committee that there is no consensus in the mental health and psychiatric community that could justify moving forward with extending access to those suffering from mental illness at this time. He also correctly stated that it is not a requirement of the Supreme Court decision.

This third reading amendment was accepted without the opportunity for parliamentarians to vet the proposal with expert witnesses and, certainly, without any medical consensus.

Then, after the fact, the government struck up an expert panel not to determine whether implementing assisted suicide for mental illness could be done safely, but rather to establish recommendations on protocols.

As a former president of the Canadian Psychiatric Association, Dr. Sonu Gaind, stated when he testified at the joint parliamentary committee, this is ". . . not how science works." He pointed out the following:

> No drug company is told their sleeping pill will be approved in two years without evidence of effectiveness or safety while being asked to develop instructions in the meantime on how to use the pill. The sunset clause and the federal panel's mandate are based on less evidence than is required for introducing any sleeping pill.

The sunset clause was sold as a way to allow time to develop standards and safeguards. But this notion has been discredited by many in the psychiatry community, as it ignores the only true safeguard we have in avoiding premature death: irremediability. The government had no interest in studying whether to implement this extremely controversial, life-and-death policy, only in developing a how-to guide.

Late last year, after a number of heartbreaking stories made headlines demonstrating the dangers of our newly expanded regime, the government announced they would be proposing some changes to the law in the new year.

Then, at the eleventh hour, weeks before the expiry of the sunset clause, the government tabled Bill C-39, which proposes a one-year delay.

I cannot help but wonder why, after admitting that a two-year delay was insufficient, they would take the risk of another arbitrary date in the hopes that evidence would suddenly present itself.

Why would advocates of assisted death for mental illness not just remove this expansion entirely and propose this policy later if and when there is evidence to justify doing so? How is the government so certain that there will be sudden clarity on this topic a year from now when the psychiatry community is not convinced we should be moving forward at all?

Colleagues, I will not rehash all of the arguments against assisted suicide for mental illness today, as I spoke at length to this issue in 2021 when the policy was first proposed. However, there is a great deal of new, notable testimony from the special joint parliamentary committee study which raised alarms. I would encourage all colleagues in this chamber to review the work of the committee and note the concerns raised by experts in the field.

For example, the committee heard expert testimony stating that vulnerable and marginalized Canadians are at greater risk of premature death; that psychiatric patients have indicated their intention to stop potentially effective treatments in anticipation of MAID; that sufficient data does not yet exist; and that it currently remains impossible to distinguish between suicidality and assisted suicide requests.

Today, however, I want to highlight the testimony that is fundamental to the discussion at this time, focusing on one key factor: Canada's entire assisted dying regime, as stipulated by the Supreme Court of Canada, is founded upon the notion that only those suffering from conditions that are grievous and irremediable should be eligible.

Here is what we know from experts about irremediability of mental illness. The Centre for Addiction and Mental Health has concluded:

> There is simply not enough evidence available in the mental health field at this time for clinicians to ascertain whether a particular individual has an irremediable mental illness.

• (1600)

Dr. John Maher, a clinical psychiatrist and medical ethicist, told the joint parliamentary committee:

> Psychiatrists don't know and can't know who will get better and live decades of good life. Brain diseases are not liver diseases. If guesswork is good enough for you, it is not good enough for psychiatrists who understand the science and respect our duty to abide by a professional standard of care. You have been systematically misled by discriminatory ideology over clinical reality. Passing a law telling psychiatrists to make impossible predictions doesn't magically make it possible.

Psychiatrist Dr. Sonu Gaind told the committee:

> Those who advocate expanding access to MAID propose mitigating this reality with "safeguards." This ignores the fact that irremediability is itself the primary safeguard built into the MAID framework, and bypassing it renders all other supposed "safeguards" meaningless.

Dr. Brian Mishara, a clinical psychiatrist and professor at the Université du Québec à Montréal, said in his testimony:

> I'm a scientist. The latest Cochrane Review of research on the ability to find some indicator of the future course of a mental illness, either treated or untreated, concluded that we have no specific scientific ways of doing this.

Dr. Mark Sinyor, a psychiatrist and suicide prevention expert, stated:

> In short, we are essentially missing all of the necessary scientific evidence to evaluate the safety of physician-assisted death for mental illness. If I had more time, I could list many examples, but let me focus on the fact that there is absolutely no research on the reliability of physician predictions of the irremediability of illness or suffering in psychiatric conditions. To my knowledge, there is not a single study.

Even the Expert Panel on MAID and Mental Illness stated directly in their report:

> There is limited knowledge about the long-term prognosis for many conditions, and it is difficult, if not impossible, for clinicians to make accurate predictions about the future for an individual patient.

This is the government's own expert panel, colleagues, and they have stated outright that it is difficult, if not impossible, to predict irremediability.

While over 85% of Ontario psychiatrists who responded in a recent survey supported assisted suicide in general, less than 30% agree with expanding the law to sole mental illness.

The special commission on MAID established by the Quebec National Assembly, after several months of study, has now recommended not expanding access to assisted dying for people whose only medical issue is a mental disorder.

In October 2020, the Canadian Psychiatric Association surveyed its members, and less than half supported assisted suicide for mental illness.

Where is the general scientific consensus we have been told about?

Colleagues, we do not need to be scientists or psychiatrists to understand the gravity of this policy. As has been alluded to, a recent Angus Reid poll — which studied the attitudes of Canadians when it comes to assisted suicide — found that while Canadians are "generally supportive" of MAID overall, only 3 in 10, or 31%, say they support the concept of assisted suicide for irremediable mental illness.

Each of us knows someone who is afflicted with mental health issues. Most of us are keenly aware of the abysmal state of mental health care in our country. The idea that we would be moving toward a policy that offers them death before they have had an opportunity for acceptable treatment is heartbreaking. It's a terrible indication of where we are as a society and the value we place on life.

Dr. Mark Sinyor told the joint committee:

> . . . if this goes forward, MAID assessors will have no idea how often they are wrong when they make a determination of eligibility in the context of physician-assisted death for sole mental illness. They could be making an error 2% of the time or 95% of the time. That information should be at the forefront of this discussion, yet it is absent altogether.

How many errors are too many, colleagues?

Minister Lametti stated yesterday that if there is any question as to the irremediability of the mental illness, then that person will not receive MAID, full stop.

Senator Kutcher alluded to that in his speech.

Yet, more than half of the psychiatry community maintains it is never possible to ascertain irremediability with mental illness. This is not nearly as cut and dried as the minister is implying, and he knows it.

Senator Kutcher has publicly stated that psychiatrists who object to assisted suicide for mental illness are being paternalistic. At least one of the witnesses at committee found this comment jarring and insulting. Colleagues, imagine telling psychiatrists and other clinicians who have not exhausted all treatment options — who have seen improvements over the long term, and who remain hopeful for their patients — that they are being paternalistic for not wanting to throw in the towel.

Psychiatrist Dr. John Maher objected to this notion, stating at the joint committee:

> You said that all psychiatrists in Canada who object to MAID for mental illness are selfish and paternalistic. I'm not sure what purpose that comment served, but I defy literally any psychiatrist to say that this particular patient has an irremediable illness, because you can't. I have patients who get better after five years, after 10 years and after 15 years. You cannot do it. It's guesswork. If you're okay with guesswork, if you're okay with playing the odds, or if your position is let's respect autonomy at all costs — if someone wants to die, they can die — call it what it is. It's facilitated suicide.

Honourable senators, this expansion bypasses the primary safeguards we have against premature death. Yet, somehow, we are supposed to find comfort in a one-year delay. Facilitating the death of mentally ill patients will be as dangerous in 2024 as it

would have been next week. There is nothing magic about the date of March 17, 2024, just as there was no significance to the original date. However, allowing Bill C-39 to pass is effectively a vote against the immediate legalization of assisted suicide for mental disorders. We will be taking this opportunity to get it right.

My colleague in the House of Commons the Honourable Ed Fast, Member of Parliament for Abbotsford, has already tabled Bill C-314 which will make clear in the Criminal Code that a mental disorder is not a grievous and irremediable medical condition for which a person could receive medical assistance in dying.

In presenting this bill, the honourable member said that the government is more concerned with “suicide assistance than suicide prevention” and that the priority should be given to providing the social and mental health supports that vulnerable Canadians need.

I want to commend my colleague for his swift and thoughtful action.

Colleagues, we will have an opportunity to get this right when that bill comes before us, as I am hopeful that it will. I personally look forward to supporting that bill every step of the way, and I hope you will join us.

• (1610)

I have always said that when it comes to assisted dying, it is a very personal, emotional issue on which reasonable people can disagree.

I do want to take a moment, however, to reflect on the debates we had when assisted dying was first legalized with Bill C-14 and, subsequently, when it was expanded through Bill C-7. Those of us who pointed to other jurisdictions and raised the slippery slope argument were told our concerns were unfounded. We heard it again this afternoon in this chamber. We heard these were logical fallacies and that Canada was taking a careful, cautious approach. We were assured that assisted suicide would be offered in the narrowest and most grievous of circumstances.

Colleagues, look where we are today. While I did believe we were on a dangerous trajectory, I could have never imagined that in just a few short years we would be offering assisted suicide to those living with a disability before we have made even marginal improvements in their quality of living. I could have never imagined that we would be offering assisted suicide to veterans, to those suffering from potentially treatable illnesses.

And now, colleagues, we are seriously talking about offering assisted suicide to children — just a few years after our slippery slope concerns were dismissed. Let us be cognizant of the speed at which we have moved the next time these issues are raised. Let us strongly consider heeding the warnings of international experts who have seen this play out in their jurisdictions.

Every policy decision we make is important, but in this case, the risk we are taking in getting it wrong has tragic life-and-death consequences.

To those listening who are struggling with mental illness or who love someone with mental illness and to those who treat and support them, please know this fight is not over. The work has only begun.

As I said, Bill C-314 has been tabled and will put an end to this reckless expansion. I look forward to continuing the fight in this chamber and I would encourage my colleagues to give the bill due consideration when it comes our way. Thank you.

Hon. Yuen Pau Woo: Honourable senators, in the spirit of speakers before me who are not experts in MAID but who feel passionate about this issue, let me also offer some reflections on the bill before us.

Senator Plett has given us a good summary of how we got here in his account of Bill C-7 two years ago, underscoring the fact that the government itself did not want medical assistance in dying when mental illness is the sole underlying medical condition to be part of our MAID regime.

It was this chamber that put forward the proposed removal of the exclusion of mental illness as a sole underlying condition, and that amendment was ultimately adopted.

In the debate around the amendment to remove the exclusion, there were two arguments for removal. The first was that the exclusion of mental illness was unconstitutional because it was discriminatory. The second argument was that the medical profession already had the tools and capacity to do capacity assessment of patients with mental illness as the sole underlying condition.

Both of these arguments would have been sufficient for us to reject the exclusion. Indeed, the first argument of unconstitutionality would have been a slam dunk, but we chose to go a different route. We chose instead to delay the implementation of MAID MD-SUMC in the belief that the medical profession did not yet have all the tools and procedures for proper capacity assessment in the case of MAID MD-SUMC.

The agreed delay period in the end was 24 months, and that proposal was described euphemistically by many as a “sunset clause.” I thought at the time that the image of a sunset was not helpful for a variety of reasons, but in particular because sunsets are inevitable and essentially unchangeable, whereas the nature of the task that we gave to the medical profession for this 24-month period did not lend itself to a fixed time frame.

I preferred the image of a runway, where the purpose of delay was to prepare an aircraft for takeoff. In this imagery, we have to ask not just whether the plane is ready for flight but also if the runway is long enough.

As I put it in my February 9, 2021, speech:

> . . . what if the plane is not ready to take off in 18 months? What if the problem is not about training more people or aligning standards, but it’s about sorting out difficulties and challenges that the profession itself has in coming to terms with how they do capacity assessment?

Colleagues, I would ask the same question today, on the eve of our vote on this bill.

The difference this time around, I believe, is that the expectation around the one-year extension is framed more narrowly as a technical question of putting in place protocols and training materials and the two other criteria that Senator Kutcher referred to, and that those things can be done within the 12-month period.

To that extent, I'm reasonably certain that the MAID MD-SUMC aircraft will take off on March 17, 2024. The runway will be long enough for "Flight C-39," and it will take off, but I'm not sure that it will have as many passengers on board as it should.

The reason, colleagues, is that there continues to be profound disagreement among doctors on the question of irremediability. Distinguished experts have lined up on both sides of this debate. If you were hoping, as I was, for the original 24-month delay to provide scientific clarity on irremediability, you will be disappointed. If anything, the divide between the two views is as wide as ever, inflamed in part by media reporting about MAID cases that seem to be egregious violations of the safeguards put in place.

That's why, colleagues, I believe the debate on MAID MD-SUMC this time around is focusing much more on the rights and autonomy of Canadians with mental illness as a sole underlying medical condition rather than on medical evidence of irremediability.

In his testimony to honourable senators just yesterday, Minister Lametti used the word "autonomy" on multiple occasions as a core reason for allowing MAID to be accessible in the case of mental illness as a sole underlying medical condition.

Now, it should not surprise us that the Minister of Justice, who is a distinguished legal scholar, chose to focus on constitutional rights. And there are indeed arguments in favour of MAID MD-SUMC based on constitutional protections for such patients. I would note, however, echoing Senator Plett, that such arguments have not yet been offered by the courts, which is a point the minister conceded during Question Period yesterday.

• (1620)

What is curious, though, is that MAID advocates who are not lawyers — but who are doctors — are also increasingly basing their case on legal arguments, such as equality and non-discrimination, rather than on the medical evidence of irremediability, which they surely have much more expertise in than us mere mortals.

This suggests to me that the direction in which we are heading on MAID in general — and we can be sure that this is not the last MAID bill we will debate — is a focus on the rights of Canadians to determine their time of death and less on the conditions under which that should happen.

"Grievous and irremediable" may well continue to be embedded in our law as a formal condition for MAID. But as we can see in the debate over MAID where a mental disorder or mental illness is the sole underlying medical condition, it will go ahead — even in cases where irremediability is disputed — albeit subject to safeguards.

What will happen after March 17, 2024, is that MAID for mental illness as the sole underlying condition will be considered on a case-by-case basis. But as I suggested in my question to the ministers yesterday, anyone seeking MAID will seek an assessor who is predisposed to approve the request. In any case, it is almost certain that any assessor would agree with the proposition that some mental illnesses are irremediable, or they would not be assessors in the first place.

From an autonomy perspective, this is as it should be. Again, it is why I think we are going to see more and more of the autonomy argument and less emphasis on medical evidence of grievousness and irremediability.

You may recall that I asked the question to ministers yesterday about the scenario whereby a patient in this situation of requesting MAID is given authorization but where there is another medical professional who knows the patient — who is not part of the assessment team — giving an alternate view, and whether that alternate view from an expert not on the assessment team would carry any weight in the decision.

We did not receive a full answer — not because the ministers were prevaricating; we ran out of time. But I'm sure this scenario will play out after March 2024. My guess is that the medical experts who are not part of the assessment team will have little or no say in the MAID decision of a patient requesting that procedure. In this sense, the bias will be in favour of personal autonomy rather than medical evidence.

Since Senator Kutcher has cautioned us against slippery-slope arguments, let me reassure him that I am not scaremongering that this bill will lead to an avalanche of requests for MAID or that MAID is the same as suicide. I agree with him that, in the near term, the numbers of Canadians requesting and obtaining MAID will continue to be small relative to the size of our population. However, I am signalling to all of us here that there is a discernible shift in the reasoning behind arguments for MAID — from reasonably foreseeable death to grievous and irremediable condition to autonomy. We already know that reasonably foreseeable death is no longer a factor, but irremediability remains.

Depending on your point of view, the heightened focus on autonomy — as the principal or only criterion for decisions on MAID — may be seen as a good thing. We have heard as much in this chamber. This is not so much a slippery-slope argument as it is about shifting sands. We cannot and should not close our eyes to where the sands are shifting us to and whether we want to go there.

Colleagues, I invite all of us to reflect on this question before the next MAID bill arrives in the Senate. Thank you.

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I rise once again to speak to Bill C-39, An Act to amend An Act to amend the Criminal Code (medical assistance in dying), as the official critic of the opposition.

As I stated in my second reading speech, medical assistance in dying has been and remains one of the most complex and deeply personal issues for individuals and families across the country. There is a wide range of valid opinions in this chamber on what the appropriate parameters and safeguards should be as we continue to grapple with these questions in further development of our MAID regime.

However, colleagues, I believe we have gone too far with the proposed expansion to include those with mental illness as a sole underlying medical condition. I think the introduction of Bill C-39 is evidence that we have moved too far, too quickly, and is an attempt to put a pause on a policy that we should be repealing altogether.

This is an emotional topic for so many of us, yet the facts and expert evidence need to remain paramount to this discussion. The stakes are too high.

While little has changed since I last spoke on Tuesday, I do want to touch on some of the exchanges that took place during Committee of the Whole yesterday.

Senator Batters, a tireless advocate for mental health, asked the ministers about their 2021 election platform's promise to establish and fund the Canada mental health transfer — a commitment of $4.5 billion over five years. According to their own platform cost breakdown, as Senator Batters noted, they should have already invested $1.5 billion in mental health care. Yet, they have not invested a single dollar to date. The state of mental health care in Canada is tragic, particularly given what is proposed in this expansion.

Minister Duclos retorted with, ". . . not only are we not breaking that promise, but we are enhancing it." I think we need to be wary of funding promises announced as achievements — enhanced as they might be — when struggling, vulnerable Canadians are still waiting for improved access to treatment.

A common theme in these debates, both in this chamber and in the special joint committee, is that it remains impossible to predict irremediability with any certainty. Yet, the ministers dismissed these concerns by stating that if there is any question as to the irremediability of the particular illness, then that individual will not get MAID. In practice, we cannot be certain that this is what will happen. Expanding MAID for mental illness still poses risks that people are receiving assisted suicide prematurely or wrongfully.

When Minister Lametti was asked about the profound lack of consensus and discomfort among psychiatric experts in Canada, he pointed to the expert panel assembled by his government — which, of course, was not appointed to study the merits of the expansion but to provide a road map. What we know with certainty is that psychiatrists do not agree that one can ever predict irremediability of a mental illness. There is no consensus on this matter.

Minister Lametti also attempted to discredit the statistics resulting from the surveys conducted by the Canadian Psychiatric Association and the Ontario Medical Association by stating that the questions were based on disinformation. Those surveys are publicly available, and the questions are clear and straightforward.

For example, the statistic that was referenced from the Canadian Psychiatric Association was the result of this question: Should persons whose sole underlying medical condition is a mental disorder be considered for eligibility for MAID? I do not believe this could be reasonably interpreted as disinformation.

Honourable senators, I asked the ministers about how they will address jurisdictional concerns. The National Assembly of Quebec, after wide consultation, tabled Bill 11 and ultimately decided not to allow MAID for mental illness. Minister Lametti acknowledged the lack of professional consensus in this area when asked about this decision. Unfortunately, he was not able to provide a clear answer on how they plan to handle this, how they can prevent cross-jurisdictional doctor shopping or which sets of guidelines Quebec clinicians will be expected to follow. Before we proceed with this expansion, it is imperative that our own Attorney General is clear on the jurisdictional considerations.

• (1630)

Also, since I spoke on Tuesday, Senator Gold distributed the Gender-based Analysis Plus, or GBA Plus, which indicates what impact, if any, this legislation will have on women and other vulnerable groups. Senator Jaffer asked a question related to this to the ministers as well.

While this concern was raised by several witnesses at the special joint committee, I was shocked by the findings in this particular report, considering the fact that the analysis is provided by a government department. The GBA Plus states:

> In the Benelux countries, where eligibility for MAID is not limited to those suffering physically, there have been controversial MAID deaths that have occurred, and it can be expected that similar cases would emerge in Canada under this option. For example, in the Netherlands, MAID was provided to a patient in her twenties who had been sexually abused as a child because of the emotional suffering she endured following the trauma. There have also been cases of transgender individuals and people who identify as gay obtaining MAID due to the suffering associated with those aspects of their conditions.

The government's own department is suggesting we should see an uptick in these types of cases.

The analysis also states:

> It can be expected that should MAID be made available in Canada for individuals whose sole underlying condition is mental illness, we would see an increase in women seeking MAID for psychiatric suffering, and at younger ages.

This is extremely troubling. As Senator Batters said when she raised this with the ministers yesterday, on International Women's Day, "That's hardly the kind of gender parity that we want."

Honourable senators, how can the government ensure that a year from now we will have the necessary data, resources and safeguards in place to protect vulnerable Canadians struggling with mental illnesses from premature death? There is no evidence to indicate that the difficulties around such important issues as predicting irremediability and the inherent risk to vulnerable persons will be resolved in a year.

Colleagues, the idea of a mental health patient receiving MAID when the irremediability of their illness is subjective and open to nterpretation troubles me greatly. We are debating the circumstances in which vulnerable Canadians live and die. The experts remain divided, yet this government is moving forward with an ideological decision that will undoubtedly put vulnerable lives at risk, and this is before a single dollar has been invested in their promised mental health plan.

The lives of Canadians battling mental illness are not disposable.

In spite of all these concerns, I will reluctantly be voting for Bill C-39. A delay of one year is clearly better than the alternative: a dangerous MAID expansion to happen next week. Thank you.

Some Hon. Senators: Hear, hear.

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

Some 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 third time and passed, on division.)

CANADA DISABILITY BENEFIT BILL

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Cotter, seconded by the Honourable Senator Woo, for the second reading of Bill C-22, An Act to reduce poverty and to support the financial security of persons with disabilities by establishing the Canada disability benefit and making a consequential amendment to the Income Tax Act.

Hon. Marilou McPhedran: Honourable senators, thank you for the courtesy of allowing me to adjourn for the balance of my time on Tuesday evening.

In continuing, with great appreciation of his acumen as a sponsor, I wish to address briefly two assertions made by Senator Cotter in his speech.

First, he stated that:

> . . . a vast majority of the disability community — I have counted — is comfortable with the structure of the bill before us and strongly supports its passage in its present form.

Perhaps we are speaking to different disability rights experts?

Second, Senator Cotter encouraged trust in the cabinet process and trust in Minister Qualtrough to deliver far more than is required or even mentioned in this bill.

As much as I respect Senator Cotter and Minister Qualtrough and know that they speak from their lived experiences with disability and deep commitment as champions to better the lives of people with disability, I must question the wisdom of such a leap of trust as the rationale for this bill.

The disability rights experts with whom I have consulted understand that a perfect bill, or a perfect benefit, cannot be achieved this time around. They all agree that this initiative by Minister Qualtrough must be seen through, with the best possible version of this bill finalized and enacted in this session of Parliament, and this bill must not die.

But their political pragmatism — born of necessity — does not excuse us from our duty to give this bill our full consideration and to make achievable critical improvements.

Yes, this is a framework bill. But it's not a rights-based framework as much as it is aspirational.

Briefly, the glaring omissions and shortcomings in this bill include the following: The bill may never lift anyone out of poverty; there is no minimum standard in the benefit; there is no requirement for the regulations — which are core to any positive change — to be done by the time the act is operational; there is no deadline for payments to be dispersed; the benefit disqualifies thousands of disabled people by their age — clearly

discriminatory; the bill lacks transparency and therefore it lacks accountability because it puts decision-making processes behind closed doors; the bill makes an ultimatum, not a real choice.

Given the stakes at hand, it is troubling that this bill does not build more on Canada's international human rights commitments, principally Article 28 in the Convention on the Rights of Persons with Disabilities, addressing, "Adequate standard of living and social protection."

Strengthening this bill from a rights-based approach will yield a stronger legislative framework, and, as we saw in the other place, this can be done without stalling the legislative process if the government wills it so.

Dr. Nancy Hansen, Director of the Interdisciplinary Master's Program in Disability Studies at the University of Manitoba, summarized this approach as a:

> . . . charity ethic to support disabled Canadians . . . an overarching colonial aspect of service provision for disabled people . . . that maintains people in marginalized positions. It is residual legislation. It's better than nothing, but a "once in a generation" fix should be done better than this.

Similarly, Senator Seidman, in her excellent analysis of the bill, raised important questions of moral and ethical compulsion versus mere legal obligation to persons with disabilities.

As noted in the Convention on the Rights of Persons with Disabilities, people with disabilities who also identify as members of minority groups are subject to "multiple or aggravated forms of discrimination."

There are numerous relevant human rights commitments which Canada has made that should influence our review, but I will list just two more. First, the UN Universal Declaration of Human Rights, Article 25.1, states, "Everyone has the right to a standard of living adequate for the health and well-being . . . ." Second, in the UN Sustainable Development Goals, Goal 10 is to "reduce inequality within and among countries." Under that goal, target 10.2 is:

> By 2030, empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status. Entrenched within the Canadian Constitution, the Canadian Charter of Rights and Freedoms unequivocally underlines the concept of substantive equality, to which I note direct reference is made in the preamble to Bill C-22.

• (1640)

In *R. v. Kapp*, the Supreme Court reiterated that this concept of substantive equality is grounded in the idea that:

> "The promotion of equality entails the promotion of a society in which all are secure in the knowledge that they are recognized at law as human beings equally deserving of concern, respect and consideration" . . .

There is an additional sense of urgency in protecting the fundamental human rights of persons with disabilities in this bill. Applications and requests for MAID as a response to struggles with poverty increase. Bill C-22 does not guarantee that any persons with disabilities will be brought out of poverty. It does not guarantee that any dollar amount will be dispersed in a timely manner, and put bluntly, it doesn't guarantee the existence of the Canada disability benefit at all.

Life-reducing poverty among persons with disabilities has always been with us, but there is now an additional sense of urgency. Since March 2021, Canada has expanded MAID to be available to people who are not at the end of life to die due to their disability-related suffering and who meet other eligibility criteria. Widespread social and economic deprivation has created conditions in which dying appears to be the only answer for some persons with disabilities to escape poverty.

The Parliamentary Secretary to the Minister of Employment, Workforce Development and Disability Inclusion, Irek Kusmierczyk, acknowledged this reality. He said:

> Living with dignity is a far-off hope for many in these circumstances, and some persons with disabilities have, unfortunately and tragically, chosen to apply for MAID in the past year, with poverty being the key driver. The sad fact is that eligibility for MAID has expanded faster than have the social supports that would lift persons with disabilities out of poverty and allow them to live with dignity.

Former Chief Human Rights Commissioner for Ontario, Professor Emeritus Catherine Frazee, described this alarming aspect of MAID:

> We dial 911, we pull you back from the ledge, and yes, we restrain you in your moment of crisis. Autonomy be damned. We will get to the heart of the problem that drove you out into the woods and we will beckon you back toward a life that is bearable. Unless your suffering is medical or disability related, then and only then there will be a special pathway to assisted death.

Death on demand, essentially.

As we heard from Senator Miville-Dechêne today, there is a troubling connection between MAID and surprising numbers of people living with disabilities saying clearly that they are now choosing MAID because they cannot live their lives with dignity and adequacy because they are kept poor.

This is why high and welcome aspirations in Bill C-22, unmatched by required resource adequacy, have disability advocates telling us that the focus needs to be placed on strengthening the insufficient framework of this bill. It is not an either/or proposition. Advocates are not suggesting that all details must be worked into the bill. There is no need. Nor are they calling for overly prescriptive legislation here.

Professor Hansen, Professor Frazee, lawyers David Lepofsky and Roberto Lattanzio and their many colleagues are experts. They are seasoned advocates in our democracy. They have to be. They well know that the majority of all legislation is fine-tuned and developed via regulation. They are not being naive in their

assessment of essential changes that are needed for this framework to truly bring positive changes to the lived reality in the nitty-gritty of daily lives.

Put bluntly, Bill C-22 is too hollow, too void of direction and there is barely any scaffolding upon which a strong, durable framework can be built.

Here are four clear, practical improvements that the committee could consider: Bring a rights-based lens to the right to an adequate standard of living and social protection, consistent with the Convention on the Rights of Persons with Disabilities. Article 28 provides that "States Parties recognize the right —

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

Senator McPhedran: Thank you for this opportunity. *Meegwetch*.

Hon. Dennis Glen Patterson: Honourable senators, I rise to speak to Bill C-22, the Canada disability benefit, which, as you know, has unanimously passed through the House of Commons and is now before us for second reading in the Senate.

In speaking to this bill, I first want to pay tribute to Noah Papatsie, father and grandfather and a former video journalist from Iqaluit, Nunavut, who lost his sight in 1999 when video lights blew up in his face. Despite several attempts to save his eyesight, Papatsie became legally blind.

Noah has been an advocate for the disabled in Nunavut ever since. He is a former city councillor and President of the Nunavummi Disabilities Makinnasuaqtiit Society, the only cross-disability organization in Nunavut, which he was pivotal in founding. NDMS reaches out to communities across Nunavut, with community consultations on disability, accessibility and inclusion, on-the-land activities and job readiness, amongst other activities. He has also been a board member of Inclusion Canada since 2009.

It has been a real challenge for him to navigate in Iqaluit with its inclement climate and lack of sidewalks, so it was a great triumph for him when, in 2014, he acquired Xeno, Nunavut's first guide dog, after a four-month period in Ottawa where Noah and Xeno learned to work together. Unfortunately, Xeno had to retire recently due to issues with his paws, no doubt exacerbated by the challenges of Nunavut's harsh winter climate.

Noah is an eloquent spokesperson for the differently abled all across Nunavut, where a high proportion of the population have disabilities, and 80% of the population, he told me, suffer from hearing impairment, for example. Nunavummiut also face many barriers, including a lack of accessibility in public spaces and a lack of accessible vehicles.

Noah has been the foremost spokesperson for the differently abled in Nunavut, and he told me that he is eager to see Bill C-22 referred to our committee and expeditiously given third reading, subject, of course, to careful review in our committee. The other place passed several amendments that I believe have strengthened the bill, and now the Senate has an important role to play in transforming the lives of people with disabilities living in poverty.

I believe that your committee, in studying the bill, will hear that many in the disability community are supportive of moving the legislation to Royal Assent as quickly as possible. This will allow Bill C-22 to become law and for the government, in collaboration with the disability community, to get to work on the collaborative co-creation of Bill C-22's regulations.

I understand that many in the community — no doubt not all — are also well pleased that in the other place an amendment was passed that commits the government to working directly with them on the development of the regulations and requires the government to report back to Parliament within six months of the bill being passed on how this was done.

The legislation now says:

> Within six months . . . the Minister must table in the House of Commons a report that sets out the manner in which the obligation to engage and collaborate with the disability community in relation to the development of regulations has been implemented.

I have some experience of how not to undertake co-development in relation to Indigenous issues. The UNDRIP bill, the Indigenous languages bill and Bill C-29 readily come to mind. But I am hearing good things about the approach Minister Qualtrough — the Minister of Employment, Workforce Development and Disability Inclusion — and her officials have taken so far with the disability community. I'm therefore optimistic that this process can and will be based on mutual respect for the often-lauded but not-always-honoured principle "Nothing About Us Without Us."

And while I'm often hesitant to leave important public policy decisions to the regulatory process, I believe that the commitment to having the disability community involved in the co-creation of regulations in this situation is the right approach. This commitment is the right approach only if it is done properly. The government has committed to such a process and, I fully expect, will be held to this commitment by the passionate, caring folks in the disability community in this country who have waited so long for progress and recognition.

• (1650)

My view is that the quicker Bill C-22 can pass the legislative process in Parliament, the sooner work can begin on the details of the design and regulations and serious negotiations with provinces and territories can begin.

There have been concerns expressed about timelines for implementing this long-overdue regime, but the reality is that it will take time for the regulations to be worked out, drafted and for systems to be in place to administer the benefit. In this connection, I believe that on timing the bill has been strengthened by the amendments passed in the other place. There is now a provision that requires the minister to, within one year, table a report in Parliament on progress made in the regulatory process. In addition, an amendment was passed which provides further clarity on when the act comes into force that states:

> This Act comes into force no later than the first anniversary of the day on which it receives royal assent.

I believe that one year is a reasonable time frame which will see the act in force as reasonably quickly as possible.

In this connection, it is encouraging that in the other place amendments were passed to also accelerate the timeline for a full parliamentary review of the Canada disability act from the third and fifth anniversary of its passing to its first and third anniversary. The existing federal, provincial and territorial programs will need to be reviewed and studied carefully to make sure all programs can work together to achieve no clawbacks to existing benefits and supports.

I know this is a very important and very challenging issue in our federation. Frankly, I'm not sure what can be put in this federal legislation to prevent the dreaded clawbacks from provinces and territories. Perhaps the only way is to negotiate on this very important issue with provinces and territories.

Existing federal, provincial and territorial programs will need to be reviewed and studied carefully to make sure all programs can work together to achieve no clawbacks to existing benefits and supports, and all levels of government must work together. Frankly, I'm not sure how the Senate can do more with this legislation to enable this to happen.

I understand that discussions have already taken place with the levels of government on this issue and, as well, for further transparency, I am encouraged with the amendment that was passed in the other place which "ensures agreements with the provinces and territories are made public." Perhaps Canada could insist that those agreements could include commitments to no clawbacks.

I think that, to be realistic, this amendment may be as far as a federal parliament can go toward dealing with the issue of avoiding clawbacks in provinces and territories, though this issue will no doubt be an important matter for our capable Social Affairs, Science and Technology Committee to study.

Another important issue is the amount of the benefit. I expect that the committee will hear concerns in its study about not knowing the amount of the ultimate benefit as we consider this important bill. But I cannot see how this amount can be spelled out in legislation, which is difficult to amend and adjust. At least other amendments in the other place spell out that the amount of the benefit must be adequate and the method for determining the amount must take into consideration the official poverty line.

It was also encouraging to see that another amendment made in the other place will require the Canada disability benefit to be indexed to inflation. I know there have been concerns also expressed that the bill should set out specifics regarding eligibility and not save this for the regulations. But with the strong commitment now in the bill to involve the disability community in developing the regulations, I believe that complex discussions about eligibility, the application process, amounts or the appeal processes are actually best left to the regulation process, where the disability community can have a seat at the table and be involved in decision making within these complex areas that will take some time to debate and agree upon.

In this connection, I think it is helpful that amendments passed in the other place have offered clarity on certain items whereby: one, the definition of disability now is to have the same meaning as defined in the Accessible Canada Act; two, it must take into consideration the official poverty line and be indexed to inflation. I trust that will be the floor.

Let's trust the disability community and the government to work out these important details in an atmosphere of respect, collaboration and compromise. With that, I support giving second reading to this bill promptly and sending it to committee with the hope that the committee can complete its work and report back well before our summer adjournment. Thank you, *qujannamiik*.

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 Cotter, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.)

JUDGES ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Dalphond, seconded by the Honourable Senator Harder, P.C., for the second reading of Bill C-9, An Act to amend the Judges Act.

Hon. Denise Batters: Honourable senators, I rise today to speak to Bill C-9, An Act to amend the Judges Act. This bill modernizes the disciplinary process for Canada's federal judiciary — a process that has not been updated since 1971. I'm not going to speak about how long ago that was, given that I was born the year before that, but suffice to say it was due for a refresh.

The current process for judicial discipline had some notable shortcomings that Bill C-9 aims to rectify. First, the process was cumbersome and inefficient: multiple opportunities for judicial review combined with the fact that a judge's salary and pension earnings continued to accrue throughout the review process left it prone to delays and potential abuse. Second, the length of multiple judicial reviews, and their ensuing delays, increased costs to Canadian taxpayers who were left to pick up the tab for the entire process. Bill C-9 will institute provisions to address these significant problems. In addition, it will introduce greater public involvement to the disciplinary process with the inclusion of laypeople — or non-legal people — on hearing boards. While the government must always strive for even greater transparency, this bill is an important step forward in increasing public confidence in the judicial system.

At this point, honourable colleagues, it seems Bill C-9 is relatively uncontroversial: it passed unanimously in the House of Commons.

You may also recall that this is not the Senate's first kick at this proverbial can. A similar version of this bill — almost completely unchanged — was introduced in the Senate as Bill S-5 in May 2021. At that time, I questioned the bill's sponsor, Senator Dalphond, on why a bill such as this, which contained monetary provisions, was being introduced in the Senate of Canada.

The Trudeau government, of course, didn't agree, and the bill remained on the Order Paper, unchanged, until the government called an unnecessary election in the summer of 2021. After that election, the government reintroduced the bill in the Senate, this time numbered Bill S-3. The Speaker of the House of Commons expressed the similar concern I had regarding the bill containing monetary provisions originating in the Senate Chamber.

Oddly enough, the Trudeau government seems to hear things a lot better from fellow Liberals than it does from Conservative senators.

The government did reintroduce this bill — properly, finally — in the House of Commons as Bill C-9 in December 2021. They then proceeded to let it wither for almost a year, until late 2022, when it was amended by the House committee, passed unanimously by the House of Commons and returned to the Senate just before we rose in December for our further debate. After this long journey, that is how we find it before us today.

• (1700)

To appreciate the changes made in the new process proposed in Bill C-9, it's important to first start by reviewing how the judicial conduct disciplinary system currently operates. Presently, any member of the public can lodge a complaint against a federally appointed judge by contacting the Canadian Judicial Council, or CJC. I have been advised that, although the number of complaints varies by year, the CJC receives roughly 600 complaints per year — usually resulting in only a few moving forward for investigation, and only one or two reaching the inquiry committee stage. To date, no judge has ever been removed, although four have resigned once a recommendation for removal was made.

The Canadian Judicial Council receives the complaint, and one of its members screens the complaint to determine whether it is without merit. If so, the complaint is dismissed. If it seems serious enough to warrant removal of the judge, the complaint then proceeds to the review panel, consisting of three CJC members which include chief justices or associate chief justices and one puisne judge — which is a judge who is not a chief justice or associate chief justice — as well as one layperson who has never been a lawyer or judge before. That review panel determines if the complaint is serious enough to potentially warrant a judge's removal. If yes, the review panel will send the complaint to an inquiry committee, comprised of a majority of CJC justices and a minority of lawyers designated by the Minister of Justice.

At the end of that inquiry committee's hearing, it issues a report to the Council of the Whole, which is a group of at least 17 CJC members, but also as many as are available. The report from the Council of the Whole requires consensus by a majority of the CJC recommending removal of the judge to the Minister of Justice. The minister then recommends the judge's removal to each federal house of Parliament for a vote.

Under the current system, the judge involved can appeal for judicial review of the inquiry committee's decisions and recommendations for removal — first to the Federal Court, then to the Federal Court of Appeal and, ultimately, to the Supreme Court of Canada, with leave. Of course, each level of appeal delays resolution of the case and becomes increasingly expensive, as costs are borne by Canadian taxpayers for the entire process.

Cases of judicial discipline requiring removal from the bench are quite rare. In fact, no federal judge has ever actually been removed from the bench, with most opting, instead, to resign before reaching that point. Still, high-profile cases of abuse of the current judicial review process have prompted the government to institute changes to the appeal system.

One recent case was that of Quebec Superior Court Justice Michel Girouard. In 2012, Justice Girouard was the subject of complaints — some of which led to the recommendation that he should lose his job. He appealed his case through the judicial review process, through the Federal Court and the Court of Appeal, ultimately resigning in 2021 — when the Supreme Court denied leave for another appeal, and the Minister of Justice indicated his intent to seek parliamentary approval for Girouard's removal. The entire process took nine years, and cost Canadian taxpayers an estimated $4 million. Throughout the appeals process, this judge continued to receive his salary and accrue his pensionable earnings.

The government changed the rules for judges' pension accrual in 2022 under Bill C-30, the Budget Implementation Act, so that judges cannot continue to collect their pension while they are challenging a Canadian Judicial Council removal recommendation. It would make the end date be the day the CJC

recommends the removal of a judge to the minister. This was a notable improvement which would help to avoid cases like Justice Girouard's in the future.

Bill C-9 removes this provision, and replaces it with a new end date. Under this legislation, pension entitlement would cease on the day after a full hearing panel notifies a judge of its decision to recommend their removal from office. Of course, this new provision would not apply if the Supreme Court of Canada overturns the full hearing panel's decision, the minister chooses not to remove the judge from office or either the House or the Senate votes against removing the judge from office.

Here is the new judicial conduct process, as outlined in Bill C-9: First, a screening officer at the Canadian Judicial Council determines whether a complaint is without merit. If so, the complaint is dismissed. If not, it proceeds to an initial review by one CJC member. That member determines whether the complaint should progress to a review panel, consisting of one CJC member, one puisne judge and one lawyer. If that panel determines that a judge warrants removal, the matter then goes to a public hearing panel, consisting of five members: two CJC members, one puisne judge, one lawyer and one layperson. If the complaint does not warrant removal, it is either dismissed or, if it warrants penalties less than removal, the review panel can issue a private or public expression of concern, a warning, a reprimand, ask for an apology, order a judge to take specific measures — including counselling or education — or, with the consent of the judge, take any other appropriate action. The judge in question can appeal the complaint to a reduced hearing panel.

The reduced hearing panel consists of three members: one CJC member, one puisne judge and one lawyer. If the reduced hearing panel determines that the judge's removal from office could be justified, they then refer the complaint to the council for the establishment of a full hearing panel. That reduced hearing panel can also dismiss the complaint, or recommend other disciplinary measures. The reduced hearing panel's decision — or as much of it as possible — is made public. The full hearing panel operates in much the same fashion. The outcome of the panel, whether of three or five members, can be appealed to an appeal panel, consisting of three CJC members and two puisne judges. That panel's decision can ultimately be appealed, with leave, to the Supreme Court of Canada.

There was a national media article this morning that may have given the impression that the Minister of Justice does not have a role under the reformed process in Bill C-9. Let me assure you that this is not the case, and the article has now been corrected. If a full hearing panel recommends removal of a judge, they prepare a report and send it to the Minister of Justice. The Minister of Justice must respond publicly, and, if he decides to recommend removal of the judge, he will bring it to the House of Commons and the Senate for a vote before making a recommendation to the Governor General for removal. For those wondering about the recent report of a complaint against Supreme Court Justice Russell Brown, I'd like to note that his case would proceed under the current judicial conduct system, not the reformed system, since Bill C-9 is not yet law.

In any case, as I mentioned earlier, the House of Commons Justice Committee amended Bill C-9. These amendments give a complainant a written explanation for why their complaint is dismissed — from either a reviewing member or from the review panel, depending on the circumstance. These changes introduce greater transparency into the judicial complaint process, thereby increasing the public's confidence in the fairness of the system.

The reformed judicial disciplinary process under Bill C-9 aims to address some significant shortcomings in the old system. First, it provides additional remedies for infractions that fall short of behaviour calling for a judge to be removed from the bench. This provides additional flexibility regarding discipline, while ensuring corrective measures can still be applied in less serious situations. Second, the reduction of multiple opportunities in the process for judicial review will prevent the lengthy and costly multi-year appeal scenarios we have witnessed in the past.

While I think this legislation is largely supportable, I do have a few questions and areas of concern where I think parliamentarians need to be vigilant. The new system replaces the Council of the Whole with a smaller appeal panel. While I understand that this step is meant to improve streamlining and efficiency, and I appreciate those goals, I submit that we need to proceed cautiously here. Removing a judge is a very serious step. It needs to be carefully considered. I will be interested to hear from witnesses at our Senate Legal Committee about whether they find this particular change to be a sufficient protection of the rights of judges undergoing this process.

I also have questions about the penalties that can be imposed in cases of judicial misconduct that do not meet the criteria for removal of a judge. Under this reformed process, these other penalties could include expressions of concern, warnings, reprimands, forced apologies, training, education or counselling — but Bill C-9 does not propose the option to either suspend a judge temporarily or dock their pay.

I have further reservations about the consultation process. It seems that the public consultations for these new changes to the judicial disciplinary system were conducted quite some time ago. In fact, they began in 2016 when the Department of Justice posted an online survey to its website, and then conducted a review of public correspondence received by the department regarding the judicial conduct process. This doesn't appear to be a robust public consultation process.

The government also consulted with many players in the judicial system, including the Canadian Judicial Council, the Canadian Superior Court Judges Association, the Federation of Law Societies of Canada, the Council of Canadian Law Deans, the Canadian Bar Association and the provinces and territories, as well as lawyers previously involved on both sides of the judicial disciplinary process. The department also received submissions from the Barreau du Quebec and the Canadian

Association for Legal Ethics. With respect to the provincial and territorial consultations, I would be interested to know when those occurred, as many of those governments have changed in the last several years.

• (1710)

Yet with all those consultations, I find it strange that the one stakeholder in the legal system the government didn't think to consult for this bill was the Federal Ombudsperson for Victims of Crime, nor anyone else representing the concerns of victims of crime. In the past, we've seen public outcry about comments and attitudes of some judges toward victims of crime, especially complainants in sexual assault cases. You may recall such scenarios that led my former Conservative caucus colleague and interim Conservative Party leader Rona Ambrose to bring forward her bill to improve judicial training in that area, an initiative which I am now proud to say is the law in Canada.

Yet, we see in the consultations on Bill C-9 that the Trudeau government has once again omitted the voices of crime victims from the process. It should be an automatic reflex to include victims of crime in consultations on matters so impacting the criminal justice system. Clearly, for this government, it is not. How victims of crime are treated in the courtroom and throughout their interaction with the legal system has a direct and important impact on the public's confidence in our justice system.

Of course, I simply can't let the opportunity slide by to discuss another factor that undermines public faith in our legal system: the Trudeau government's ongoing failure to appoint judges in a timely manner. This has a huge impact on delays in the criminal justice system, which, after the Supreme Court of Canada's *Jordan* ruling in 2016, has led to serious criminal charges being thrown out in some cases of lengthy court delays.

Last October, I asked Justice Minister Lametti about the astonishing 89 judicial vacancies he had at that time. He tried to brush off the criticism, stating, ". . . we're appointing judges at a faster pace, and there will be more appointments forthcoming soon." But by March 1, five months after I asked him about this, the number is virtually unchanged. There are still 86 judicial vacancies across Canada.

Judicial appointments are the one factor of court delays over which the federal government has complete control. The Trudeau government's utter negligence in this regard has very real impacts on the Canadian public. As I mentioned, we have seen serious criminal cases thrown out because of significant court delays. But without judges in courtrooms, there is also additional uncertainty created in the lives of Canadians dealing with legal matters in non-criminal courts — in family law custody cases, insurance disputes or any other legal conflicts where the circumstances of their lives — their families, their homes, their jobs and their health — may hang in the balance. Court delays increase costs and prevent Canadians involved with the legal system from moving forward with their lives. This Trudeau government's failure to appoint judges undermines Canadians' belief in a fair system of justice.

At the end of the day, honourable senators, Canadians need to have faith in our legal system. Canadian judges rightfully have a reputation as some of the best jurists in the world. We need to support them by modernizing our judicial conduct system, thereby ensuring a just, more accountable and more transparent process for all involved. I look forward to studying this bill further at committee so we can get that work under way and have important questions answered. Thank you.

The Hon. the Speaker pro tempore: Are 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 Gold, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

ONLINE NEWS BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Harder, P.C., seconded by the Honourable Senator Bellemare, for the second reading of Bill C-18, An Act respecting online communications platforms that make news content available to persons in Canada.

Hon. Donna Dasko: Honourable senators, I rise today to speak to Bill C-18, the online news act, at second reading. I take a great interest in this bill. I have loved newspapers from an early age. I grew up with the *Winnipeg Free Press*, which has just turned 150 years old, and I added a whole set of papers to my must-read list in later years. During my career in the public opinion business, I had the pleasure of working with *The Globe and Mail* to lead their first-ever public opinion polling program. As well, later, I led many years of polling assignments for the CBC. So I learned a few things about journalism and the media business along the way.

Now, as we turn to Bill C-18, we learn that the news media business is in trouble and that the government has come to fix it. The rationale behind Bill C-18 is that news organizations are not getting fair compensation for the news they produce from the digital platforms that distribute this news to the public. Thus, Bill C-18 would require that major digital platforms make deals with news businesses to pay them for information that is shared on their platforms. The news businesses involved include online

news outlets, newspapers and news magazines, public and private broadcasters and local businesses that publish original online news content.

Although no platforms are mentioned specifically, it appears that Google and Facebook would be the eligible platforms according to the criteria laid out. If voluntary deals are made between platforms and news media within certain timelines that meet certain criteria, digital platforms would be exempted from the required portion of the act, which is to enter into a formal negotiation process that could lead to final offer arbitration. The CRTC will take the role in developing a code of conduct to guide the bargaining process and determine if the agreements that are reached meet the conditions for exemption, among other roles that it will have.

This is a complex bill. After sifting through government documents, reading media clippings and talking to stakeholders, I can best analyze it by dividing it into two parts: the parts that make sense to me and the parts that leave me with a whole lot of questions. Much of the stated context and background makes sense. Two assumptions are especially relevant. First, news media are an essential component in a democracy and, second, technological change has changed the way that news is consumed and distributed in this country, which has left Canadian news media in a vulnerable state.

Democracy depends on free and fair elections, an independent judiciary, the rule of law and a free and independent media. With democracies around the world under threat, I think we have to be more vigilant than ever about our democratic institutions. A free and independent media is vital to inform, investigate, analyze and engage Canadians in the public space. The second assumption is a familiar one: that digital technology has changed the media in this country forever.

Let's start with advertising. A 2021 Statistics Canada report surveying newspaper publishers in Canada revealed that the operating revenue of Canadian newspaper publishers declined to $2.1 billion in 2020 — down a full 22% just from 2018. Declines in revenues have inevitably led to closures and job losses. Over 469 news outlets have closed from 2008 to 2022 — including over 300 community newspapers — and one third of journalism jobs have disappeared since 2010.

The other side of this picture is that the internet has increased its share of advertising revenue as that of newspapers and other media has declined. In 2005, the internet held only about 8% of the market share of all advertising revenue in Canada. By 2015, the internet share was 37% while all other categories had dropped, especially daily newspapers, which fell from 26% to a 12% share in 2015.

Government background documents estimate that Google and Facebook revenue from digital advertising was $9.7 billion in Canada in 2021, which was 80% of the total digital ad revenue of about $12 billion.

It's no mystery as to why advertising has shifted to internet platforms. That's where the consumers have gone to find, read and share news. The online environment today includes a vast array of choices, including new media, traditional media and social media.

When it comes to consumers, it's important to understand that Canadians are still very interested in news and have not abandoned traditional news sources even as they have gone online to get this information. According to a Maru survey conducted last year, 86% of Canadians access news every day. According to a Reuters survey of 46 countries, 77% of Canadians used the internet in the last week as a source of news. In this study, the top sources for news are essentially the same whether consumers are online or offline. For English media in Canada, the top sources are CTV, CBC and Global News. For French media, they are TVA and Radio-Canada. Still, the study shows that while 56% of Canadians watch actual television news during the week, only 16% read an actual print newspaper.

• (1720)

With regard to consumer behaviour, a 2022 Abacus survey of Canadians commissioned by Google shows that 64% of Canadians say they use Google to find and access news at least a few times a week, and 41% use Google daily for news. This finding strengthens the case for the importance of platforms as a source of news for Canadians.

Now, as an aside, I wish that the government had included more in-depth analysis of consumer behaviour in its development of the bill, but I will leave that topic for another day.

I think a strong case can be made that Canadian media need assistance to carry out important democratic functions that have been weakened by years of revenue losses. I feel that a public policy response is justified for this reason. However, this is where my questions about Bill C-18 begin.

Let's start with the choice of this policy framework. I want to know more about why the government has chosen this particular response rather than modifying or developing existing policy tools which are more familiar to this industry. Creating a fund to assist organizations, for example, like the Canada Media Fund, would have been more straightforward. Instead, the profitable platforms will be required to compensate the news sources directly through a very unfamiliar process.

Other questions are raised with respect to the eligibility of news businesses. Our colleagues in the other place, through amendment, have greatly expanded the number of media organizations that will be eligible to participate in this policy from about 200 to more than 650. It's a positive development to include smaller and more diverse organizations, but this also raises questions. Will all of these organizations practise real journalism with true news content and journalistic practices? What body will investigate this, if at all?

It also appears that organizations will not need online content to be eligible. If this is the case, how can digital platforms benefit from their content for purposes of payment? That's the purpose of the bill in the first place. Also, if we're tripling the number of organizations, will this mean less support for everyone in the end or will the platforms have to pony up more dollars?

Another question relates to the basis of negotiation between the parties, that is, between the platforms and media organizations. What are the considerations? The government has relied strongly on the concept of fair remuneration. It wants to ensure that major digital platforms fairly compensate news publishers for their content and enhance fairness in the Canadian digital news marketplace, backstopped by the Canadian Radio-television and Telecommunications Commission, or CRTC, and arbitration.

The term "fairness" is used repeatedly in its communications, but what does this mean? We know that news organizations themselves receive significant value from the distribution of their content, so how, if at all, does this figure into it? In the end, is remuneration based only on measures of the media organization and, if so, which ones? The volume of its online content? The size of its online audience? A percentage of its expenditure on news content? It has been suggested 20%. Another suggestion is 30% to 35%. Is remuneration based on platform measures such as the volume of online activity of the organization on the platform or on the revenues of the platform? I think we need a greater understanding of this process since it directly affects outcomes and the achievement of policy goals.

I have further questions about the feasibility of negotiations. How will small regional newspapers hold their own in the high stakes bargaining that will take place under Bill C-18? In the end, will the big legacy companies come out the winners at the expense of others?

Colleagues, there is more. The platforms are supposed to:

> . . . ensure that an appropriate portion of the compensation will be used by the news businesses to support the production of . . . news content.

I want to understand how this is supposed to be implemented.

Many other questions are relevant, but, in the end, I would ask whether this policy initiative will be the saviour of this industry. I hope that we can find some answers to these and other questions at committee.

There are many good elements of Bill C-18. It enjoys the support of stakeholders across the media industries, including many large and small newspapers, broadcasters and more. I also see support from the Canadian public for some of the principles of this bill.

For example, a poll conducted last year by Pollara for News Media Canada shows that 79% of Canadians agree that Google and Facebook should have to share some of the revenue they generate from Canadian news content with the Canadian media outlets that produce the stories.

On the topic of polls, that Abacus Data poll conducted for Google, which I mentioned earlier, shows that two thirds of Canadians don't want Google Search to change the way it operates when Bill C-18 comes into effect. Yet, we have just seen Google two weeks ago blocking news content in a test run related to this bill. This company is doing exactly the opposite of what Canadians want, according to the company's own polling.

Colleagues, there is never a dull moment working on these files, and never a dull moment on our Senate Transport and Communications Committee. Clearly, there are many important issues and questions which need examination with respect to Bill C-18. I look forward to the several weeks of study and debate at committee and here in our chamber where Bill C-18 will receive the sober second thought it so clearly needs.

Thank you, *merci*.

Hon. Colin Deacon: Honourable senators, the debate around Bill C-18, the online news act, pivoted on February 22. That day, Google confirmed that they were conducting tests to "limit the visibility of Canadian and international news to varying degrees."

In response to questions about its actions, Google assured us that less than 4% of Canadian users will be impacted by this random testing. Given that an estimated 92% of Canadians use Google and the average user conducts three to four searches a day, Google's assurance — or threat — implies that over 1 million Canadians have or will have reduced access to Canadian news several times per day for the duration of this test. Which million Canadians, I wonder.

I can't figure out why Google did this. Second reading debate had just begun. Concern about the effectiveness of this legislation was raised in the earliest speeches. Rather than constructively contributing to the debate, Google fired a shot across the bow of Canada's legislative process and, I would argue, our sovereignty. If this is how Google negotiates with a G7 country, I can only imagine how they negotiate with our diminishing and steadily weakening news outlets. At the very least, Google just demonstrated that under Canada's existing legislation and regulations it is free to manipulate what Canadians see when they use Google to access information and news. But, of course, they are. That's true for all algorithm-based services.

Quite recently in this chamber, a colleague argued that:

> Algorithms, as they're being used by platforms, are a form of computation. What algorithms do is they follow our habits, and they push up — on their algorithm system — what we want to see.

Google just invalidated that assertion, quite effectively. Canadians, like all other users of these big tech platforms, see the content that the platforms want us to see. To think that the visibility of content is not throttled up or down, or substituted, based on how profitable that content is to the platform would be naive. These platforms are doing exactly what they should be doing for their shareholders — they are maximizing the value of their assets. These are commercial entities, not public services.

Their job is not to serve the public. Their job is to provide a service that is valued by the public and then extract as much revenue as possible from it. These platforms are doing their job.

• (1730)

Now, our job, on the other hand, is to make sure that the public well-being and utility are maximized and to minimize any resulting individual or collective harms.

Google just showcased why a piecemeal approach to preventing harm and creating opportunity in the digital era is not sufficient. Google showcased why a whole-of-government approach is urgently needed if Canadians are to thrive in the digital era. Our structural legislation, like privacy and competition law, and countless regulations and policies across government were designed in and for the analogue world. They are no longer fit for purpose as the world races ahead in the digital era.

In the absence of these structural changes, Bill C-18 is an imperfect solution, but it may help in the short- to medium-term, akin to providing a pair of crutches to someone who has a broken leg. The job is not done until the leg is reset in a cast and can heal.

I'm leaning towards supporting Bill C-18 as a useful short-term measure that may slow the collapse and, perhaps, even plateau the viability of news media in Canada, but I'm not convinced that it offers anything close to a permanent solution where journalism can thrive once again.

To make my point as to why Bill C-18 on its own is likely not sufficient, I decided to explore competition in the digital era. Let's consider the concept of "abuse of dominance." This is when a dominant business engages in an activity that stops or substantially reduces competition in a given market. It can be predatory in nature, designed to create short-term losses or harms; exclusionary, designed to prevent a competitor from operating in a market; or disciplinary, designed to punish a competitor. Abuse of dominance is but one example of anti-competitive behaviour.

Just over a year ago, Innovation, Science and Economic Development Canada — ISED — released a report summarizing the strategies and tactics that are increasingly utilized by data-intensive tech platforms in order to obtain and maintain dominance. It's called *Study of Competition Issues in Data-Driven Markets in Canada*.

Specifically the authors examined how data-intensive tech platforms obtain, control and then leverage data to increase profits and protect against competition. The report took a case-study approach to consider whether specific digital business behaviours are sufficiently captured under Canada's Competition Act.

The short answer was, "No, they are not." That is why the Budget 2022 commitment to modernize the Competition Act is so important, as is ISED's ongoing public consultation on competition policy reform.

The nine behaviours examined by the report included concepts like "gatekeeping," where a platform decides what users see or do not see on their platforms — this is what Google is doing right now — or "self-preferencing," where a platform prioritizes its own content or products over that of others on the platform, or "copycatting," where a platform uses data under their control to identify content or products that it might want to mimic.

Let's take a closer look at gatekeeping by platforms. As it stands today, platforms are free to engage in gatekeeping that disadvantages or exploits third-party users. Google just demonstrated that as the gatekeeper. It can throttle up or down the visibility of content. If, as Bill C-18 proposes, a platform is required to pay a news media platform a fee every time a specific content is viewed, Google just demonstrated that they can — and perhaps intend to — limit the extent to which that content is viewed. Of course they can. Consider the fact that businesses that want to reach more of their followers already have the opportunity to pay Facebook for the right to do so. How does this happen?

Let's say a news outlet has 100,000 followers, but their posts are only being viewed by a maximum of 800 of those followers. They begin to receive notifications from Facebook offering them the opportunity to pay a specific amount to achieve a given number of additional views. My question is this: Given that digital platforms can throttle access to content either up or down, why would we continue to allow them to gatekeep accurate, factual news content in the first place?

In retrospect, it is easy to see why in 2020 the Australian government directed the Australian Competition and Consumer Commission, the ACCC, to investigate markets affected by the supply of digital platform services and, importantly, required the ACCC to report back every six months for the next three years. They are taking this issue very seriously.

The Australian Digital Platforms Inquiry found that Google's and Facebook's market dominance had distorted the ability of news businesses to compete, and that was the premise of building Australia's code.

Australia's strategic use of the ACCC — their version of our Competition Bureau — is a great lesson for Canada. They use it to engage deeply in many issues central to their economy, society and democracy. They do their homework.

Conversely, Canadian Heritage consulted with the Competition Bureau but focused only on the bureau's inquiry into the alleged anti-competitive conduct of Google between 2013 and 2016. A

much broader, deeper and ongoing consultative approach would have been very helpful, especially considering Google's most recent actions.

I truly hope that the Standing Senate Committee on Transport and Communications will invite experts in competition law to testify in the study of Bill C-18, particularly competition law as it is applied in digital markets.

I also wondered how Bill C-18 might impact the scrappy online news outlets that have been growing. What pro- or anti-competitive effects might Bill C-18 have on those news outlets that have carved out economically viable models, despite the odds?

I looked at allNovaScotia, a subscription-based online business and political news outlet with a hard paywall. That means they do not share any of their information on social media. They've grown over 20 years and now operate in four provinces. Bill C-18 will not help them and it could bring them harm, because none of their news stories are shared beyond their subscribers.

How about BetaKit or The Logic? Different risks and realities face these two entities, but both have been growing as traditional news outlets have been shrinking. There are many lessons to be learned here. How about Canadaland with its podcast-only format?

Understanding how Bill C-18 will affect these innovative, growing online news outlets will, in my opinion, be crucial to the committee's study. My questions include the following: What are the unintended consequences of Bill C-18 as it related to these innovators? Does the government commit to extend the journalism labour tax credits, even with the passage of Bill C-18? Are the qualifying criteria for Bill C-18 and the journalism labour tax credits sufficiently inclusive to encourage innovative news outlets that serve a diversity of communities?

Let me drill into this last point. If the criteria for an eligible news outlet are looked at through the traditional news lens, most emerging news outlets risk being disqualified. For example, supported news must be of general interest and about current events. Traditional media cover everything from sports to weather. Online outlets ignore that news because it can be sourced more easily elsewhere. This requirement could cause an online news outlet to water down the quality and depth of reporting in our complex world so that they can become more general interest and qualify for the support.

How about the fact that industry-specific news is not supported? Some argue that technology news is industry specific, despite the fact that technology permeates every aspect of our lives across every public and business sector, even the news sector. A traditional news media lens could potentially deem many innovative, independent, original content news outlets ineligible.

Additionally, unlike traditional media, online news outlets attract audiences that are dispersed across the country. They are not limited to a specific major urban area, often despite being based in one.

As I conclude, I will peer over the horizon — or try to, at least — past the harm already done to see what we might do to prevent future harms and even unlock more opportunities for Canadians.

Last November, OpenAI launched a generative AI platform called ChatGPT. In its first three months, ChatGPT became the fastest-growing consumer app in history, acquiring over 100 million users. Why?

Generative AI is a big deal because generative AI can create its own outputs. Until now, humans pretty much had that market cornered — the market of creating. That world is no longer. Increasingly, we will find that AI can also generate content, only much, much faster than we humans.

• (1740)

How does this relate to Bill C-18? To find out, I asked ChatGPT if generative artificial intelligence, or AI, could be used to create news stories. I instantly received a clearly written response that confirmed that it can create a news story, but was cautioned that the story will only be as good as the data that ChatGPT is trained upon — that biased or inaccurate data will generate stories that are also biased or inaccurate.

As a side note, I will go a bit further. AI can scale inequity and misinformation at warp speed.

ChatGPT also provided a bit of advice: It is important to inform readers that AI was used to create the story.

Given technology advancements that have just emerged in the last three months, it is now easy to see a future where general news content is repackaged into news stories at virtually no cost to large technology platforms. How might this impact our democracy? I hope that the committee will consider whether Bill C-18 is future-proof in any way, including how we might prevent chat bots like ChatGPT from further eroding the remunerability of quality journalism and whether Bill C-18 will create a sustainable, pro-competitive environment for journalism in Canada.

As the committee does its work, I ask members to remember how Google chose to negotiate with a G7 country. Their actions suggest that you might want to understand whether witnesses before the committee are constrained because they are under a confidentiality agreement, conflicted because they have already negotiated a deal or are testifying under pressure or fear that their posts or information will be throttled up or down based upon their testimony.

Whether Bill C-18 is passed in its current or amended form, I continue to wonder if it is capable of moving fast enough to save Canada's remaining legacy news outlets. The bill's timeline would still enable digital platforms to slow walk the process for eight months after coming into force. I do wonder whether any resulting funds will actually go to support journalists and journalism.

Colleagues, the *Washington Post*'s simple refrain that "Democracy Dies in Darkness" needs to be top of mind in the examination of Bill C-18. The catastrophic collapse of journalism and print media is undermining access to accurate information and insights in Canada.

That is the problem: Financially unsustainable media ultimately puts our democracy at risk.

Is Bill C-18 at least part of an appropriate response? I think so. Will Bill C-18 help to minimize future harm while we search for more sustainable solutions? I hope so.

I very much look forward to tracking the work of the committee. Thank you, colleagues.

Some Hon. Senators: Hear, hear.

(On motion of Senator Martin, debate adjourned.)

[*Translation*]

ROYAL ASSENT

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

RIDEAU HALL

Mr. Speaker,

I have the honour to inform you that the Right Honourable Mary May Simon, Governor General of Canada, signified royal assent by written declaration to the bill listed in the Schedule to this letter on the 9th day of March 2023, at 5:10 p.m.

Yours sincerely,

Ian McCowan

Secretary to the Governor General and Herald Chancellor

The Honourable
The Speaker of the Senate
Ottawa

Bill Assented to Thursday, March 9, 2023:

An Act to amend An Act to amend the Criminal Code (medical assistance in dying) (*Bill C-39, Chapter 1, 2023*)

ADJOURNMENT

MOTION ADOPTED

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of March 8, 2023, moved:

> That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, March 21, 2023, at 2 p.m.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*English*]

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF MATTER OF SELF-INDUCED INTOXICATION

Leave having been given to proceed to Motions, Order Nos. 104 and 105:

Hon. Brent Cotter, pursuant to notice of March 7, 2023, moved:

> That, notwithstanding the order of the Senate adopted on Thursday, June 23, 2022, the date for the final report of the Standing Senate Committee on Legal and Constitutional Affairs in relation to its study on self-induced intoxication be extended from March 10, 2023, to April 30, 2023.

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

Hon. Senators: Agreed.

(Motion agreed to.)

OFFICIAL LANGUAGES

COMMITTEE AUTHORIZED TO STUDY MINORITY-LANGUAGE HEALTH SERVICES

Hon. René Cormier, pursuant to notice of March 7, 2023, moved:

> That the Standing Senate Committee on Official Languages be authorized to examine and report on minority-language health services, including matters related to the following:
>
> (a) the inclusion of language clauses in federal health transfers;

(b) population aging, including the ability to obtain health care, long-term care and home care in one's own language, which encompasses linguistic resources to support caregivers, the quality of life of seniors and disease prevention;

(c) access to minority-language health services for vulnerable communities;

(d) the shortage of health professionals in public and private facilities serving official language minority communities and the language skills of health care personnel in these facilities;

(e) the needs of francophone post-secondary institutions outside Quebec and anglophone post-secondary institutions in Quebec respecting recruitment, training and support for future graduates in health-related fields;

(f) telemedicine and the use of new technologies in the health sector, including the associated language challenges; and

(g) the needs for research, evidence and solutions to foster access to health care in the language of one's choice; and

That the committee submit its final report to the Senate no later than October 31, 2024, and that the committee retain all powers necessary to publicize its findings for 180 days after the tabling of the final report.

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

Hon. Senators: Agreed.

(Motion agreed to.)

BUSINESS OF THE SENATE

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate): Honourable senators, with leave of the Senate and notwithstanding rule 5-13(2), I move:

That the Senate do now adjourn.

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

Hon. Senators: Agreed.

(*At 5:47 p.m., the Senate was continued until Tuesday, March 21, 2023, at 2 p.m.*)

CONTENTS

Thursday, March 9, 2023

PAGE

SENATORS' STATEMENTS

Black History Month
Hon. Brian Francis . . . 3075

2023 Canada Winter Games
Hon. Donald Neil Plett . . . 3075

Visitor in the Gallery
The Hon. the Speaker . . . 3076

The Late Peter A. Herrndorf, C.C., O.Ont.
Hon. Mary Coyle . . . 3076

International Women's Day
Hon. Pierre-Hugues Boisvenu . . . 3076

The Late Marcel A. Desautels, O.C.
Hon. Raymonde Gagné . . . 3077

Persecution of Bahá'í People in Iran
Hon. Mobina S. B. Jaffer . . . 3077

ROUTINE PROCEEDINGS

Treasury Board
2023-24 Departmental Plans Tabled
Hon. Marc Gold . . . 3078

Rules, Procedures and the Rights of Parliament
Fifth Report of Committee Tabled
Hon. Diane Bellemare . . . 3078

National Framework on Cancers Linked to Firefighting Bill (Bill C-224)
First Reading . . . 3078

Arab Heritage Month Bill (Bill C-232)
First Reading . . . 3078

QUESTION PERIOD

Foreign Affairs
Election Integrity
Hon. Donald Neil Plett . . . 3078
Hon. Marc Gold . . . 3078
Hon. Leo Housakos . . . 3079

Finance
Task Force on Women in the Economy
Hon. Tony Loffreda . . . 3080
Hon. Marc Gold . . . 3080

Health
Discrimination Based on Sexual Orientation
Hon. René Cormier . . . 3081

PAGE

Hon. Marc Gold . . . 3081
Health Transfers
Hon. Larry W. Smith . . . 3081
Hon. Marc Gold . . . 3081

Agriculture and Agri-Food
Live Horse Exports
Hon. Pierre J. Dalphond . . . 3082
Hon. Marc Gold . . . 3082

Canadian Heritage
Sport Canada
Hon. Marilou McPhedran . . . 3082
Hon. Marc Gold . . . 3082

Foreign Affairs
Canada-China Relations
Hon. Pierre-Hugues Boisvenu . . . 3083
Hon. Marc Gold . . . 3083

Answers to Order Paper Questions Tabled
National Defence—Infrastructure
Hon. Marc Gold . . . 3083
National Defence—Military Family Appreciation Day
Hon. Marc Gold . . . 3083

Delayed Answers to Oral Questions
Hon. Marc Gold . . . 3083

Employment and Social Development
Canada Disability Benefit . . . 3083

Fisheries and Oceans
Great Lakes Fishery Commission . . . 3084

ORDERS OF THE DAY

Business of the Senate
Hon. Raymonde Gagné . . . 3084

Criminal Code (Bill C-39)
Bill to Amend—Third Reading
Hon. Stan Kutcher . . . 3084
Hon. Fabian Manning . . . 3088
Hon. Julie Miville-Dechêne . . . 3090
Hon. Donald Neil Plett . . . 3091
Hon. Yuen Pau Woo . . . 3094
Hon. Yonah Martin . . . 3096

Canada Disability Benefit Bill (Bill C-22)
Bill to Amend—Second Reading
Hon. Marilou McPhedran . . . 3097
Hon. Dennis Glen Patterson . . . 3099
Referred to Committee . . . 3100

Judges Act (Bill C-9)
Bill to Amend—Second Reading
Hon. Denise Batters . . . 3100

CONTENTS

Thursday, March 9, 2023

PAGE

Referred to Committee 3103

Online News Bill (Bill C-18)
Second Reading—Debate Continued
Hon. Donna Dasko 3103
Hon. Colin Deacon 3105

Royal Assent 3108

Adjournment
Motion Adopted
Hon. Raymonde Gagné 3108

PAGE

Legal and Constitutional Affairs
Committee Authorized to Extend Date of Final Report on Study of Matter of Self-induced Intoxication
Hon. Brent Cotter 3108

Official Languages
Committee Authorized to Study Minority-language Health Services
Hon. René Cormier 3108

Business of the Senate
Hon. Raymonde Gagné 3109