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OFFICIAL REPORT
(HANSARD)

Wednesday, April 26, 2023

The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Wednesday, April 26, 2023

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

Prayers.

SENATORS' STATEMENTS

THE HONOURABLE MICHÈLE AUDETTE

CONGRATULATIONS ON MOOSE HIDE CAMPAIGN HONOUR

Hon. Jane Cordy: Honourable senators, I would first like to acknowledge that we meet here today on the unceded territory of the Algonquin Anishinaabe Nation.

I'm delighted to share that I am rising today to offer my congratulations to one of our colleagues who was honoured this morning.

The Moose Hide Campaign, a grassroots Indigenous-led movement that is dedicated to ending gender-based and domestic violence, has a campaign that features a moose-hide pin. I know many of you have seen these and, looking around now, I see that many of you are wearing one today. These pins aim to spark conversations and bring more awareness to these important issues that impact too many people. Working together, particularly by engaging men and boys, is a crucial component in the work to end domestic and gender-based violence.

To date, 4 million moose-hide pins have been distributed, and a ceremony was held earlier in the Senators Lounge to present the four-millionth pin. Our very own Senator Michèle Audette was the deserving recipient of that milestone pin. Her dedication to reconciliation is a model for us all.

Having these conversations is indeed important, but doing the work is the only way we will see change. Members of the PSG — the Progressive Senate Group — are inspired by the Algonquin word "*mamidosewin*," which means "meeting place" and "walking together." I am so honoured to be walking together with Senator Audette.

Honourable senators, please join me in congratulating Senator Audette for this recognition. *Félicitations, mon amie*. For all your hard work, *tshinashkumitin*.

Hon. Senators: Hear, hear.

[*Translation*]

AWACAK

Hon. Michèle Audette: Your Honour, Senator Cordy and Anishinaabe people, I am speaking to you.

[*Editor's Note: Senator Audette spoke in an Indigenous language*.]

Esteemed colleagues, I would like to share with you some information and an important message about the resolve and dedication of families and individuals in Quebec communities who have worked hard for years to find out what happened to their children when they were hospitalized. We are talking about missing or deceased babies who never came home.

The National Inquiry into Missing and Murdered Indigenous Women and Girls, in Quebec, was able to hear from families from Atikamekw, Innu, Anishinabek and other nations in the course of its inquiries. They talked about losing a baby following hospitalization between 1950 and 1980.

Imagine if it were your child, in 2023. It would be a scandal. What is even more upsetting is that these families were asked if they knew where their child was buried. They do not know. Grief contends with doubt. Again, if it were my child, I would want to know why they died and where they are.

Call for Justice 20 gave the Government of Quebec an important mandate to introduce a bill, which has since become law. The families know how their babies died and where they are buried, and that is important. We're talking about 120 little beings of light who never returned home after the hospitalizations. My colleagues can appreciate why I care so deeply about commissions of inquiry, regardless of the subject.

I want to say thank you to the Atikamekw, Anishinaabeg and Innu families, as well as all other First Nations families, for their courage and for their word, which has become part of Canada's truth. I also thank the people from Quebec and Canada who work to share information with everyone who is looking for answers.

Most importantly, colleagues, I want to tell you that this is just the beginning of a truth that has been hidden for too long. *Tshinashkumitin*.

[*English*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Dr. Nili Kaplan-Myrth and her family. They are the guests of the Honourable Senator Boyer.

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

Hon. Senators: Hear, hear!

WORLD INTELLECTUAL PROPERTY DAY

Hon. Colin Deacon: Honourable senators, today is World Intellectual Property Day, established by the UN's World Intellectual Property Organization to build awareness of how

patents, copyrights, trademarks and designs impact daily life and to celebrate the economic and social contributions of creators and innovators.

I want to focus on that second point: the contribution of IP to the Canadian economy.

Intangible assets such as IP, data and software now make up over 90% of the S&P's market value. In the 1970s and 1980s, physical assets — things like natural resources and land — were overwhelmingly valued. That world is no longer. Today, investors look for companies that control valuable IP and data. They use those assets to control markets and capture superior economic rents from the work of others all around the globe. Think of the global efforts to control natural resources and land and you will have some sense of the battle that is currently raging to control intangible assets like IP. Those who control crucial IP can control access to markets and information.

But, globally, Canada has not yet adjusted to this highly technical, highly strategic global transformation.

Consider that about half of the patents that protect Canada's publicly funded IP are transferred to foreign-owned entities once issued. As a result, that research output creates opportunities and wealth elsewhere in the world. The annual gross income earned from the IP licensed by Canadian universities produces a paltry 1.3% return on the $7 billion invested annually through university-based research in Canada.

We are investing in research without a modern strategy to protect and grow its economic value for the benefit of Canadians.

Some believe in the strategy of incentivizing foreign-owned tech giants to build IP branch plants or research facilities in Canada. But, yet again, the resulting IP leaves our country and creates wealth elsewhere.

• (1410)

Former Google CEO Eric Schmidt thanked Canada for the talent and IP that now underpins its business model. Some celebrated; I did not.

Canada's IP problem results from a policy belief system that assumes that investments in research automatically convert into opportunity and wealth. This misconception has been sustained through both the Conservative government and the Liberal government who've each led our country for similar periods — over the last 40 years — where Canada's living standards have declined steadily in relative terms. This trend is projected to continue — unless we change. We can quickly turn this around; we have the talent. But I fear that our investments in research will continue to diminish unless we finally implement a coordinated strategy that converts our best IP into, yes, Canadian jobs but also, even more importantly, into Canadian opportunities and Canadian prosperity.

Thank you, colleagues.

Hon. Senators: Hear, hear.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Jitinder Singh, Chief Executive Officer of Milli Micro Systems. He is the guest of the Honourable Senator Marwah.

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

Hon. Senators: Hear, hear!

THE HONOURABLE PETER M. BOEHM

CONGRATULATIONS ON KNIGHT COMMANDER'S CROSS OF THE ORDER OF MERIT OF THE FEDERAL REPUBLIC OF GERMANY

Hon. Stan Kutcher: Honourable senators, our recent break made it impossible for most of us to celebrate a rare event that acknowledged the many achievements of one of us — yet it went by relatively unnoticed. Today, it gives me great pleasure to draw to our attention an achievement of one of our colleagues — a senator whom many of us look up to; someone who is easy to spot in a crowded reception; a senator whom I am privileged to call a colleague, friend and seatmate.

About two weeks ago, Senator Peter Boehm received the Knight Commander's Cross of the Order of Merit of the Federal Republic of Germany.

This award was created by Theodor Heuss, the first President of the Federal Republic of Germany, on September 7, 1951 — three years before Senator Boehm was born.

[*Editor's Note: Senator Kutcher spoke in German.*]

It recognizes special achievements in political, economic, cultural, intellectual or honorary fields.

A look through the names of recipients shows that Senator Boehm is one of only a small number of non-German nationals who have been so honoured. He stands with people such as Umberto Eco, the great Italian writer whose novels *The Name of the Rose* and *Foucault's Pendulum* were likely read by most of us; Viktor Frankl, the psychiatrist whose autobiography *Man's Search for Meaning* should be essential reading for everyone; Pascal Lamy, the former director-general of the World Trade Organization; Jean-Marie Lehn, who received the Nobel Prize for Chemistry; Sviatoslav Richter, one of the greatest pianists of the last century; Uğur Şahin, the founder and CEO of BioNTech; Billy Wilder, who won five Academy Awards as a director and screenplay writer; and, of course, our own Senator Omidvar, who received the Cross of the Order of Merit of the Federal Republic of Germany in 2014.

Our Peter certainly moves in distinguished company.

We all know that he had an outstanding diplomatic career that included being the Deputy Minister for the G7 Summit and the Personal Representative of the Prime Minister, the Deputy Minister of International Development, the Senior Associate Deputy Minister of Foreign Affairs and the Ambassador to Germany.

We also know of his commitment to and wise counsel in the work of this chamber, as well as his dedication to improving the lives of those who live with disabilities, especially the autism spectrum disorder.

However, as his seatmate, I am privileged to know a bit more. He has a wickedly dry sense of humour. He has an encyclopedic knowledge of popular music and great taste in colourful socks.

Please join me in congratulating Senator Boehm on his recent award. It is an honour that brings status not only for him personally, but also to this chamber.

[*Editor's Note: Senator Kutcher spoke in German.*]

Hon. Senators: Hear, hear.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Lise Crouch. She is the guest of the Honourable Senator Busson.

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

Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Chief Petty Officer First Class Gilles Grégoire and his wife Denise. They are the guests of the Honourable Senator Patterson (*Ontario*).

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

Hon. Senators: Hear, hear!

[*Translation*]

ROUTINE PROCEEDINGS

ADJOURNMENT

NOTICE OF MOTION

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

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

CRIMINAL CODE
SEX OFFENDER INFORMATION REGISTRATION ACT
INTERNATIONAL TRANSFER OF OFFENDERS ACT

BILL TO AMEND—FIRST READING

Hon. Marc Gold (Government Representative in the Senate) introduced Bill S-12, An Act to amend the Criminal Code, the Sex Offender Information Registration Act and the International Transfer of Offenders Act.

(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*]

COMMONWEALTH PARLIAMENTARY ASSOCIATION

COMMONWEALTH PARLIAMENTARY CONFERENCE, AUGUST 20-26, 2022—REPORT TABLED

Hon. Salma Ataullahjan: Honourable senators, I have the honour to table, in both official languages, the report of the Commonwealth Parliamentary Association concerning the Sixty-fifth Commonwealth Parliamentary Conference, held in Halifax, Nova Scotia, from August 20 to 26, 2022.

HUMAN RIGHTS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO HOLD IN CAMERA MEETINGS FOR ITS STUDY ON ISSUES RELATING TO HUMAN RIGHTS GENERALLY

Hon. Salma Ataullahjan: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That, notwithstanding rule 12-15(2), the Standing Senate Committee on Human Rights be empowered to hold in camera meetings for the purpose of hearing witnesses and gathering specialized or sensitive information in relation to its study of human rights generally, specifically on the topic of anti-racism, sexism and systemic discrimination in the Canadian Human Rights Commission.

STUDY ON ISSUES RELATED TO ITS MANDATE—NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO REQUEST A GOVERNMENT RESPONSE TO THE FOURTH REPORT OF THE COMMITTEE ADOPTED DURING THE SECOND SESSION OF THE FORTY-THIRD PARLIAMENT

Hon. Salma Ataullahjan: Honourable senators, I give notice that, two days hence, I will move:

> That, pursuant to rule 12-24(1), the Senate request a complete and detailed response from the Government to the fourth report of the Standing Senate Committee on Human Rights, entitled *Human Rights of Federally-Sentenced Persons*, tabled in the Senate on June 16, 2021 and adopted on June 23, 2021, during the Second Session of the Forty-third Parliament, with the Minister of Public Safety being identified as minister responsible for responding to the report, in consultation with the Minister of Justice and Attorney General of Canada, the Deputy Prime Minister and Minister of Finance, the Minister of Indigenous Services, the Minister of Crown-Indigenous Relations, the Minister for Women and Gender Equality and Youth, as well as the Minister of Housing and Diversity and Inclusion.

QUESTION PERIOD

PRIME MINISTER'S OFFICE

PIERRE ELLIOTT TRUDEAU FOUNDATION

Hon. Donald Neil Plett (Leader of the Opposition): Senator Gold, when you are questioned about the Prime Minister's many ties to the Pierre Elliott Trudeau Foundation, you simply reply that there are no links between them and that I should stop asking you about it.

• (1420)

La Presse reports that the wall the Prime Minister said divides him from the Trudeau Foundation is found in his own office building down the street. On April 16, a meeting took place there between five deputy ministers and the foundation.

The wall between the Prime Minister and the Trudeau Foundation reminds me of the wall that exists between the Trudeau government and the new independent Senate. Both walls are so thin, they exist only in the Prime Minister's mind and — quite frankly, Senator Gold — in yours.

Canadians see the truth for what it is. Time allocation votes always allow the public to see who represents the government and who doesn't. Last night's vote exposed that truth, didn't it leader?

Hon. Marc Gold (Government Representative in the Senate): I have been saying for three and a half years that I am proud to be the Government Representative in the Senate — that is, although I was named as government leader because that's what the Parliament of Canada Act required at the time, I was asked by the Prime Minister to style myself as representative of the government. If this is news to you, honourable colleagues, I am glad to clear that up.

To your question: Neither the Prime Minister nor the Prime Minister's staff participated in the meeting to which you were alluding in your reference to *La Presse*. The Prime Minister had no such knowledge of this meeting. It took place in a public service building, as you know. I'm sure you have been in the Langevin Block in your days when your party was in government. You know very well how vast and multi-purpose that building is.

In fact, according to research undertaken by *La Presse*, the Prime Minister's schedule for that day — April 11 — contained no reference to this round table. Again, this is an example where the allegations just simply do not hold up.

Senator Plett: Well, Senator Gold, your fig leaf is, in fact, getting smaller by the day. Yesterday, the Speaker ruled you were the Leader of the Government in the Senate — in the Rules. Hold your hands up and shake your head all you want, you can't one day be a representative and the next day the leader. It's one or the other.

The similarities are very clear, leader. The Prime Minister says he has no connection to the Trudeau Foundation, even though his government and his family can appoint members. His brother was involved in Beijing's $200,000 gift. At least one meeting took place in his own office between government officials and the foundation. The Prime Minister says the senators he appoints are independent, even though the Prime Minister's Office uses a Liberal list — a Liberal Party database of donors and supporters — to screen the nominees in this place. The Trudeau Foundation has ties to the Senate appointments advisory board. Senators appointed by Prime Minister Trudeau overwhelmingly vote for his government — 96%.

Government leader, do you understand that you cannot claim to have a non-partisan Senate while also checking to see if candidates for Senate appointments took Liberal lawn signs during the last election campaign?

Senator Gold: Well, many of the premises, assumptions and assertions in your question are simply false, and I am not going to take the time to catalogue them.

The process of appointing senators — and the senators that were appointed according to that process — is a fair, open and transparent one. It has provided a diversity of views, backgrounds, expertise and perspectives unparalleled in the history of this Senate. If it is true that we are still embarked upon a slow and sometimes painful progress towards a more effective, efficient and less partisan Senate, it is not because of the imputations you made yesterday and again today of interference in this Senate by the government or the Prime Minister's Office, whether it's with regard to Speaker's rulings and interpretation of the Rules.

Let us be clear. You are entitled, and I respect the position of the opposition. You know I do, and I said so publicly long before I took this position. I also respect facts, and I respect the fact — and these are facts on the ground — that we are serving Canadians well in this Senate, and it is thanks in no small measure to the devotion of the people sitting here, regardless of who appointed them.

[*Translation*]

FOREIGN AFFAIRS

PRIME MINISTER'S TRAVEL

Hon. Claude Carignan: My question is for the proud Leader of the Government. Senator Gold, you gave Senator Plett a rather clear answer about how the Prime Minister didn't know that there was a meeting of the Pierre Elliott Trudeau Foundation just a few feet from his office in an annex. I don't know whether you have ever been to his office, but the room in question is quite close to it — and yet the Prime Minister did not know that was happening.

Can you answer my question? Does the Prime Minister at least know whether he paid for his infamous $9,000-a-night vacation to Jamaica? Did he pay for that? Can you answer that question?

If you can answer that he didn't know there was a meeting four steps away from his office, then I would imagine that you have had the information about whether the Prime Minister paid for his vacation out of his own pocket for about two weeks now. The credit card statements for December and January have arrived.

Hon. Marc Gold (Government Representative in the Senate): Unfortunately, I do not have that information.

Senator Carignan: How can you not have that information? Why is it so hard to get such simple information? The credit card statements from December and January arrived weeks ago. How can you not have this information? This is a serious matter.

Senator Gold: It is serious, and I told you the truth. I do not have that information.

[*English*]

WOMEN AND GENDER EQUALITY

WOMEN'S SHELTERS

Hon. Donna Dasko: I do have a serious question. Thank you.

My question is to the Government Representative in the Senate. Senator Gold, CBC reported this week that more than 600 women's shelters across Canada will soon lose hundreds of millions of dollars in federal funding. According to a national survey I commissioned in late 2021, 83% of Canadians think that violence in the home is a very important problem facing women, and almost as many — 77% — say that violence against women in society at large is a very important problem facing Canadian women. Indeed, violence against women is seen as the most important issue facing women in this country by both women and men.

Women's shelters play a vital role in assisting women fleeing violence across this country by providing a place to go where they can find support. Senator Gold, can you explain to us the government's intentions and plans with respect to funding these shelters? Thank you.

Hon. Marc Gold (Government Representative in the Senate): Thank you very much for the question. It's always a timely one — no less so today for reasons we all heard.

The government is deeply committed to addressing the issues and working to eradicate gender-based violence in Canada — focused very much on the safety of vulnerable women. As we know — in the course of the pandemic as well as after — in a series of budgets, the government provided hundreds of millions of dollars of additional funding to support women's shelters because, tragically — predictably perhaps, but tragically — the isolation and the forced isolation had devastating effects on those who were living at risk in their homes.

• (1430)

The National Action Plan to End Gender-Based Violence and the historic investments in Budget 2022 of over $530 million are key to support that work. I'm advised that Minister Ien is at the table actively in negotiations with provincial and territorial counterparts as a key step in implementing this plan. And if I can just say, personally, my dear wife Nancy has long been involved in a women's shelter in Montreal. It touches all of our lives in so many different ways. The government is doing its part, as much as it can, with provinces and territories and the private sector, frankly, to support this important work.

OFFICIAL LANGUAGES

BUSINESS OF THE COMMITTEE

Hon. Jim Quinn: My question is for Senator Cormier in his capacity as Chair of the Standing Committee on Official Languages, or OLLO.

The Official Languages Committee undertook an exhaustive pre-study on Bill C-13. However, recently, the House of Commons Official Languages Committee made substantial changes to the bill at the request of the Government of Quebec. As a government priority, I expect the bill to be in the Senate soon. My question is as follows: Given New Brunswick's unique constitutional position as the only bilingual province and the Senate's role to give a voice to official language minority communities, what is the committee's plan to ensure the bill is reflective of the views of francophones in New Brunswick and support the development of French and English linguistic minority communities in Canada?

Hon. René Cormier: Thank you for your question, Senator Quinn.

I recognize your passion and dedication for New Brunswick, and I appreciate having received your very important question in advance, so I will make sure I answer it properly.

With respect to the current process of modernizing our country's Official Languages Act, the OLLO committee has always been and will continue to be very sensitive to the issues affecting official language minority communities, such as francophones in New Brunswick. I can assure you that francophones outside of Quebec, along with the English linguistic minorities in Quebec, have been and will continue to be heard by our committee and their interests are taken into due consideration. Actually, they are at the core of Bill C-13.

For instance, between 2017 and 2019 our committee conducted a comprehensive five-part study on the perspective of Canadians on the modernization of the act, including those of official language minority communities. During that study, we heard from approximately 300 witnesses, including nearly 200 in committee sessions and in 100 informal discussions during our study missions, which were held actually in places like Prince Edward Island and New Brunswick. Last year, as you mentioned, our committee conducted a pre-study of Bill C-13 where we have heard from organizations and experts on some of the provisions that will directly support the vitality and development of French and English linguistic minority communities in Canada, such as those related to positive measures to be taken by federal institutions. I invite you, senator, to consult our final report, which details some of the witnesses' comments and observations in this regard.

Finally, concerning New Brunswick, it is not forgotten in Bill C-13. The province is explicitly mentioned six times in the bill, namely in the preamble and Part VII. It is mentioned that the Constitution provides that English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and Government of New Brunswick, and that the Constitution provides that the English language linguistic community and the French linguistic community in New Brunswick have equality of status and equal rights and privileges.

[*Translation*]

IMMIGRATION, REFUGEES AND CITIZENSHIP

TEMPORARY FOREIGN WORKER PROGRAM

Hon. Amina Gerba: Honourable senators, my question is for the Government Representative in the Senate. The labour shortage is forcing employers to turn to temporary foreign workers. In 2022, Quebec welcomed 38,500 temporary workers, an increase of more than 50% compared to 2018.

However, a documentary entitled *Essentiels*, which recently aired on Télé-Québec, reveals that temporary immigrants who often arrive in Canada with closed work permits experience inhumane working conditions at their sole employer. Moreover, they are not allowed to settle in Canada.

Senator Gold, what is the government doing to end these slavery-like practices experienced by temporary workers who play a vital role in our country?

Hon. Marc Gold (Government Representative in the Senate): Thank you for the question. The mistreatment and abuse of temporary foreign workers is completely unacceptable, period. Everyone deserves to work in a safe and healthy workplace with dignity. That is why the Government of Canada requires all employers to provide all temporary foreign workers with information about their rights in Canada. It prohibits employers from retaliating against workers and it prohibits employers from charging workers recruitment fees.

The Government of Canada has committed to strengthening these integrity measures to ensure that temporary foreign workers work in a safe and decent environment.

Senator Gerba: Senator Gold, why are these men and women who feed us and take care of us not allowed to settle in Canada?

Senator Gold: That is a good question. Thank you for asking it.

As you know, temporary foreign workers play an essential role in the Quebec and Canadian economy. Employers are having a hard time meeting their labour needs and the availability of temporary foreign workers is an important issue for Quebec, where the unemployment rate was 4.2% in March.

The government is implementing a pilot project in Quebec for temporary foreign workers. The purpose of the project is to ensure that intermediate-skilled jobs are included in the facilitated process. The government also signed a new agreement with Quebec to allow key sectors to welcome more temporary foreign workers without displacing local workers.

That is an example of strong collaboration that can help us build the workforce we need and then ensure that foreign workers are able to find a new life with us here in Canada.

[*English*]

PRIME MINISTER'S OFFICE

OFFICE OF THE GOVERNMENT REPRESENTATIVE

Hon. Denise Batters: Senator Gold, in Speaker Furey's ruling last night on the time allocation point of order, he quoted and relied upon the first sentence of the definition of the government leader from the Senate Rules. Senator Gold, speaking about you as Leader of the Government or government leader, Speaker Furey said, "The Senator who acts as the head of the Senators belonging to the Government party."

So, Senator Gold, after seven and a half years of you, your predecessor Senator Peter Harder, Prime Minister Justin Trudeau and senior minister Dominic LeBlanc stating frequently and unequivocally that the Trudeau Government Representative doesn't belong to the government party, according to Speaker Furey's ruling, you do. Because this is required under the Senate Rules so you can use your cherished newfound time allocation power, can you confirm, Senator Gold, that you, Senator Gagné and Senator LaBoucane-Benson all belong "to the Government party" — that is, the Liberal Party of Canada?

Hon. Marc Gold (Government Representative in the Senate): I will answer your question, Senator Batters. I will answer your question. But I'm also first going to say what has kept me very preoccupied since yesterday. Our Speaker made a ruling. You had the right to challenge the ruling. I'm looking at you collectively.

Senator Plett: So did you.

Senator Gold: You failed in your effort to overturn. The fact that you continued to return to it both yesterday and now in the question, in my opinion, shows disrespect to the office of the Speaker, to the individual — I'm talking about you; I'm talking about this continual return to an issue — I'm sorry that you lost your vote. My heart is breaking. The fact is, the interpretation was correct. I will answer your question if you'll allow me to continue.

• (1440)

I consider that this line of questioning, the insinuations that you have made and that continue to percolate beneath the surface are disrespectful to the office of the Speaker and, indeed, to the person of the Speaker and to this institution, and I think it is an example of public discourse that breeds delegitimization of our important institutions. Apart from the fact of having spent an entire career and life interpreting legal text, studying writing and teaching the subject, I can tell you that the interpretation the Speaker gave was correct.

Having said that, I will answer your question. I am not a member of the Liberal Party. I represent the government in this place. That has been my role and my predecessor's role, which he and I were and are privileged to do, and that's the end of it. It's a simple matter of fact. You can say whatever you want. You can impugn the independence of our colleagues in this chamber because of who appointed them or how they vote. I'm not impugning your integrity, colleagues. You've asked a question, and I've answered it. I'm not a member of the Liberal Party, neither is Senator Gagné or Senator LaBoucane-Benson. We represent the government in the Senate. It's a big job, and we are proud to do it.

Senator Batters: Senator Gold, I'm quoting the definition that the Speaker quoted in his ruling, the definition that is in the Senate Rules.

We know that in the Liberal Party of Canada membership has its privileges, so does the Trudeau Foundation. Senator Gold, in 2017, you proclaimed that you were "not affiliated with any political party," not a member of a political caucus, and you defined yourself as "non-partisan." You, Senator Gagné and Senator LaBoucane-Benson were all appointed to the Government Representative Office from the Independent Senators Group, or ISG, and I know that it is ISG policy that you must declare your party memberships.

Senator Gold, because of this ruling put out last night and the definition that is contained in the Senate Rules that you must belong to a government party, I guess you've become a member of the governing Liberal Party some time since 2017. When was that? Did all three of you declare your party memberships in the Liberal Party of Canada when you were in the ISG, or have you just become members of the governing Liberal Party since Justin Trudeau named you to his Senate leadership team?

Senator Gold: I am going to really try to show you the respect that I think we all deserve in this place, Senator Batters. I did not declare a membership in the Liberal Party because I was not a member of the Liberal Party. I am not a member of the Liberal Party.

I'm going to be very careful here. Your insistence on reading the *Rules of the Senate* independent of any principle of interpretation and independent of any sensibility that it is not simply the black-letter rules but what lies behind them, including the Parliament of Canada Act and our conventions and practices here, is surprising for someone with a legal background. You know better. The *Rules of the Senate* have to be, have been and will continue to be interpreted in light of the basic principles that define how we interpret normative texts, not only laws and not only rules of Parliament, but even literary texts. This is Law School 101.

Now, we're in a political institution and we're in a partisan environment, as you have celebrated, but it doesn't change the facts. You asked me a question, and I've answered it. If you ask me again tomorrow, you're going to get the same answer.

FOREIGN AFFAIRS

HUMAN RIGHTS IN TÜRKIYE

Hon. Leo Housakos: Government leader, our problem isn't with the Speaker's ruling in itself; our problem is that this government likes to bend the rules to meet their political narrative. All you have to do is take out a Liberal Party membership, and you can move time allocation, you can be the government leader as per the Constitution. Life moves on, and we don't have to have these debates.

My question is for the Leader of the Government, which happens to be a Liberal government, but I digress. Last week, I raised my concern in this chamber about the troubling human rights situation in Türkiye, in particular, the abduction, torture and detention by regime officials of eight Canadians. The Kaçmaz and Acar families, with whom I met personally last month, filed a submission with Global Affairs asking the Government of Canada to implement targeted sanctions on 12 Turkish officials responsible for gross violations of human rights committed against them and against their friend Gökhan Açikkollu, who was tortured to death in a Turkish prison around the same time. Senator Gold, can you please confirm to this chamber if the government intends to implement targeted sanctions on these 12 Turkish officials, and if not, why not?

Hon. Marc Gold (Government Representative in the Senate): Senator, thank you for raising this. It's a serious and tragic issue, and I don't know what the government's current plans are around the sanctions in this area. I'll have to make inquiries and get an answer as best as I can.

Senator Housakos: Thank you, government leader, I will appreciate that. They've already filed this brief with Global Affairs Canada a number of weeks ago, and I think these Canadians of Turkish descent deserve an answer on these issues. We have an obligation.

Despite all the nice words from the current government in regards to human rights, we have a long list of inaction that illustrates a broader problem when it comes to our sanctions regimes. They're used inconsistently and in a manner that is overtly politicized, in my opinion.

The Erdoğan regime has committed widespread and serious human rights violations for many years. Since 2016, it has detained over 300,000 people. Detainees were tortured and raped, and hundreds have died. The latest data from the UN Refugee Agency indicates that 1.3 million people have been forcibly displaced from Türkiye, and over 4,000 of these refugees are living right here, thank God, in Canada. Yet the Government of Canada has failed to place a single Turkish official on the sanctions list. When will your government do the right thing, and when will we start using our sanctions tool box to protect the human rights of Canadians of Turkish descent?

Senator Gold: Thank you for the question. I don't know what the status is of the considerations around these issues. The sanctions regime that has been put in place has been used effectively by this government in a number of settings, as you know and as I've reported in previous Question Periods. It is a process that is informed by input from various instances, security agencies and others. I'll make inquiries, senator, and try to get an answer as quickly as I can.

HUMAN RIGHTS IN MYANMAR

Hon. Marilou McPhedran: My question is for Senator Gold. On February 1, 2021, Myanmar's military took power in a coup, abruptly halting the country's fragile transition toward democracy. More than 16,000 people have been arrested, many tortured and executed. Almost 700,000 persecuted people, mostly Rohingya, have been forced to abandon their homes and are living in the world's largest refugee camp in Bangladesh.

The economy is in crisis. Public services have collapsed. UN rapporteurs assert that the Tatmadaw military's actions meet criteria for war crimes and crimes against humanity. Canada has responded to this crisis, for the most part, via coordinated sanctions with international partners, with one notable difference: the oil and gas industry.

Gas revenues sustain the Myanmar's Tatmadaw junta. Last month, Chevron, the American multinational energy corporation, announced it was selling its 41% stake in Myanmar's Yadana gas field project to Et Martem Holdings, based in the tax haven of Bermuda and a subsidiary of Edmonton-headquartered MTI Energy. Chevron and TotalEnergies, a French company, previously announced in January that they're exiting the country.

Senator Gold, how does Canada allow this kind of support for Myanmar's oil and gas, which props up the Tatmadaw? Why are Canadian companies permitted to invest in this brutal regime in Myanmar?

Hon. Marc Gold (Government Representative in the Senate): Thank you. I don't have a full answer for you, senator, because I'm not aware of the circumstances surrounding the sale, the subsidiary and the offshore company. I don't want to pretend that I could unravel that without knowing more.

• (1450)

I will say, though — as you properly pointed out — the government has, with its allies, imposed sanctions on the regime and on officials who are responsible for the arms trade, facilitating arms and the like, and more recently — or at least subsequently — announced additional sanctions on individuals, but also including a new prohibition on the export, sale, supply and shipment of aviation fuel, which fuels the Myanmar military regime. That signals to me that the government is aware of the importance of cutting off the oil — in this case, the fuel — that fuels the military power of this regime.

I'll make inquiries with regard to your question and try to get an answer as quickly as I can.

ORDERS OF THE DAY

ONLINE STREAMING BILL

BILL TO AMEND—MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND NON-INSISTENCE UPON SENATE AMENDMENTS—MOTION IN AMENDMENT—MOTION IN SUBAMENDMENT—DEBATE

On the Order:

Resuming debate on the motion, as amended, of the Honourable Senator Gold, P.C., seconded by the Honourable Senator LaBoucane-Benson:

That, in relation to Bill C-11, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts, the Senate:

(a) agree to the amendments made by the House of Commons to its amendments; and

(b) do not insist on its amendments to which the House of Commons disagrees;

That the Senate take note of the Government of Canada's public assurance that Bill C-11 will not apply to user-generated digital content and its commitment to issue policy direction to the Canadian Radio-television and Telecommunications Commission accordingly; and

That a message be sent to the House of Commons to acquaint that house accordingly.

And on the motion in amendment of the Honourable Senator Plett, seconded by the Honourable Senator Housakos:

That the motion, as amended, be further amended:

1. by replacing sub-paragraph (b) by the following:

"(b) insist on its amendments to which the House of Commons disagrees;";

2. by adding, before the final paragraph, the following new paragraph:

"That, pursuant to rule 16-3, the Standing Senate Committee on Transport and Communications be charged with drawing up the reasons for the Senate's insistence on its amendments; and"; and

3. by replacing, in the final paragraph, the words "That a message be sent" by the words "That, once the reasons for the insistence have been agreed to by the Senate, a message be sent".

And on the subamendment of the Honourable Senator MacDonald, seconded by the Honourable Senator Housakos:

That the motion in amendment be amended:

1. in the proposed new wording for sub-paragraph (b), by replacing the words "amendments to which the House of Commons disagrees;" by the following:

"amendment 3 to which the House of Commons disagrees; and

(c) do not insist on its other amendments to which the House of Commons disagrees;"; and

2. in the proposed new paragraph empowering the Standing Senate Committee on Transport and Communications to develop the Senate's reasons for its insistence, by replacing the word "amendments" by the word "amendment".

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, I'm rising today again to speak to Senator Gold's motion regarding the message from the House of Commons on Bill C-11, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts. Specifically, I am speaking to the subamendment proposed by Senator MacDonald.

Senator MacDonald moved that Bill C-11 be amended to insist that amendment 3 be insisted upon by the Senate. Senator MacDonald was quite right when he stated a few days ago that this amendment really lies at the core of the amendments that the Senate sent back to the House just a few weeks ago.

Colleagues, the Senate reviewed Bill C-11 for many months. I have said it before, but I must say it again: Bill C-11 is a bad bill. The Standing Senate Committee on Transport and Communications heard from 140 witnesses, and many of these witnesses raised issues that were very troubling to them. The minister himself indicated that the Senate had heard some 42 hours of testimony.

Why did the Senate hear from so many witnesses for such an extended period of time? The answer for that is very simple, colleagues: We heard from so many witnesses because they were Canadians who wanted and deserved to be heard. They were Canadians who were very concerned about the bill, about fairness, about their livelihood and about the impact of government meddling in things it really doesn't understand. They were often Canadians who had been denied a similar opportunity to be heard in the people's house, the House of Commons.

It has already been pointed out how often the government has introduced closure or time allocation on this bill. While the government has shamefully introduced time allocation on this bill in the Senate, before it did that it had already used that draconian tool on numerous occasions in the House of Commons. What was the result of that? Senators will remember the result was simply this: We witnessed fiasco upon fiasco in the House of Commons Standing Committee on Canadian Heritage. Members of the House voted on amendments when they weren't even sure what the amendments did. Certainly, the public had no idea what

the amendments were because no amendments were explained. No debate was permitted. No questions from government officials were permitted.

The committee was under a government-imposed guillotine, and it behaved accordingly. It behaved exactly like a kangaroo court.

I heard Senator Simons say just a few days ago:

> It is our job in the Senate to protect the Charter of Rights and Freedoms, including freedom of expression. However, while I think subsection 4.2(2) does impinge on free speech . . . it doesn't explicitly infringe on free expression. Despite the ongoing social media panic, rage farming and thought scams, this is not a censorship act, it's not a plot by the World Economic Forum, it's not a communist plot, it's not a Nazi plot and it's not an Orwellian plot. It's just, well, a flawed bill.

Those are her words. I don't know if she watched the gong show that occurred in the House of Commons where amendments were voted down by the government and NDP members without even bothering to know what the amendments were, but if that spectacle wasn't sufficient to cause alarm about implications for free speech and free debate in this country, then I suppose nothing will raise such alarm bells.

If she wasn't moved to fight for her amendment after hearing from dozens and dozens of witnesses who appeared before the Standing Senate Committee on Transport and Communications, then I suppose that there is not much that will move her to make such a fight.

What sort of fight were we talking about? At this stage, it was only a call to send this matter back to the government, at least one more time, in order to emphasize the importance of this issue for so many Canadians. We were not asking for it to go back and forth. Just one more time. Was this amendment not worth at least that? Was it not worth saying to the government that this matter had to be reconsidered?

Make no mistake, colleagues, Canadians are very concerned about numerous components of this bill. On that there can be no doubt. Because the Senate was able to hear in considerable detail how this bill will impact multiple areas and components of the broadcast sector, I would like to highlight some of those concerns.

First of all, there were many concerns related to inflexibility in the definition of "Canadian content." We certainly heard from many witnesses very concerned about this issue, an issue that was completely unaddressed by Bill C-11. Witnesses pointed out in convincing detail the implications of this. The government argues that the traditional approach to defining "Canadian content," and I quote, ". . . has been, at the centre of the definition of Canadian programs for decades . . . ."

The government also asserts that any amendment of these provisions, "would remove the ability for the CRTC to ensure that that remains the case." This response mirrors so much of what we have heard from the government on all aspects of this bill throughout this process.

When it comes to the specific matter of Canadian content, the government argues that the principle that Canadian programs are first and foremost content made by Canadians can only be defined in one way, and that, for the most part, must be the way in which the Canadian Radio-television and Telecommunications Commission, or CRTC, chooses to define it.

The government is also arguing that because this approach has been, to use its own words, ". . . at the centre of the definition of Canadian programs for decades . . ." that issue must continue to be approached in exactly that same way. As it has throughout this debate, the government is asserting that the CRTC must have full discretion on this matter. This is a position that it repeats almost like a mantra. The CRTC must have discretion.

It is a message that we have heard about varied elements of the bill — almost as a fallback slogan that acts as a substitute for a real argument. Notwithstanding the fact that the Senate may have heard from a diverse number of witnesses on this very matter, the CRTC's view must always be one that counts. The CRTC, we have to remember, is entirely appointed by the government of the day.

• (1500)

We have to be honest and say that it is very likely that the commissioners will reflect the ideological and policy orientation of the government.

Colleagues, in my view, this paternalistic and patronizing approach to defining Canadian content is completely out of place in our 21st-century world. Certainly, our Transport and Communications Committee heard that loud and clear from many of the witnesses who appeared before the committee. The common message that we heard from these people, who actually operate in the real world, was that the current official government definition of Canadian content is inflexible and outdated.

The committee did, of course, hear from some stakeholders, generally representing the larger Canadian players, that the ownership of production should remain the central component in defining what is and what is not Canadian content. We also heard from numerous smaller players who pointed to the inherent rigidity of that approach.

As was referenced repeatedly in our committee, this approach means that a program like "The Handmaid's Tale" — a story written by a Canadian and shot in Canada; a story that is, in part, about Canada and is a production in Toronto, employing Canadian actors and production people, bringing millions of dollars into Canada — is, nevertheless, colleagues, not considered Canadian content, simply because the production company happens to be American.

This inflexible approach creates significant problems. For one, it undermines investment in Canada. We heard that quite clearly in testimony from some of the big international players. David Fares, Vice President of Global Public Policy for The Walt Disney Company, told our committee on September 15:

> . . . over the last three years, we spent approximately $3 billion on content production in Canada. Each one of the productions contributes to the hiring and development of high-skilled talent in Canada and infrastructure, which actually benefits the entire AV ecosystem.

He added:

> We are also working with the local production companies . . . . We're hiring people as we build out the virtual production . . . .

But, he said, "We need a flexible regime to allow us to be able to do that."

That position is entirely understandable. If a Disney program tells a Canadian story and broadcasts that story to the world; if it hires Canadian actors, Canadian writers and a Canadian production crew to do that; if that program is shot in Canada, why should that program not be defined as Canadian content and seen as contributing to the export of Canadian culture to the world?

Addressing this basic inflexibility was what the amendment proposed in the Senate was intended to do. The amendment proposed by the Senate added a single line to the bill, and that line stated:

> (1.11) No factor set out in paragraphs (1.1)(a) to (e) is to be determinative of any matter provided for by a regulation made under paragraph (1)(b).

This amendment was based precisely on what witnesses told us that was needed.

Wendy Noss, the President of the Motion Picture Association-Canada, who appeared before our committee on October 4, stated:

> . . . the CRTC must create a modern, flexible definition of Canadian programs in order to expand opportunities for Canadian creatives; promote content made by, with or about Canadians; and bring Canadian stories to the world. We therefore propose an amendment to section 10 to ensure that "no one factor is determinative" . . . .

Senators agreed with that recommendation and they supported the amendment accordingly. But now we have the government saying that flexibility in legislation is not a good thing.

It is reasonably clear that, internally, even the Department of Canadian Heritage realizes that this position is not sustainable. A recent memo drafted by the Broadcasting, Copyright and Creative Marketplace Branch of the Department of Canadian Heritage that was obtained by Professor Michael Geist states the following:

> We assume foreign streamers are already producing shows that would qualify as Canadian content . . . but don't currently qualify because of foreign ownership. Under existing rules, the copyright holder must be a Canadian, which precludes foreign companies like Netflix from producing their own Cancon in-house. In the latest BCCM model, we estimate such "unofficial Cancon" production represents about $48 million per year. Once foreign streamers are allowed to produce their own shows (which, presumably, Bill C-11 would seek to encourage), this spending would shift toward certified Canadian content.

So the Department of Canadian Heritage privately acknowledges the reality. It tacitly acknowledges the current dilemma of the inflexible Canadian content definition. But all of that notwithstanding, the department and the government rejected the Senate amendment on this matter.

Quite frankly, colleagues, the government's position is one of pure stubbornness, and, with this closure motion, they are seeking to ensure that this issue is not discussed any further. The government is saying "no" to legislative direction and, instead, it proposes to rely on a CRTC regulatory process that is likely to take years. How many jobs and how much opportunity will be lost in the interim?

I find the government's approach of simply closing off debate on this and other issues draconian. It did exactly the same thing on numerous occasions in the House, and I find it to be highly objectionable. I lament that government-appointed senators have simply acquiesced with this same draconian tactic.

Then there is the concern about age verification, one of the other matters that this closure of debate will ensure cannot be addressed or insisted upon. I have spoken about this issue before, and it relates to Senator Miville-Dechêne's proposed amendment to incorporate an age verification requirement when it comes to the viewing of explicit adult content. Bill C-11 is, after all, "An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts."

Such an amendment was perfectly suited to this bill and well within its scope, so the Senate adopted it because we believed in its importance. So why did the government reject this amendment? To quote the government's own words, it did so because:

> . . . the amendment seeks to legislate matters in the broadcasting system that are beyond the policy intent of the bill, the purpose of which is to include online undertakings, undertakings for the transmission or retransmission of programs over the Internet, in the broadcasting system . . . .

Here we have another mantra that has so often been repeated.

• (1510)

In several of their responses to the Senate amendments, the government has repeated an argument that an amendment in question is "beyond the policy intent of the bill." In effect, the government is asserting that the policy intent of the government is more important than seriously considering the amendment itself.

When Senator Gold spoke to the amendment at committee, he, of course, as he so often does, thanked Senator Miville-Dechêne for making the amendment, but then he said:

> Keeping our children safe is not only a priority for this government but for all of us and any government. But in the opinion of the government, Bill C-11 simply isn't the right vehicle to accomplish this important objective and this important work.

What vehicle would be important to protect our children? I would suggest it's any vehicle that we can possibly use.

Senator Gold stated that the government is looking to introduce legislation to address potential online harms, with the goal of keeping all Canadians safe online. But, quite frankly, the government has had eight years to do this, and we have not seen any such legislation yet. In fact, we have seen no indication that this issue has ever been a government priority.

"Keeping our children safe" — I do not recall any Throne Speech references to this issue, nor any major policy statements on it, so I am sure that Senator Gold will understand why we may be a bit skeptical.

The Senate has, on at least two occasions in the past few weeks, expressed its view on this matter. We recently adopted Senator Miville-Dechêne's private member's bill, Bill S-210, An Act to restrict young persons' online access to sexually explicit material. However, given this government's position on the amendment that was inserted by the Senate in Bill C-11, it is difficult to be optimistic that this Senate bill will be supported.

I would argue that if the government was serious about keeping children safe online, they would have looked to support this amendment, or they might have suggested modifications to this amendment. But, of course, they did no such thing. It's not a government priority to keep our children safe; they've shown that. They have other priorities, so this problem will remain unaddressed.

As we will see when we reach the vote on this motion, our so-called independent senators will be fine with that. If we vote for this bill, then keeping our children safe is not a priority for us.

I believe that the arguments made by Senator Miville-Dechêne at committee remain as valid today as they were when she proposed her amendment, and I believe that we should insist on her amendment. I certainly hope that she will insist on her amendment.

Senator Miville-Dechêne's amendment would simply have required online undertakings to implement methods, such as age-verification methods to prevent children from accessing programs on the internet that are devoted to depicting, for a sexual purpose, explicit sexual activity. As she explained, the amendment targets adult content and pornographic material distributed on online platforms. She noted that the CRTC already has authority over adult content available through traditional broadcasters. Her amendment focused on adult content exclusively. As she said at committee:

> What this amendment would do is simply make sure that this type of adult content was available only to adults, whether it was distributed online or by traditional broadcasters. In no way, shape or form is this about censorship. All I am trying to do is ensure that online adult content is treated the same as offline adult content, which is available only to those 18 or older.

What a great amendment — it's something that I think all of us would want to see included.

Senator Miville-Dechêne referenced the briefs that the committee had received from groups supportive of the amendment. Indeed, one of the briefs from the Canadian Centre for Child Protection called on Canada to follow in the footsteps of countries such as Germany and France, which have already implemented age-verification regulations.

As the Canadian Centre for Child Protection told our committee:

> There has been little government oversight over online platforms, and in particular those that provide sexually explicit content to users. However, the evidence is clear that there is serious harm to children when exposed to such content, particularly if the content they are exposed to is illegal, violent, or degrading.

Bear in mind, colleagues, that the arguments made in this submission are fully supported by numerous professional health organizations. Alberta Health Services has reported that a Canadian study done with 470 adolescents found that 98% of them had been exposed to pornography. The average age of first exposure was around 12 years old, and one third were exposed as young as the age of 10. That study also found that one in five youth experience unwanted online exposure to sexually explicit material, and one in nine youth experience online sexual solicitation.

It has also been reported that 15% to 30% of youth have sexted, with this prevalence increasing with age. As Senator Miville-Dechêne stated in this chamber when speaking on Bill S-210, the harmful impacts of this continuous exposure to children of adult content are well documented. Very sadly, those harmful impacts are affecting an entire generation of children today — your children, my children and our grandchildren.

According to a study conducted for the American Bar Association, excessive exposure — particularly where the content is violent, as well as includes gender stereotypes and/or

is sexually explicit — skews children's worldview, increases high-risk behaviours and alters their capacity for successful and sustained relationships.

The study also found that:

> Pornography is arguably more sexist and hostile towards women than other sexual images in the media. The aggression and violence towards women found in much of today's popular pornography can teach boys and young men that it is socially acceptable, and even desirable, to behave aggressively towards and demean women.

Yet another study by the American Academy of Family Physicians found that:

> Children, adolescents, and young adults consume digital media from a variety of sources, many of which are mobile, are accessible 24 hours a day, and offer both passive and active engagement. Many of these media platforms feature entertainment that contains significant doses of violence and portrays sexual and interpersonal aggression.

For too long, we have ignored this issue as a society, and I believe that Bill C-11 was an entirely appropriate means to correct that, as did the majority of senators in this chamber. I very much fear that the government's claim that it plans to act on this issue in the months ahead will fall very far from the mark.

• (1520)

I also fear that Bill S-210 will be quietly permitted to fade into oblivion.

Were the government actually serious, it would have at least come back with a counterproposal on this amendment, but it did not, and now the government is closing off all debate on this matter and on every other issue that arises from Bill C-11. I fear the implications for this when it comes to this specific component of the bill, and I very much fear it will be Canadian children and youth who will pay the highest price.

But despite all of the many problems with Bill C-11, the Senate did at least attempt to address one issue. This is the matter on which Senator MacDonald's amendment is now focused, that being the matter of the government's regulation of user-generated content.

The fact that this amendment was actually originally proposed by government-appointed senators is a testimony to the importance of the issue. It is also a testimony to just how persuasive witnesses at the Senate committee were. A majority of senators on the committee believed that the issue could not simply be ignored.

From my perspective, this amendment was a modest and minimal one that, in essence, responded to the minister's commitment when it comes to regulated user-generated content.

I have stated this before, and Senator MacDonald also stated that when the minister appeared before the Standing Senate Committee on Transport and Communications, he specifically claimed:

> We listened to the social media creators. We listened to them, we understood their concerns and we brought it back, with the exception of 4.2, which catches only commercial content with the three criteria. That's it.

The minister's comments may have been stated before, but they are worth highlighting. As Senator MacDonald and others have pointed out, the government has repeatedly claimed that section 4.2 is only designed to catch commercial content. They are the ones who claimed that they listened to social media creators, but it was very clear from witness testimony that most social media creators did not see it that way.

So, as has been pointed out, the proposed amendment was designed to confirm the minister's own words. That was all the amendment did.

In essence, all that the Senate did was to take the government up on its claim and to test its commitment. But when put to the test, the government failed. It effectively declared that it would continue to reserve the right to permit the CRTC — the Canadian Radio-television and Telecommunications Commission — to regulate user-generated content if required.

There is absolutely no doubt that this is, in fact, the government's position. If it were not its position, the Senate's amendment would pose no difficulty for the government.

But it does pose a difficulty for the government. The government was caught out, given the Senate's amendment, and as a result, it felt it had no choice but to show its cards and reject the Senate's amendment.

I believe that this rejection of the amendment by the government will have far-reaching ramifications. I believe this because numerous witnesses have told us so. I would like to quote just a few of those witnesses.

Monica Auer is the Executive Director of the Forum for Research and Policy in Communications. When she appeared before our committee, she warned us all about the nearly unrestricted power that Bill C-11 would give to the CRTC. She said:

> The simple fact is that no matter how many times Canadians are told to trust the CRTC, the important objectives of Bill C-11 are unlikely to be achieved if the Bill does not enable Parliament to exercise proper oversight over the CRTC's work, and the CRTC's compliance with statutes such as the *Broadcasting Act*.

Justin Tomchuk is an independent filmmaker who appeared before our committee on September 27. He made the following comments related to the regulation of user-generated content:

> Proposed paragraph 4.2(2)(a) of Bill C-11 makes it clear that my business will fall under the call of the CRTC's directives, as I derive direct and indirect income through my artistic efforts.
>
> One of the goals of Bill C-11 is to prioritize Canadian content to Canadians through discoverability measures. . . .
>
> As someone who built a business through these platforms, I can confidently say that these platforms are algorithms. You cannot realistically mandate discoverability outcomes without forcing platforms to change their algorithms.

Mr. Tomchuk then explained what this would mean for himself and countless others:

> This spells massive consequences not only for my artistic business but also for anyone who is a producer of manufactured goods, promoter, trader or exporter in Canada who utilizes social media platforms to reach an international audience.

J.J. McCullough is a YouTuber and columnist who appeared before our committee on September 27. He made an impassioned plea for freedom of speech and against the regulation of user-generated content. He said the following on the bill:

> . . . content creators and consumers don't merely consider Bill C-11 a badly written bill — although it is . . . many people consider the bill at its core badly motivated. Of the dozens of online video makers and viewers I've heard from, all have been crystal clear that they have zero desire to live under a government with the power to force platforms like YouTube to push, promote, suggest or otherwise encourage certain kinds of Canadian content to Canadians who have not freely chosen to see it.

In Mr. McCullough's remarks, we have a clear statement that many Canadians will see this bill as an open attack on freedom of speech.

As has been said earlier, we have heard that very warning from senators here in this chamber. The words of Senator Richards were very powerful in this regard, and they were widely quoted outside of this chamber. The government, colleagues, has ignored all of it.

We should be under no illusion that many people who have the means will now simply vote with their feet. They will leave Canada or otherwise move to circumvent the restrictions that the CRTC may impose.

Perhaps many of the senators opposite don't care about that. Perhaps they believe it is all a bluff. But senators should care, because the implications for Canada's future creativity are profound, colleagues.

Senator Simons, of all people, should know this. A few weeks ago she spoke about the loss of creativity that Canada experienced because of racist policies of the past. But bad government policies accompanied by negative messaging are not simply things of the past. The loss of potential national talent is something that we must always be cognizant of as we make laws and policies, because such a loss of talent can come from many sources.

Government laws and policies that overreach, or are perceived to overreach, can be tremendously damaging in deterring talented people from remaining in the country. I am disheartened that so many senators in this chamber have ignored that and have instead succumbed to the narrative that "resistance is futile."

• (1530)

I wish the Senate had not simply rolled over on Bill C-11. Our role as senators is to speak for ordinary Canadians whose livelihoods are impacted, some of whom have appeared before our committees. If their arguments are credible and those of the government are not, then we have an obligation to act for those Canadians and to be their instrument. When we fail in that duty, Canadians are absolutely right to question the utility of the Senate itself.

This chamber should be more than simply an academic talking shop where we pass motions, make minor amendments to bills and then call it a day — but I fear that is what we have done with Bill C-11.

The Senate spent several months hearing from witnesses and then sheepishly proposed a few amendments to the government, only some of which could be called substantive. When the government said it wasn't interested, the majority of senators in this chamber simply turned tail. Then, when some of us want to insist, after one day of debate, our government leader says, "I've heard enough. Canadians don't want to hear from you anymore. You're Conservatives. They don't want your opinion," and he proposes time allocation. Since, regrettably, this may be one of the last speeches heard in Parliament on this matter, I feel an obligation to quote what other ordinary witnesses told our committee about some of the pivotal and far-reaching implications of this bill.

Many senators undoubtedly believe that warnings about the negative implications of this bill are overstated and exaggerated. While the government is clearly determined to permit the CRTC to regulate user-generated content, many senators still believe this doesn't actually mean anything. They believe it is really just about ensuring flexibility for the CRTC that it will never actually use.

However, what does witness testimony actually tell us? We need only begin with what former CRTC commissioner Ian Scott has repeatedly said. Mr. Scott's words have been carefully catalogued by Professor Michael Geist.

In May 2022, MP Rachael Thomas asked Mr. Scott this question:

> All these individuals are individual users generating content. It would appear that the bill does or could, in fact, capture them. Is that correct?

Mr. Scott responded, "As constructed, there is a provision that would allow us to do it as required . . . ."

In the same month, Mr. Scott again confirmed that:

> . . . section 4.2 allows the CRTC to prescribe by regulation user-uploaded content subject to very explicit criteria. That is also in the act. . . .

In an exchange with Senator Wallin before our Senate committee — which has been quoted many times — Senator Wallin asked him:

> You won't manipulate the algorithms; you will make the platforms do it. That is regulation by another name. You're regulating either directly and explicitly or indirectly, but you are regulating content.

Mr. Scott replied, very directly and simply — and please understand this — very simply and directly, he said, "You're right. . . ."

Later, in response to Senator Miville-Dechêne, Mr. Scott again confirmed:

> I don't want to manipulate your algorithm. I want you to manipulate it to produce a particular outcome. . . .

Colleagues, there is no doubt about the CRTC's intent or its interpretation of this legislation. I believe that many lay people do not fully appreciate what this means. I am not sure that many senators in this chamber fully understand its implications and I'm not sure many times that I do. However, as witnesses at our committee informed us, the implications are far-reaching.

These are the words of Garrett Levin, President and Chief Executive Officer of the Digital Media Association. He told our committee on September 15:

> Algorithms are essential to the streaming user experience and discoverability of music. The combination of personalization and catalogue breadth sets streaming apart from all other distribution models. Accordingly, this committee should add a provision that prevents the CRTC from interfering with algorithm decision making.

Senators and the government responded that:

> Section 9.1 of the bill currently prohibits the CRTC from requiring the use of a specific algorithm or source code. . . .

However, as witnesses pointed out — and the chair of the CRTC confirmed — the CRTC will set a policy in anticipation that the platforms will be required to change their algorithms.

Mr. Levin was very clear about what this would mean, as were other witnesses.

Jeanette Patell, Head of Canada Government Affairs and Public Policy at YouTube, said:

> . . . Mr. Scott has further testified that the text would allow the CRTC to ask platforms to manipulate their algorithms to produce required outcomes. . . . handing the CRTC the power to decide who wins and who loses.
>
> We believe that this would actually backfire for the very creators that it attempts to support. Building and growing an audience today is about connecting with the most fans who will love your content, whether they are in Canada or around the world.

As Scott Benzie, Managing Director of Digital First Canada, explained about algorithms, ". . . messing with them is messing with Canadian businesses and access to their audiences."

The amendments proposed by Senators Simons and Miville-Dechêne are far from perfect, but there is no doubt that at least they have helped address this issue. However, the government's rejection of these modest amendments confirms that policies that will require algorithm manipulation are absolutely on the table.

What has always struck me in this debate is that, on one side, we have the government and the cultural elites, and on the other side we have ordinary Canadians who are concerned about the tremendous overreach of governmental authority that is on display here.

Creators from all over the country who appeared before our committee said exactly that. Many of these people had never even considered speaking before a parliamentary committee until this bill came along.

Who else did our committee hear from, and what did they tell us? Their message was clear: Just leave us alone to allow us to do what we do best.

One of the witnesses was Frédéric Bastien Forrest. Mr. Forrest is a radio personality and content creator in Quebec who appeared before the Senate Transport and Communications Committee on October 4. He described his videos as part education, part entertainment, and he views his work as trying to contribute and give back to society. He spoke for many Canadians when he said:

> Sometimes it's healthy to create without *gatekeepers*. That lets us be 100% ourselves, regardless of our differences. It enables us to reach an audience of people like us.

He implored the committee:

> Right now, I'm reaching out to all the politicians in Ottawa, Vancouver, Toronto, St. John's, Winnipeg, Montreal and Quebec. Please help us empower digital creativeness. Because a creator is a small business. Small businesses are the backbone of our economy and internet platforms allow small creator businesses to thrive. If we are to tax the tech giants, let's make sure we subsidize local internet creators with that money. Let's not miss this opportunity for stronger

> creators and a stronger economy. More specifically, on Bill C-11, fix clause 4.2 and keep user-generated content out of any discoverability enforcement.

Here is an individual who may never have appeared before a parliamentary committee before. What does he say? It is worth repeating:

> . . . I'm reaching out to all politicians in Ottawa, Vancouver, Toronto, St. John's, Winnipeg, Montreal and Quebec. Please help us empower digital creativeness. . . . Let's not miss this opportunity for stronger creators and a stronger economy. More specifically, on Bill C-11, fix clause 4.2 and keep user-generated content out of any discoverability enforcement.

Colleagues, what has been our response to that? Effectively, the response from the Parliament of Canada — and now from the Senate — is, quite simply, "Sorry, but we're not interested." Instead, the government senators have agreed to prematurely shut down all debate on a controversial bill with multiple identified problems and serious issues and just force it through. Colleagues, this is nothing short of shocking.

• (1540)

I would like to reference what another witness who we are also going to ignore told us. Vanessa Brosseau — an Indigenous digital content creator known as "Resilient Inuk" — appeared before the Senate committee, and she said:

> My concerns about Bill C-11 are that it will create more barriers for Indigenous peoples who create user-generated content and make it harder for other Indigenous creators to achieve the success that I've been lucky to have.
>
> Indigenous creators like me — digital first creators who use UGC platforms like TikTok and YouTube — until now have not been consulted or asked for our views on Bill C-11. . . . I understand that Indigenous cultural organizations representing traditional artists may have been consulted, independent digital creators like me are not represented by these organizations, and we have needs and goals unique from their members.

Colleagues, how often are we reaching out to the Indigenous community and wanting to support them? Here we have an opportunity. Colleagues, when it comes to Indigenous issues, we have heard the government even repeatedly assert that it abides by a principle "Nothing about us, without us."

But what does this actually mean in practice when ordinary people in the Indigenous communities are simply left out of the equation? This is a question that I believe every senator in this chamber needs to ask themselves. The witnesses I have cited, and so many others who have appeared before our committee, are just a few of the many Canadians the government has chosen to ignore. And now you are choosing to ignore them as well. The gatekeepers who take it upon themselves to police our nation's culture were historically able to get away with their regulatory overreach.

Today, in the internet age, this archaic approach to regulation is ineffective. Via the internet, Canadian creators are mobile. They will not be easily regulated. As I have said, many may, unfortunately for Canada, vote with their feet, but others will simply get around the Canadian Radio-television and Telecommunications Commission, or CRTC, in other ways. In that sense, I believe Bill C-11 is likely to further undermine the respect that many people have for government and, indeed, for our parliamentary system.

I wish that a majority of the senators in this chamber had stood up for creators like Mr. Forrest and Ms. Brosseau. I wish they had stood up for other witnesses like Scott Benzie, Oorbee Roy, Justin Tomchuk and J.J. McCullough, but they did not. Now the government is using the guillotine of closure to end all future debate on this bill. It has to be said to the people of Canada who oppose the bill, who are simply concerned about this bill, that we simply do not want to hear from you anymore.

The Senate introduced a very modest amendment to protect ordinary creators, particularly small players. What the amendment we have before us would do is to ask the government to reconsider the issue one more time. The Senate has done that very same thing many times in the past. In my view, it should certainly have done so again on this issue.

Senator MacDonald asked senators in this chamber to listen to Canadians instead of listening to direction from the Prime Minister's Office. The majority of the government-appointed senators are saying no to that. This, colleagues, is shameful.

Colleagues, at this point, it is quite clear to everyone in this chamber what is going to happen. First, as has been the practice, 96% of the so-called independent senators are going to support the government on this bill. Even though the odds of such a thing happening are incredibly small, if these truly were independent senators, they will not only vote together as a block once again, but they will also insist that they did so independently. It's like flipping a coin and getting heads 96 times out of 100, and doing this time after time after time and yet not believing that the coin is biased.

It's a bit surreal to stand here and watch this unfold. Yesterday, we had a vote on time allocation. In every single vote on time allocation that I can recall, government senators supported the motion and opposition senators opposed the motion. That is exactly, colleagues, what happened in yesterday's vote. You can protest, huff, puff and pretend all you want, but this emperor has no clothes. It is abundantly clear to Canadians who the government senators are, whether they admit it or not.

The second thing that is going to happen is this: A blue wave is coming. To the millions of Canadians who have followed debate on Bill C-11, to the thousands of them who took the time to sign petitions, to write to MPs, to write to senators, I say to all of them, I am sorry. I am sorry that our political system is letting you down. I am sorry that some of you truly believed that the Senate was independent. But do not despair, Pierre Poilievre has promised that he will kill Bill C-11 when he becomes the Prime Minister, and that day cannot come too soon. C-11 will be a short-lived bill.

I can assure you that a Conservative government will stand up for individual creators. It will stand against cultural gatekeepers. And it will stand against bureaucratic overreaching that squashes creativity. That day is coming. Take heart. God bless Canada.

[*Translation*]

Hon. Julie Miville-Dechêne: Would Senator Plett take a question?

[*English*]

Senator Plett: I will do as the government leader did yesterday and say I will answer one question and then I will pass it on.

[*Translation*]

Senator Miville-Dechêne: Senator Plett, you have quoted me extensively, and I thank you for supporting my initiative to protect children from pornographic content.

However, since this is a public debate, I would like to set the record straight. As you know, beyond this amendment, Bill S-210 is being introduced today in the House of Commons by Conservative member Karen Vecchio, who you know well. Both of us are hopeful that this bill —

[*English*]

Senator Plett: Your Honour, Senator Miville-Dechêne said she wants to set things straight. That she can do during debate. If she has a question, I will answer it. If she wants to set the record straight, she can stand up during debate and do so.

[*Translation*]

Senator Miville-Dechêne: I will nevertheless ask my question. Why are you so pessimistic about the future of Bill S-210? Do you have any information suggesting that this bill will not pass and that the amendment to Bill C-11 is the only way forward?

[*English*]

Senator Plett: Again, your question is not on Bill C-11, it's on Bill S-210. My speech was on Bill C-11. I have no information that it will not pass. Again, as Senator Dalphond said yesterday, when it walks like a duck and quacks like a duck, it's probably a duck. Our government has shown that they do not particularly care about the exploitation of children; they have shown it on Bill C-11. I have no optimism that they will show it on Bill S-210. I certainly support the bill.

[*Translation*]

Hon. Claude Carignan: Honourable senators, today we begin final debate on Bill C-11, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts.

More specifically, we will first deal with Senator MacDonald's subamendment to Senator Plett's amendment to the main motion. As you know, we'll be having an abbreviated debate after the Leader of the Government in the Senate moved a time allocation motion, which has passed.

However, before I begin my speech on the substance of Senator MacDonald's subamendment, I would like to revisit some of the remarks that Senator Gold, the proud Leader of the Government, made yesterday. In addressing the issue of time allocation, Senator Gold said the following:

> It is important to remind ourselves that the original purpose of time allocation was not only to allow a government majority to manage the finite time of a legislative chamber, but also for the legislative body itself to overcome the use of tactics deliberately geared at delaying the progress of government legislation.

• (1550)

Then, Senator Gold added the following:

> In a nutshell, colleagues, time allocation can be either curative or abusive, and context is everything.

He concluded with this:

> Moreover, colleagues, as precedent demonstrates, there is nothing extraordinary about time allocation. In fact, it has been regularly applied to various stages of government business . . . .

Senator Gold also mentioned that when I was deputy leader and leader of the government in the 41st Parliament, I myself used time allocation motions 22 times. I am not going to contradict Senator Gold on that point, because he is absolutely correct. However, this fact cannot be taken out of context. I will repeat what the Leader of the Government told us yesterday. He said, "time allocation can be either curative or abusive, and context is everything."

The context was rather simple at the time. The Liberal senators had lost their majority in the Senate since December 2010 and quite frequently refused to collaborate with the government to advance its legislative agenda. However, as I mentioned last night, we never used a time allocation motion on the message to the House of Commons, and certainly not at the stage of sending a response to the other place. Every time I used a time allocation motion it was to advance a bill at second or third reading stage, when bills that were important to the government were getting stuck in partisan ruts thanks to the Liberal opposition.

In short, supported by a Liberal opposition that was well practised in obstructionist tactics, the Liberal Senate caucus — including Senator Ringuette, Senator Furey and Senator Cordy at the time — repeatedly used dilatory measures to unduly delay debates. Obviously I had to use this time allocation tool that is available to governments. In fact, that was the objective of the Liberal opposition at the time: every important bill had to be passed after a time allocation motion was moved so that it could then be used in their partisan narrative against the government.

However, despite these tactics, I always tried to find common ground with the leaders of the opposition. When those negotiations failed, usually because of partisan imperatives, I was responsible for advancing the government's agenda, and I never hesitated to do so.

Yesterday, the Leader of the Government was boasting that, like his predecessor, Senator Harder, he has never had to use a time allocation motion. By so doing, Senator Gold simply drew attention to the fact that he and his predecessor were always able to reach an agreement with the opposition to advance the Trudeau government's agenda within acceptable, reasonable timeframes.

The opposition's good faith therefore cannot be called into question, and it is especially surprising that the Leader of the Government is imposing time allocation on our debates today at the stage where the Senate is responding to the message from the House of Commons.

As all of the senators appointed by Prime Minister Trudeau decided, we must therefore meet these procedural requirements and deal with all of the amendments and subamendments within a rather tight time frame of six hours.

I will therefore come back to Senator MacDonald's subamendment, which seeks to amend Senator Plett's proposal.

Let's first look at the nature of Senator Plett's amendment.

As a result of the collaborative work of all senators in this chamber, the Senate adopted 22 amendments to Bill C-11. In its response, the government accepted 14 of them, rejected six and submitted two counterproposals for amendments. Senator Gold is proposing that we do not insist and that we accept the response of the House of Commons as presented, because he is guided by the will of his Liberal government.

Through his amendment to Senator Gold's proposal, Senator Plett is proposing, in contrast, that we do insist and urge the House of Commons to make the 22 amendments to Bill C-11.

Meanwhile, Senator MacDonald wants us to insist essentially only on amendment 3, one of the amendments that was rejected in the message from the other place. That amendment, if adopted, would amend the text, as proposed in Bill C-11, of the new subsection 4.2(2) of the Broadcasting Act.

I agree with what Senator MacDonald said in his speech on April 20, 2023, as follows:

> This is probably the most significant amendment the Senate made to Bill C-11, and it was based on what the Senate Transport and Communications Committee heard over several months from dozens of witnesses.

As Senator Simons pointed out in her speech on January 31, 2023, without this amendment, the CRTC has, and I quote:

> . . . the power to scope in a program uploaded to a social media service if it directly or indirectly generates revenues. That exception-to-the-exception clause rightly worried all kinds of small and not-so-small independent producers who use services such as YouTube and TikTok to distribute their programming, though they retain the copyright.

In my view, it is incomprehensible and unreasonable that MPs, in the message they sent to the Senate, refused this amendment. I am of the opinion that it is truly necessary to insist with the House of Commons that this amendment be kept in Bill C-11.

Let's recall what this amendment does. It simply includes in the law a commitment that the Minister of Canadian Heritage made on November 22, 2022, before the Senate committee studying Bill C-11. Senators Plett and MacDonald reminded us of this in the speeches they gave on April 20. In her January 31 speech, Senator Simons reiterated the promise made by the Minister of Canadian Heritage:

> In the wake of some of the controversy around Bill C-10, the Minister of Canadian Heritage promised that Bill C-11 would not pertain to nor capture users of social media but only big streamers who were analogous to traditional broadcasters.

In this context, the fact that MPs rejected amendment 3 in the message sent to the Senate is a game-changer, as their message contradicts the commitment made by the minister. That type of situation only adds to the concerns that senators had when they passed amendment 3. The senators felt this amendment was necessary to ensure that there was no ambiguity about the minister's assurance to the committee. On this point, I will quote from Senator Simons' speech at third reading of Bill C-11 on amendment 3:

> Our amendment to clause 4.2(2) removes all mention of revenues, whether direct or indirect. Instead, it focuses on whether or not a piece of content has already been broadcast on a conventional commercial service and/or whether it has a unique identifier number that is assigned to commercial recordings. In other words, our amendment would mean that if a broadcaster such as Rogers or CBC reposted a baseball game or a news documentary to YouTube or Facebook, such a rebroadcast would still be captured by the provisions of Bill C-11.
>
> Our amendment would also ensure that if a major record label such as Sony released a new single or album on YouTube, that posting would be treated in a way that was akin to the release of a song on Spotify, Amazon or TIDAL. At the same time, digital creators, including commercially successful ones, would be properly and clearly exempted from Bill C-11 even if they uploaded their comedy, music, animation, film or TV episodes to YouTube, TikTok, Instagram or some other social media platform we cannot yet predict or imagine.
>
> In other words, my friends, the bill now says, "platforms in, users out."

• (1600)

By rejecting amendment No. 3, the message from the House confirms to senators that the minister's promise has no effect and that the bill will therefore bring with it obligations for independent creators on social media, not just on commercial platforms.

As Senator MacDonald said in his April 20 speech, and I quote:

> Time and time again, the government has claimed that section 4.2 is only designed to catch commercial content. Time and time again, they have claimed that they've listened to social media creators, but, overwhelmingly, most social media creators have repeatedly disagreed with that, and they did so ostensibly before the committee.

This important change in circumstances justifies us sending a clear message to the House of Commons to insist on our amendment 3 in order to protect these independent creators from Bill C-11 as it now stands, since it clearly unduly threatens their income. Thank you.

[*English*]

Hon. Jim Quinn: Honourable senators, I'm rising to speak to this amendment and to the overall discussion we have been having. I have not prepared notes for this, but I feel that it's time I rise and say a few things, and I am willing to do that.

I am on the Transport Committee, I have been on the steering committee, and we have heard about the number of witnesses we've had, the number of deliberations, amendments and things of that nature. We have heard that we sent 26 over, 18 were approved, 2 were amended slightly and 6 were not accepted.

The one I found the most difficult was 4.2(2) and the fact that we had been told by the minister "big guys and little guys out," the little guys being the user-generated content.

So we have had many discussions here, and I have heard different points of view. I've also taken the time to speak with a number of colleagues on 4.2(2) and the bill in general. That's the beauty of the Senate: the experiences of people across the spectrum, whether former public servants, lawyers, doctors. People from all walks of life are here, and it's a wealth of information and points of view. I appreciate that.

In my deliberation, I assure you this has been a struggle back and forth for me in terms of whether I will support this bill and whether I will support these amendments. As a former public servant — and some of the people I've talked to I have great respect for. I'm very proud to have spent 32 years in the public service. I am very proud of those institutions and the institutions of government, whether it's the public service, the chamber, the Senate or any other institution.

We passed with unanimity an amendment to the message that would go back eventually to the House in which we said "public assurance." I'm one person who believes that we need to have clarity in our laws, and I would prefer very much that we have 4.2(2) in the bill. Having said that, we've made this message and the amendment to it, which is something the government leader and my leader worked together on to change a few words to give it a little more oomph. I can argue that message doesn't carry much weight for anything, but as a former member of that institution and now part of this institution, and having worked closely with the other place while I was in the Privy Council Office, I have to believe and trust that the voters of this country will hold folks to account when the time comes for that event to happen.

We have been given the public assurance that user-generated content is out. I have to thank Senator Plett because I thought there were several points in his speech that really influenced why I wanted to get up now, but the last one was the one that really made me want to stand up. He said that the "blue wave is coming." For me, that is an assurance that the democratic process in this country will eventually run its course. If people are upset with the government because they have broken their promise — that user-generated content is out and they, in fact, allow regulatory development that breaks that very public declaration, not only in committee but in other places — then the people will speak.

That is something that has weighed heavily on me, but I want to thank Senator Plett for helping to give me the confidence to stand up and speak now at this juncture.

I wanted to share those thoughts and ask you to reflect on that.

I want to thank my colleagues who took the time and had the patience of having a discussion with me on where we are today. Thank you.

Some Hon. Senators: Hear, hear.

Senator Plett: Would Senator Quinn take a question?

Senator Quinn: Yes.

Senator Plett: Thank you, Senator Quinn. Thank you for your speech. I'm glad that at least a part of what I said had an impact on you, whether negatively or positively. I hope it was positively.

Nevertheless, I found your comments intriguing. Are you suggesting that because I said that when we form government — not if, when we form government — we will kill this bill, you are saying that is somehow a good reason for voting for bad legislation, thinking, "Well, the next government will take care of this, so we can go ahead and vote for bad legislation"?

Senator Quinn: Senator Plett, I hope that when you have the chance, you can reflect on what I said. What I said was that the blue wave was coming. I didn't reflect on what you just said; I reflected upon the fact that there is a democratic process that lies ahead; it's called an election. That election will take place in due course. I believe that's what I said.

Hon. Leo Housakos: Thank you, Senator Quinn. I want to put on the record that I have enjoyed working with you immensely on Transport and Communication. You made great a contribution.

Of course, the electorate will have the final word, but in between those four years, they are paying approximately $127 million a year for us to be here and do some legislative work, wordsmithing, and speak on their behalf, advocate and hold the government to account.

Do you not think it's important that we fulfill our constitutional duty, especially on something that is as controversial as this? You were on the front lines and saw how controversial it was. You said in your speech that you were torn when it came to this bill.

So why would we fold as an institution at the feet of the government so quickly? On far less in the past, we have sent legislation back and insisted. Don't you think that after all we've heard from so many witnesses on such a controversial issue, we should — not overrule the elected body; we should await the final democratic decision of the electorate — but don't you think we have a legislative responsibility on behalf of all of those voices to insist at least one more time?

Senator Quinn: Thank you, Senator Housakos.

I think the committee has done an excellent job. I commend all the members of the committee and the ex officio members who participated, as well as the various witnesses we had. We have been a part of that democratic process as members of the committee.

But I've also come to this conclusion: There has been a lot of discussion here about the Constitution, the roles of senators and our rights. I think we have done our due diligence in having heavy debate during committee and in this chamber. I'm at the point where I'm saying that I am not elected. If this is something so dear to my heart, I think some of my colleagues said, "Go and run." Run in the election. But I think my more valuable contribution in this institution is — I think you and I spoke on this — trying to do the sober second thought and trying to add value but also recognizing that the elected government has the right to govern, and it's our job to challenge. We've challenged, and the mitigating factor for me is that we — all of us — agreed to a message that included public assurance that the government will not do what it said it wouldn't do.

• (1610)

After 32 years in the public service, I have great confidence in that institution and I believe that the House and this institution will follow through and hold people to account, as the electorate should.

TELECOMMUNICATIONS ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker pro tempore informed the Senate that a message had been received from the House of Commons with Bill C-288, An Act to amend the Telecommunications Act (transparent and accurate broadband services information).

(Bill read first time.)

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

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

[*Translation*]

CANADA NATIONAL PARKS ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker pro tempore informed the Senate that a message had been received from the House of Commons with Bill C-248, An Act to amend the Canada National Parks Act (Ojibway National Urban Park of Canada).

(Bill read first time.)

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

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

[*English*]

ONLINE STREAMING BILL

BILL TO AMEND—MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND NON-INSISTENCE UPON SENATE AMENDMENTS—MOTION IN AMENDMENT—MOTION IN SUBAMENDMENT NEGATIVED

On the Order:

> Resuming debate on the motion, as amended, of the Honourable Senator Gold, P.C., seconded by the Honourable Senator LaBoucane-Benson:
>
> That, in relation to Bill C-11, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts, the Senate:
>
> (a) agree to the amendments made by the House of Commons to its amendments; and
>
> (b) do not insist on its amendments to which the House of Commons disagrees;
>
> That the Senate take note of the Government of Canada's public assurance that Bill C-11 will not apply to user-generated digital content and its commitment to issue policy direction to the Canadian Radio-television and Telecommunications Commission accordingly; and
>
> That a message be sent to the House of Commons to acquaint that house accordingly.

And on the motion in amendment of the Honourable Senator Plett, seconded by the Honourable Senator Housakos:

That the motion, as amended, be further amended:

1. by replacing sub-paragraph (b) by the following:

"(b) insist on its amendments to which the House of Commons disagrees;";

2. by adding, before the final paragraph, the following new paragraph:

"That, pursuant to rule 16-3, the Standing Senate Committee on Transport and Communications be charged with drawing up the reasons for the Senate's insistence on its amendments; and"; and

3. by replacing, in the final paragraph, the words "That a message be sent" by the words "That, once the reasons for the insistence have been agreed to by the Senate, a message be sent".

And on the subamendment of the Honourable Senator MacDonald, seconded by the Honourable Senator Housakos:

That the motion in amendment be amended:

1. in the proposed new wording for sub-paragraph (b), by replacing the words "amendments to which the House of Commons disagrees;" by the following:

"amendment 3 to which the House of Commons disagrees; and

(c) do not insist on its other amendments to which the House of Commons disagrees;"; and

2. in the proposed new paragraph empowering the Standing Senate Committee on Transport and Communications to develop the Senate's reasons for its insistence, by replacing the word "amendments" by the word "amendment".

The Hon. the Speaker pro tempore: It was moved by the Honourable Senator MacDonald:

That the motion in amendment be amended:

1. in the proposed new wording for sub-paragraph (b), by replacing the words "amendments to which the House of Commons disagrees;" by the following:

"amendment 3 to which the House of Commons disagrees; and

(c) do not insist on its other amendments to which the House of Commons disagrees;"; and

2. in the proposed new paragraph empowering the Standing Senate Committee on Transport and Communications to develop the Senate's reasons for its insistence, by replacing the word "amendments" by the word "amendment".

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

Some Hon. Senators: Yes.

The Hon. the Speaker pro tempore: All those in favour, please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: All those against, please say "nay."

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

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

An Hon. Senator: One hour.

The Hon. the Speaker pro tempore: The vote will occur at 5:14 p.m. Call in the senators.

• (1710)

Subamendment negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Ataullahjan	Mockler
Batters	Oh
Carignan	Plett
Greene	Poirier
Housakos	Seidman
MacDonald	Verner
Marshall	Wallin—15
Martin	

NAYS
THE HONOURABLE SENATORS

Arnot	Greenwood
Audette	Harder
Bernard	Hartling
Boehm	Klyne
Boniface	Kutcher
Bovey	LaBoucane-Benson

Boyer	Lankin
Burey	Loffreda
Busson	Marwah
Cardozo	Massicotte
Clement	McPhedran
Cordy	Mégie
Cormier	Miville-Dechêne
Cotter	Omidvar
Coyle	Osler
Dagenais	Pate
Dalphond	Patterson (*Ontario*)
Dasko	Petitclerc
Deacon (*Nova Scotia*)	Quinn
Deacon (*Ontario*)	Ravalia
Dean	Ringuette
Dupuis	Saint-Germain
Gagné	Shugart
Galvez	Sorensen
Gerba	Woo
Gignac	Yussuff—53
Gold	

ABSTENTIONS
THE HONOURABLE SENATORS

Smith	Tannas—2

• (1720)

BILL TO AMEND—MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND NON-INSISTENCE UPON SENATE AMENDMENTS—MOTION IN AMENDMENT—DEBATE

On the Order:

Resuming debate on the motion, as amended, of the Honourable Senator Gold, P.C., seconded by the Honourable Senator LaBoucane-Benson:

That, in relation to Bill C-11, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts, the Senate:

(a) agree to the amendments made by the House of Commons to its amendments; and

(b) do not insist on its amendments to which the House of Commons disagrees;

That the Senate take note of the Government of Canada's public assurance that Bill C-11 will not apply to user-generated digital content and its commitment to issue policy direction to the Canadian Radio-television and Telecommunications Commission accordingly; and

That a message be sent to the House of Commons to acquaint that house accordingly.

And on the motion in amendment of the Honourable Senator Plett, seconded by the Honourable Senator Housakos:

That the motion, as amended, be further amended:

1. by replacing sub-paragraph (b) by the following:

"(b) insist on its amendments to which the House of Commons disagrees;";

2. by adding, before the final paragraph, the following new paragraph:

"That, pursuant to rule 16-3, the Standing Senate Committee on Transport and Communications be charged with drawing up the reasons for the Senate's insistence on its amendments; and"; and

3. by replacing, in the final paragraph, the words "That a message be sent" by the words "That, once the reasons for the insistence have been agreed to by the Senate, a message be sent".

Hon. Leo Housakos: Honourable senators, I want to reiterate before we get into the crux of the subject matter that we all are so disappointed that we thwarted the opportunity of minority voices in this country to be heard in a legitimate way.

I want to reiterate, government leader, and be clear that none of us have any issue with the government's right to use the guillotine, to use time allocation. It's a legitimate rule that exists in procedures of Parliament and Parliamentary body, and the government has the right to make that decision. But it needs to be done in a transparent way. You can't have your cake and eat it too. You can't claim to be a non-aligned, independent chamber. All of us who have studied some form of political science, at some level, know that an independent in a parliamentary process, in a parliamentary chamber is someone who isn't affiliated with a political party.

But I won't re-engage in this debate; I know it makes you uncomfortable. Earlier today, we tried to reinforce the point that the only reason the Speaker interpreted the rule in the way he did is because he assumes, as well as we do — and that's why I think he showed elasticity, which the Speaker constantly does to make this new independent Senate work — that you do represent the government, and that government is a Liberal government. In the tradition of Westminster, it's the leader of the Liberal governing party or the leader of the Conservative governing party, the two parties that have governed this country, who has the right to use time allocation.

Much has been made about the number of the weeks of the committee study, the number of witnesses and the hours of debate that have been spent on this bill. But I reiterate what I said last night: that it's because the opposition did its job and used every procedural tool available to us to make that happen.

So you can't, on the one hand, many of you who have argued what a great job we've done in this institution; we've had so many witnesses; the committee was so robust; look at all the in-depth studying we've done — when we know at every turn it was the opposition that insisted on that. And by the same token, you get up and say, on the one hand, what great work the committee did in the chamber, but, on the other hand, you say we're obstructionists. Which is it? Either the opposition is obstructionist and we're abusing our procedural powers or we did a really good job and insisted on all witnesses being heard. You can't have it both ways. This government likes to have it both ways, to put out this nice narrative for public consumption; it's a public relations exercise, but the facts sort of bend and differ from reality.

So please stop wearing this as a badge of honour. Yes, the entire committee, all members, did very good work here, but it is beyond disingenuous to now characterize the fact that this legislation was rammed through last summer or in mid-November as anything other than a credit to the Conservative opposition. We fought tooth and nail every step of the way, at the committee and in the chamber. The fact that we have spent so much time and deliberations on this legislation isn't justification to now pack it in after one round with the other place, as if that's somehow the magical number for how many times this house can send legislation back and forth.

Earlier we had an exchange Senator Quinn, and you're right, Senator Quinn: The other place is the democratic house. But we keep talking about democracy in this place, and somehow democracy is fine in this place because you have 75% of senators appointed by the Prime Minister who wants this legislation passed not now or right away — he wanted it passed a year and a half ago. But it's incumbent, constitutionally, on us to do our due diligence and to make sure, as I said yesterday in a debate I participated in, that democracy in this place isn't reflected only by poll results, but by the advocacy that each and every senator here articulates. All I've heard so far from independent senators is we have to support the government because they're the government and carry on. Move along; there's nothing to see here, trust us.

The fact that we have spent so much time and heard from so many stakeholders is precisely why we shouldn't automatically acquiesce to the government on this legislation. The more time we spend on the bill, the more time we should spend actually pondering how important our amendments were in the first place.

Senator Quinn, I appreciate the fact that you're torn. I know you're torn in regard to this legislation. You're torn, on the one hand, on your commitment, feeling that we shouldn't impose our will on the elected chamber, but you have also done your due diligence, and I saw you do it. You asked the right questions. You wondered why so many user-generated content creators and digital-first Canadians have stepped up and are terrified about their future. You know that this isn't as clear as possible. It's easy to be satisfied with the observations that Senator Tannas, in goodwill, put forward because he is hoping the government will listen. But, again, we have a constitutional obligation to do sober second thought, to speak for those voices and to insist when we know the government might not have gotten this right.

Otherwise, there's not much point spending all that time and doing all that work and putting those amendments forward, is there, if we're just going to fold at the moment when the government says, "We've had enough." And it doesn't actually correspond to the amount of pushback we've gotten from Canadians. This is the moment to justify our $125-million cost to those Canadians. It's a big cost; it's a costly institution, so just because we might find this to be a nuisance, or it might interrupt the Prime Minister's or a minister's agenda — sorry, I'm not obligated to follow through and cave in right away just because the government is asking us to move along; nothing to see here, trust us.

Let's talk about those amendments. Everyone in favour of passing this bill keeps talking about the 20 amendments the government accepted. You're so proud that the government accepted 20 of our 26 proposed amendments, like it's a big deal. It's not a big deal. First of all, it just goes to show how deeply flawed this legislation was in the first place. That's not something to celebrate, colleagues. When you send back 26 amendments, and there were 67 that were debated, that means a lot of senators from a lot of groups thought this bill had a lot of problems.

If we carried on the hours of debate that we did, it's because we thought there were flaws in this bill. If there is any role for this institution when something is deeply flawed, it's our job to fix it, push back and call the government on the floor and say, "We're as much obligated and you're as much obligated to fix this."

And, Senator Gold, if the opposition has been so insistent — as you would say, deliberately obstructionist — it's because we feel on this particular bill it's the most egregious we've seen in the seven and a half years of this government. Because the reason you have not used time allocation — like I said in debate yesterday, this is the first time in seven and a half years — is because on other legislation we didn't think it was as bad; we didn't have to go to this extreme. In this particular instance, we felt we needed to go to the extreme because not enough people are listening.

That's something that has been a disturbing pattern with this government, a pattern that should be giving all of us cause for concern.

But also, the one amendment that was the result of the most criticism of this bill, that took up a great deal of our time at committee —which was crucial because of the lack of time it took up in the other place — the issue that has become the biggest concern for me, my colleagues and hundreds of thousands of Canadians is the inclusion of user-generated content.

• (1730)

The one amendment that dealt with that, and attempted to mitigate the damage — if not fix it altogether — was not accepted.

Colleagues, that deserves more than a rubber stamp. It deserves further reflection and consideration in this place. Given the number of Canadians who are concerned by this, it should

concern each and every one of us. It's not a handful; it's not a minority. We know why this bill has struggled to move through both this place and the other place for close to three years.

To return to the number of hours that we've supposedly been debating, six hours is a generous estimation. A lot of debate that has taken place since we received the message from the government hasn't been spent debating the government's refusal to accept the crucial amendments. Much of the six hours, or so, has actually been spent talking about things like the Salisbury Doctrine, and about our obligation not to stand up to the government — because the biggest priority for independent senators seems to be not to offend the government, not to push the government too much and not to hold them accountable too much. And at the end of the day, that's democracy.

Democracy in this place, as I said, is not expressed by votes. I remind you that you're all appointed. None of you have been elected, myself included. Your democratic right comes from the prime minister who appoints you, but your tenure here also gives you the independence that you require to speak freely on behalf of the regions and citizens that you represent — and I encourage you to exercise it. Don't be afraid. I've done it a couple of times; it was toward the prime minister who appointed me, and the clouds didn't fall from the sky. I wasn't expelled from caucus. I wasn't given a thousand lashes. Actually, I disagreed publicly with the prime minister who appointed me, and everyone thought it was the end of the world, but, a few months later, I was appointed the Speaker by the same prime minister. According to many Liberals, the former prime minister was very draconian, very hard and very difficult to deal with.

I won't enter into the debate on that again, but I will say this: If you subscribe to the belief that we're governed by the Salisbury Doctrine — and I've been hearing from Senator Harder that he loves the Salisbury Doctrine — nowhere does it limit how many times a bill can move back and forth between two chambers. Nowhere does it say that senators do not have the right to stand up for their region, citizens, groups or stakeholders. Nowhere does it say that this chamber can't insist on its amendments to a government that has exercised overreach.

I will reiterate my grave concerns for digital creators in this country as a result of this legislation. These are people from all across Canada, from all walks of life, from all regions and ethno-linguistic religious backgrounds, who have found incredible success on the internet. These are individuals — your children, your nephews and your neighbours — who are out there conducting independent journalism, documentaries and videos, and posting them on YouTube. Many of these particular Canadians will end up being the next Justin Bieber or The Weeknd — all of these stars were discovered. Canadian superstars and cultural icons are discovered through these new platforms. Not every single Canadian cultural icon was discovered through the CBC and Telefilm Canada. More and more are being discovered through international platforms which, by the way, are not traditional broadcasters.

The truth of the matter is that this bill is a lie right from its premise. The premise of this bill is to bring online traditional broadcasters with the digital platforms. Digital platforms are not broadcasters — not even close. They are only platforms that provide free, open opportunities for people to communicate. It doesn't matter, as I said, if it's independent journalists, the media, senators, politicians, local hockey teams or organizations — Google, Facebook and all of these platforms have given all of us an opportunity to expand our horizons, to reach out to people and to sell whatever it is that we're selling. Some of us sell our political views; others may sell cosmetics. Whatever the case may be, it's an open, free opportunity for discussion and debate.

I don't think there's some nefarious strategy on the part of the Prime Minister or the ministers to sit in some corner trying to mind control Canadians. What I do think is that the traditional broadcasting industry is in decline; they're heading toward bankruptcy because their business model just doesn't work anymore. People are receiving information and exporting information in these new, modern technical and digital ways. The Prime Minister wants to find a way to help his buddies, who are the big multi-million-dollar traditional giants in this country. I'll call them out; I'm not afraid. They are Bell Media, Quebecor, Rogers and the CBC — of course, they don't get enough of the $1.2 billion trough of taxpayer money; they want more. They want the digital companies to give them more because that's going to increase ratings.

This government also says that they have embraced innovation, as well as that they have embraced a lack of barriers, and they have done it without government intervention. I can think of so many incredible digital creators from whom we heard at committee: Darcy Michael comes to mind, as he is the self-described gay pothead who testified about the importance of owning the work that he does, rather than CTV owning his work. Do you remember him, Senator Quinn? He's a young, bright fellow. I think of Jennifer Valentyne, who spoke about aging out of legacy media as a woman. Do you remember her? And then there was Vanessa Brousseau, a proud Indigenous woman who expressed concern that, yet again, she's going to have to prove that she is Canadian and that her product is Canadian content.

The Hon. the Speaker: Senator Housakos, I'm sorry for interrupting you, but your time has expired. Are you asking for five more minutes?

Senator Housakos: I'd love to have five more minutes.

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

Some Hon. Senators: No.

Some Hon. Senators: Agreed.

The Hon. the Speaker: I'm sorry, Senator Housakos; I hear a "no."

Hon. Denise Batters: Honourable senators, I rise today to speak in support of Senator Plett's amendment on the message on Bill C-11. I really wish we had more time to debate because this is a topic that has engaged Canadians like few others, but the Trudeau government has decided to force this bill through, cutting off debate for its own political ends. First, they rammed it through the House of Commons, and now it's the Senate's turn. For all the crowing that Senator Harder and Senator Gold have

done in the past about the Trudeau government not using time allocation, it is ironic that the government has chosen to invoke it now on this bill about online censorship.

We shouldn't be surprised, I suppose, as the Trudeau government has routinely demonstrated its fear of the free and fair debate of challenging issues — it's kind of their default. Why accept further debate on an online censorship bill when you could shut down debate unilaterally, and then make changes that work to your political advantage? Why have a public inquiry into Beijing election interference when you could instead stage-manage a long-time family friend and Pierre Elliott Trudeau Foundation member to do it for you in private? After all, we know how the Prime Minister admires basic efficiency. It's too bad that it is at the expense of the democratic right to the freedom of expression, but here we are.

After the nearly 70 hours that senators invested in close examination of Bill C-11 at committee, and after the additional time that senators took to draft and discuss amendments, we're now at a crossroads in determining the future of this legislation. The Trudeau government considered our 26 Senate amendments, but they only accepted the most inconsequential ones. While the government did accept one of my own amendments to harmonize the definition of "decision" with that of the Telecommunications Act, it was not even close to the most significant of those that I had proposed at the Senate committee. The Trudeau-appointed senators at committee rejected two of my other much more substantive amendments that dealt with the meat of the bill on the issues of discoverability and threshold.

Now the Trudeau government has rejected all of the most substantive amendments put forward by the Senate — even reasoned amendments like the one proposed by Senator Miville-Dechêne and Senator Simons that would have explicitly removed user-generated content from the long reach of Bill C-11. Instead, the Trudeau government has asked senators and, by extension, Canadians to just trust them to exempt user-generated content from their Bill C-11 plan. Of course, they refuse to put such assurance into the actual legislation where it would be binding. Instead, they have inserted a clause into the motion accompanying the Senate's message where it can — and will — be summarily ignored and forgotten. Senator Scott Tannas suggested this was a sufficient compromise. He said it contained enough "bread crumbs" to protect users. I disagree. Honourable senators, this is not good enough for Canadians. They want and deserve bread, not crumbs.

• (1740)

The motion originally proposed by the Senate government leader read this way:

> That the Senate take note of the Government of Canada's stated intent that Bill C-11 will not apply to user-generated digital content and its commitment to issue policy direction to the Canadian Radio-television and Telecommunications Commission accordingly.

Senator Tannas' suggested amendment, now passed, replaced the words "stated intent" with "public assurance." Thus, it now states in that motion:

> That the Senate take note of the Government of Canada's public assurance that Bill C-11 will not apply to user-generated digital content and its commitment to issue policy direction to the Canadian Radio-television and Telecommunications Commission accordingly.

Unfortunately, honourable senators, you can be publicly assured that promise won't amount to a hill of beans. It's no more than a legislative pinky swear for a government with a well-earned reputation for repeatedly breaking their own promises. I don't even have time to recount them all. There was the promise to never raise the carbon tax above $50 a tonne — broken. The promised $4.5 billion Canadian mental health transfer — Canadians haven't seen one red cent of that. Electoral reform — thrown overboard. How about the Liberal promise that we would have only two years of $10 billion deficits before returning to balance? Goodness knows, the Trudeau government has blown the doors off that one.

It just goes on and on. It's fair to say the only thing you can count on is that you just can't count on this Trudeau government to keep their word.

Still, the 2019 Liberal election platform gives us a hint as to the Trudeau government's true intentions regarding this bill. Their 2019 platform stated that a Liberal government would:

> move forward, in our first year, with legislation that will take appropriate measures to ensure that all content providers — including internet giants — offer meaningful levels of Canadian content in their catalogues, contribute to the creation of Canadian content in both official languages, and promote this content and make it easily accessible on their platforms.

From that description of "all content providers," honourable senators, it sounds an awful lot like the Trudeau government and the Liberal Party never had an intention to exempt user-generated content creators from regulation. Why should we believe they will now?

The Liberal government claims that because changing the Broadcasting Act was an electoral promise, senators have no right to delay passage of Bill C-11 now, but this is really overstating the issue. The election promise in the 2021 Liberal election platform was very vague. Perhaps this was intentional given the backlash the government had encountered on Bill C-10, the precursor to Bill C-11. The 2021 platform stated that a Liberal government would:

> Within the first 100 days, reintroduce legislation to reform the *Broadcasting Act* to ensure foreign web giants contribute to the creation and promotion of Canadian stories and music.

The Broadcasting Act hadn't been updated in 50 years. No doubt it was due for a refresh, especially given the rapid advancements in technology. However, the broad generic terms used to describe the promise in the Liberal 2021 election

platform certainly gave no indication that they intended to regulate user-generated content, one of the most contentious issues arising from Bill C-11.

In any case, claiming that the Senate must follow the Salisbury Convention now because Bill C-11 was explicitly an electoral promise is far-fetched at best.

The Trudeau government and independent senators in this place frequently laud the amendments passed on bills in the Senate as evidence of their new system's efficacy, but most of the time the Senate amendments — the ones that are accepted by the Trudeau government — either originate with the government and are their way to clean up their shoddily drafted legislation at a late stage of the legislative process or the amendments are inconsequential and uncontroversial. Rarely will the Trudeau government accept amendments that significantly alter their legislation. That's what we've seen with Bill C-11.

I've said it before and I'll say it again: That simply is not good enough. How many times have we heard independent senators state during debate, "Don't let the perfect be the enemy of the good," dissuading senators from passing amendments to government bills?

Honourable senators, in the Senate of Canada, we should strive to make legislation more perfect. That is quite literally our jobs. We don't have to attempt amendments only once and then throw up our hands when the government pushes back. While the government may still not accept Senate amendments that are sent back to the House of Commons twice, the upper chamber's insistence certainly makes the government sit up and take notice.

Bill C-11 is important enough to Canadians that we should be doing that here. The Senate is well within its rights to insist on its amendments. As then Senate government leader Peter Harder stated in his paper on complementarity:

> Since 1960 . . . seven bills involved a decision by the Senate to insist on some or all of its amendments once the House had rejected them.

We even have quite recent precedent for this. Some of you might remember that in 2018 the House of Commons rejected several Senate amendments on Bill C-49, An Act to amend the Canada Transportation Act, but the Senate insisted on two of their amendments and sent the bill back to the House a second time. The House again refused, and the Senate deferred.

The point is, honourable senators, that it is not unprecedented, and in the case of Bill C-11, it would be justified for us to insist a second time on our amendments.

To the Trudeau-appointed independent senators in this chamber, you should demand better of the government that appointed you. If you are as independent as you claim to be, take this opportunity to push back again on this message from the House of Commons on behalf of Canadians. It is time to flex your muscles. Try it. You never know. You might like it.

Honourable senators, if there is ever a time for the Senate to insist on its amendments, Bill C-11 would be it. To acquiesce so easily to the Trudeau government in dismissing the Senate's substantial amendments on this bill is to disrespect the time and the work that the Senate committee has done on Bill C-11. The government should not be meddling this way in the free expression of Canadians. This bill is a serious threat to the livelihoods of Canadian content creators. It could have the effect of stunting our cultural and entertainment industries on the world stage. Above all, it is an unnecessary and unprecedented impingement on the freedom of Canadians.

With this in mind, I ask you to join me and vote to stand up for our Senate amendments for the good of all Canadians. Thank you.

DISTINGUISHED VISITOR IN THE GALLERY

The Hon. the Speaker pro tempore: Honourable senators, I wish to draw your attention to the presence in the gallery of a former colleague of mine, and former senator and former Leader of the Government, the Honourable Jack Austin.

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

Hon. Senators: Hear, hear!

[*Translation*]

ONLINE STREAMING BILL

BILL TO AMEND—MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND NON-INSISTENCE UPON SENATE AMENDMENTS—MOTION IN AMENDMENT NEGATIVED

On the Order:

> Resuming debate on the motion, as amended, of the Honourable Senator Gold, P.C., seconded by the Honourable Senator LaBoucane-Benson:
>
> That, in relation to Bill C-11, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts, the Senate:
>
> (a) agree to the amendments made by the House of Commons to its amendments; and
>
> (b) do not insist on its amendments to which the House of Commons disagrees;
>
> That the Senate take note of the Government of Canada's public assurance that Bill C-11 will not apply to user-generated digital content and its commitment to issue policy direction to the Canadian Radio-television and Telecommunications Commission accordingly; and

That a message be sent to the House of Commons to acquaint that house accordingly.

And on the motion in amendment of the Honourable Senator Plett, seconded by the Honourable Senator Housakos:

That the motion, as amended, be further amended:

1. by replacing sub-paragraph (b) by the following:

"(b) insist on its amendments to which the House of Commons disagrees;";

2. by adding, before the final paragraph, the following new paragraph:

"That, pursuant to rule 16-3, the Standing Senate Committee on Transport and Communications be charged with drawing up the reasons for the Senate's insistence on its amendments; and"; and

3. by replacing, in the final paragraph, the words "That a message be sent" by the words "That, once the reasons for the insistence have been agreed to by the Senate, a message be sent".

Hon. Claude Carignan: Honourable senators, I very much regret that Senator MacDonald's amendment was defeated, but I want to believe that senators rejected it because they want every amendment that was rejected by the government to be reconsidered, which is in fact what Senator Plett's amendment seeks to do. Above all, I want to once again deplore the situation the Leader of the Government has put us in, for no good reason.

By imposing closure on debate on Bill C-11, Senator Gold is limiting our ability to express ourselves on fundamental issues related to a bill that directly affects freedom of expression. In my opinion, he is also undermining our work as senators in the chamber of sober second thought. How can we do a full study with wisdom and perspective if we are being challenged in our work? Again, I very much deplore this, Senator Gold.

What is more, Senator Cowan, who was then the leader of the Liberal opposition and who former Senator Austin knows well, said the following during debate on a time allocation motion for the study of Bill C-19 on the firearms registry:

> Honourable senators, Bill C-19 is a controversial bill. Canadians across the country feel passionately on both sides of the issue. There are strong arguments why this bill is wrong for the country. My colleagues opposite may disagree, but surely they agree that those arguments deserve to be heard and debated without having one eye on the clock.

To support his argument, Senator Cowan shared this statement:

> Why is this government so afraid of free and open debate? The former United States Supreme Court Justice William Brennan wrote in a famous decision: "Debate on public issues should be uninhibited, robust and wide open."

• (1750)

Senator Tardif, who was deputy leader of the Liberal opposition in 2012, made the following statement during consideration of Bill C-10, the safe streets and communities act:

> Honourable senators, the motion moved by the Deputy Leader of the Government would limit debate on the omnibus crime bill at the report and third reading stage. I find it hard to believe that the members of this government, who proudly boast that they defend freedom of expression, would use any means available to them to limit the opposition senators' right to speak, particularly when no government senator has been able to provide a reasonable explanation as to why such a time allocation motion is necessary in this case.

This is especially true now, when we are debating the time allocation motion in response to the message from the House of Commons, which is probably a first in the Senate.

Following that little bit of history, I will return to Senator Plett's proposed amendment.

I would remind the chamber that this amendment was intended to modify what Senator Gold was proposing, in other words, that we not insist and that we accept the message from the House of Commons as it was presented to us.

Senator Plett proposed the following:

That the motion, as amended, be further amended:

1. by replacing sub-paragraph (b) by the following:

"(b) insist on its amendments to which the House of Commons disagrees;";

2. by adding, before the final paragraph, the following new paragraph:

"That, pursuant to rule 16-3, the Standing Senate Committee on Transport and Communications be charged with drawing up the reasons for the Senate's insistence on its amendments; and"; and

3. by replacing, in the final paragraph, the words "That a message be sent" by the words "That, once the reasons for the insistence have been agreed to by the Senate, a message be sent".

In my speech on Senator MacDonald's motion in subamendment, I succinctly addressed the elements concerning amendment 3, which would protect amateur creators of digital content. This amendment is very important to several senators, including me.

The government rejected another amendment, and, quite honestly, esteemed colleagues, I cannot believe it.

Had amendment 2(d)(ii) been adopted, it would have created paragraph 3(1)(r.1) of the Broadcasting Act.

The text of that paragraph reads as follows:

> (r.1) online undertakings shall implement methods, such as age-verification methods, to prevent children from accessing programs on the Internet that are devoted to depicting, for a sexual purpose, explicit sexual activity;

I would call that the Miville-Dechêne amendment.

This amendment, which I think is essential, seeks to ensure that age verification methods are put in place to better protect children from exposure to online pornography. This amendment, which was introduced by Senator Miville-Dechêne, was adopted at the December 6, 2022 meeting of the Standing Senate Committee on Transport and Communications, thanks to the support of the Conservative senators on the committee.

I would like to remind senators that Senator Miville-Dechêne explained the reason for this amendment in the speech she gave on January 31. She said, and I quote:

> The objective of Bill C-11 is to give the CRTC the power to regulate online platforms in the same way that it can regulate traditional broadcasters. The CRTC already has the ability to regulate access to sexually explicit content in traditional broadcasting, through cable or satellite, and my amendment only transfers that ability to online content.

Amendment 2(d)(ii) is obviously important, according to the majority of senators who adopted it both in committee and in the Senate.

Unfortunately, a majority of MPs decided to reject this amendment to Bill C-11, even though it was quite simple. I am confused as to why members of the House would refuse to support this sensible measure proposed by the Senate, given that minors are vulnerable to the consequences of early access to online pornography.

Senator Martin described these harms quite well during her April 18 speech on another bill, Bill S-210. She pointed out that more and more children — some of them very young — are regularly exposed to pornography online. Furthermore, she made the following points:

> The individual and societal consequences of children viewing sexually explicit content, particularly violent material, are becoming more and more apparent as studies continue to surface.
>
> Girls who view porn have higher rates of self-harm and are more vulnerable to sexual exploitation and trafficking.
>
> For boys, as you may expect, the harm tends to manifest as sexual aggression toward women, dating violence in high school and a difficulty in forging intimate relationships with women in real life.
>
> And, regardless of gender, young people who view pornography have higher rates of anxiety and depression.
>
> The severity of this issue cannot be overstated.

One of the roles of the Senate, in studying bills such as Bill C-11, is to introduce amendments that we believe are essential to protect minorities and vulnerable groups.

I'm relying on the Supreme Court's 2014 Reference re Senate Reform, which said the following:

> Over time, the Senate also came to represent various groups that were under-represented in the House of Commons. It served as a forum for ethnic, gender, religious, linguistic, and Aboriginal groups that did not always have a meaningful opportunity to present their views through the popular democratic process . . . .

Although children and adolescents are not named in the Supreme Court passage that I just read, they are certainly an under-represented group in the House of Commons. Minors are vulnerable because they do not have the same degree of maturity or education as most adults. Furthermore, they have not reached the voting age, which makes it difficult to participate in the democratic process.

According to this logic, I am of the opinion that the Senate must send a message to the House of Commons to insist on keeping the amendments that were rejected and, especially, amendment 2(d)(ii), which would implement age-verification methods.

I am convinced that this amendment, if included in Bill C-11, would prevent vulnerable people like our youth from serious harm by viewing, at a young age, sexually explicit activities on the internet, as researchers have shown.

Let's not forget that in their message to the Senate, MPs do recognize that this amendment seeks to legislate on a matter relating to the broadcasting system. However, they've rejected it on the simple grounds that these matters go beyond the policy intent of the bill.

By insisting on amendment 2(d)(ii), the Senate would be sending a loud and clear message to the House of Commons. On the one hand, senators would be expressing that we find the explanations of the MPs who rejected the Senate amendment to be grossly inadequate, given the seriousness of the societal harms that the amendment would address.

On the other hand, by insisting on this amendment, the Senate would be putting justified pressure on MPs to try to find common ground, a counterproposal to the Senate amendment to amend Bill C-11 to better protect minors from this flaw in the Broadcasting Act that currently leaves the door wide open to early and harmful exposure to online pornography.

• (1800)

In my final intervention on Senator Gold's proposal — a proposal that will be amended by Senator Plett's motion, I hope — I will address other important amendments that were adopted by the Senate after careful consideration, but were rejected.

Hon. Marc Gold (Government Representative in the Senate): Would Senator Carignan take a question?

Senator Carignan: Of course.

Senator Gold: Senator Carignan, I must admit I was rather puzzled to see you proudly brag about never having used the closure motion on messages from the House of Commons during your term as leader of the government in the Senate. However, I understand that your term, which ran from 2013 to 2015, coincided with that of a majority Conservative government in both houses of Parliament.

Am I also to understand — and please correct me if I am wrong — that only one of the 61 government bills passed during that time was amended by the Senate? In comparison, one third of bills were amended during Prime Minister Trudeau's majority government. Can you confirm how many messages the Senate received during your term on government bills that were introduced in the House of Commons and then amended by the Senate, against the will of the government?

Senator Carignan: Thank you for your question. It is interesting, because it shows how important it is for senators to be part of a caucus, like those in the House of Commons. What you may not know is that the other place consults senators. That way, we are able to help improve bills, give our opinion even before the bill reaches the Senate, and propose amendments.

That is what I did with regard to the electoral reform. I worked with my current leader, Pierre Poilievre, who, at the time, was the minister responsible for democratic reform and the Fair Elections Act. Even before the bill reached the Senate, I proposed several amendments that were added to the initial bill. That is the advantage of having access to the prime minister and cabinet, to the government. Obviously, that's something you don't have, because I am still waiting for an answer to my question about Prime Minister Trudeau's much-talked-about credit card.

The Hon. the Speaker pro tempore: In just 14 seconds it will be six o'clock. If senators want to ask more questions, then they will have to ask for leave to extend the speaking time for five minutes.

Senator Carignan: I have no problem asking for five more minutes if Senator Miville-Dechêne would like to ask me a question, because she seemed to have one.

The Hon. the Speaker pro tempore: First, Senator Carignan is asking for leave of the Senate to have five more minutes of speaking time. Do honourable senators agree?

Some Hon. Senators: No.

The Hon. the Speaker pro tempore: There is no leave. Are honourable senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker pro tempore: In amendment, it was moved by the Honourable Senator Plett, seconded by the Honourable Senator Housakos:

That the motion, as amended, be further amended:

1. by replacing sub-paragraph (b) by the following:

   "(b) insist on its amendments to which the House of Commons disagrees;";

2. by adding, before the final paragraph, the following new paragraph:

   "That, pursuant to rule 16-3, the Standing Senate Committee on Transport and Communications be charged with drawing up the reasons for the Senate's insistence on its amendments; and"; and

3. by replacing, in the final paragraph, the words "That a message be sent" by the words "That, once the reasons for the insistence have been agreed to by the Senate, a message be sent".

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker pro tempore: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: All those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

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

Some Hon. Senators: Fifteen minutes.

The Hon. the Speaker pro tempore: Fifteen minutes, honourable senators? Do we have an agreement or not? Since there seems to be no agreement, we will have a 60-minute bell. The vote will take place at 7:06 p.m. Call in the senators.

• (1910)

[*English*]

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

YEAS
THE HONOURABLE SENATORS

Ataullahjan	Patterson (*Ontario*)
Batters	Plett
Carignan	Poirier
Housakos	Seidman
MacDonald	Smith
Marshall	Tannas
Martin	Verner
Mockler	Wallin—17
Oh	

NAYS
THE HONOURABLE SENATORS

Arnot	Greenwood
Audette	Harder
Bernard	Hartling
Boniface	Klyne
Bovey	Kutcher
Boyer	LaBoucane-Benson
Burey	Loffreda
Busson	Massicotte
Cardozo	McPhedran
Clement	Mégie
Cordy	Miville-Dechêne
Cormier	Omidvar
Cotter	Osler
Coyle	Pate
Dagenais	Petitclerc
Dalphond	Quinn
Dasko	Ravalia
Deacon (*Ontario*)	Ringuette
Dean	Saint-Germain
Dupuis	Simons
Gagné	Sorensen
Galvez	Woo
Gerba	Yussuff—47
Gold	

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

[*Translation*]

BILL TO AMEND—MESSAGE FROM COMMONS—
MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND
NON-INSISTENCE UPON SENATE AMENDMENTS—DEBATE

On the Order:

Resuming debate on the motion, as amended, of the Honourable Senator Gold, P.C., seconded by the Honourable Senator LaBoucane-Benson:

That, in relation to Bill C-11, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts, the Senate:

(a) agree to the amendments made by the House of Commons to its amendments; and

(b) do not insist on its amendments to which the House of Commons disagrees;

That the Senate take note of the Government of Canada's public assurance that Bill C-11 will not apply to user-generated digital content and its commitment to issue policy direction to the Canadian Radio-television and Telecommunications Commission accordingly; and

That a message be sent to the House of Commons to acquaint that house accordingly.

Hon. Julie Miville-Dechêne: Honourable senators, I wanted to say, to make you laugh a bit, that this is the first time in my life that I have heard my name used so often. It is very good for the ego. However, I get the feeling that I was being used politically, to some extent. Then again, we cannot be against those who support our causes.

I rise during this marathon of interventions not to prolong the debate, but to make a few remarks that I consider to be necessary. Some relate to me, others are more general.

I will begin by saying a few words about the closure motion and the six-hour time limit on the debate about the message received from the House of Commons on Bill C-11.

In theory, no one likes to short-circuit debate, especially in the Senate, where the new non-partisan reality should render these processes unnecessary.

In practice, these measures are sometimes inevitable, particularly when all the substantive debates have been held, when every perspective has been heard, when every argument has been made, and when every objection has been made.

In these cases, when there is nothing left but obstruction, when even the opponents of the bill are not claiming that it needs to be studied further, I think it is incumbent on us to end these now sterile exchanges and proceed with the vote. You will forgive me for not giving too much political value to the use of lengthy bells, the use of procedural tactics and partisan innuendo.

I have a spine. I am not a Liberal. Our opponents like to wrap themselves in the rhetoric of democracy. However, in this case, I believe that it is our democratic duty to prevent our debates from being blocked indefinitely or taken hostage when there are no new elements to bring to the discussion.

Several members have pointed out that the Senate spent more time on Bill C-11 than on any other government bill. I will not repeat the figures. What is important to note is that all those who wanted to be heard were heard. Is that not right, Senator Housakos?

All arguments have been made, often multiple times.

I would add that debate on Bill C-11 did not take place in Parliament alone. There were discussions in the papers, blogs, on the radio, on television and even on podcasts and in emails. We were inundated with all possible and imaginable viewpoints.

Ultimately, it is simply impossible — and no one is doing it — to claim that the bill was not properly studied or that there are voices that were not heard.

Essentially, this piece of legislation is far from perfect. Some have doubts that it meets its objectives. Others believe that it goes too far or not far enough.

Personally, despite a study and the amendments that have been proposed to very specific provisions of Bill C-11, I believe that we need to come back to the big picture.

Bill C-11 is based on the idea that Canadian culture — and minority and francophone cultures in particular — is not just another commodity that can simply be subjected to the law of supply and demand. This culture — our songs, our television programs — cannot be treated like tires or toothpaste, regardless of whether it is disseminated through traditional means or new online platforms. All governments have the right to protect and promote their culture, heritage, identity and artists by removing them, at least in part, from the ruthless logic of the marketplace.

Bill C-11 essentially proposes two things: that new online platforms help financially support our artists and works, and that they ensure that these cultural products are discoverable, that is, that they are, at a minimum, seen or heard by the Canadian public.

I see nothing offensive in these principles, quite the contrary.

Some claimed that this was a censorship bill. No one should be convinced by that blatant exaggeration. All of the content that exists today will continue to be available, and all of Canada's creators will be able to continue to broadcast what they want on the platforms of their choice. Bill C-11 simply proposes to give our creators a hand. If some people want to get angry and upset about that, then that is their right, but it is all a show.

It is true that my colleague, Senator Paula Simons, and I tried to clarify proposed subsection 4.2(2) on user-generated content. The idea was to reassure some content creators who were concerned about the possibility of excessive and unreasonable interference by the CRTC. I am talking about people who earn a living on YouTube and other online platforms. Many of them came to tell us how concerned they were that they were going to lose their livelihood.

Obviously, that amendment was never a *sine qua non* condition for supporting the bill. It was a pragmatic and independent effort to reach a compromise that would iron out a few wrinkles and get some skeptics on board. Consensus is important in politics.

Obviously, I regret that the government and the majority of members of the House of Commons, including NDP and Bloc Québécois members did not agree to that amendment. However, in the end, I believe that the overall bill is more important than the amendment.

I categorically reject the idea that my independence is compromised or diminished because I am in favour of a bill whose underlying principle I have always supported.

Ultimately, I will be voting for this bill. The Government Representative in the Senate recognized the content creators' concerns about the CRTC, and therefore his motion states the following:

> That the Senate take note of the Government of Canada's public assurance that Bill C-11 will not apply to user-generated digital content and its commitment to issue policy direction to the Canadian Radio-television and Telecommunications Commission accordingly;

Of course, it is a promise, but it is in writing.

• (1920)

I will be voting in favour of this bill because I believe that something needs to be done, even if it isn't perfect, to protect our culture in a fast-paced world where we, especially francophones and other minority cultures, are a drop in the ocean.

Of course, we can pretend that, with its fierce competition, the market will always reward the best, and that our artists will emerge on their own, that Klô Pelgag will dethrone Beyoncé, that Daniel Bélanger will overthrow Eminem, but that's magical thinking.

To become well-known and to find an audience, artists need talent, hard work, ingenuity and determination, but they also need to be heard, to be seen and to be discovered.

These days, people listen to music and discover new artists on foreign platforms that have no particular interest in promoting our culture. Of course, I'm saying "our culture," but I also mean the culture of Indigenous, Black or racialized communities and that of other minority communities.

There will be no turning back, of course. In this era of endless choice and à-la-carte consumption, minority cultures, and especially francophones in North America, will always have to fight to exist.

I am of course aware that a bill alone is not going to change this reality. We appreciate all the platforms, such as YouTube and Spotify, and the freedom of choice that they offer.

However, I have no doubt that we can continue to use and appreciate these platforms and the unlimited universe they open up, while giving our artists the best chances to be heard, seen and appreciated. They are an extension of us and the expression of our culture. They make a powerful contribution to the foundation of our identity. Personally, I am not prepared to allow their fate to be determined by the free market alone.

Thank you.

Some Hon. Senators: Hear, hear!

Hon. Claude Carignan: Would Senator Miville-Dechêne take a question?

Senator Miville-Dechêne: Yes.

Senator Carignan: I listened carefully, and you said you wanted to support Bill C-11. It's too late. It's already been done. Bill C-11 has already been passed, with a couple of small changes, and the vote today is on the Senate's insistence, on your amendment.

Are you aware that we are voting to push the House to accept your amendment? This is not about Bill C-11, because that has already basically happened.

Senator Miville-Dechêne: Yes, I think I know exactly what I'm doing. I have been here for a few years and I understand, so no, you shouldn't be concerned about that. I know we are looking at the message.

I voted for Bill C-11 and now we're focusing on the message, and in the message, yes, two of the six amendments that were defeated were ones that I was involved with; there are mine and there is Senator Simons' as well.

As I explained quite clearly in my speech, I believe that at this stage, given the importance of the bill and given that everything has been said, if there were no closure motion, we would be stuck at this same point in June. That would mean that the bill would have been before the Senate for a year, which is a relatively long time.

Pretty much everything that needs to be said has been said about this bill, and we won't necessarily be able to reconcile the different points of view. From my personal perspective, we must try to implement this bill. I know that it will be complicated and that the CRTC does not have all the tools it needs. I foresee some bumps on the road, but at least an effort is being made. Anything that represents any kind of regulation of the internet is difficult in this day and age.

There's no magic formula. We must try to ensure that this globalization, which has certain advantages, doesn't completely kill national cultures. In that respect, we are indeed the first to do something that affects music. Others have done things that affect television productions, Netflix. In France, for example, 30% quotas have been set. We are trying something else here.

It will be complicated, that's for sure. I am not really sure how this will unfold, and it's going to take a while to implement, but at this point, personally, I'm voting for the message, because I think it's time to end the debate. It's time to try to implement this bill.

Of course, content creators have concerns, but there are other people on the other side. Content creators are an important part of the reality. There are also young artists who want to succeed, to be heard, and who are not necessarily content creators on Spotify.

There is then a group of stakeholders, and there are a lot of them, as you know, since you are from Quebec. There is very little debate on this in Quebec. Most stakeholders are in favour of Bill C-11, but obviously there is a bit of a generational divide. I am aware of that. Overall, however, this bill is seen as supporting a minority culture and is considered necessary.

Some Hon. Senators: Hear, hear!

[*English*]

Hon. Donald Neil Plett (Leader of the Opposition): Would the senator take one more brief question?

Senator Miville-Dechêne: Yes.

The Hon. the Speaker: The honourable senator has two and a half minutes remaining.

Senator Plett: I will be brief.

Senator, at the start of your speech, you alluded to the idea that you had maybe been used politically. I know I quoted you a number of times in my speech, so I am sure you were referring to that, at least in part.

You and I might disagree on some issues, but we are absolutely rock-solid agreed on other issues. Whether you like to be in agreement with me or not, the fact of the matter is that I support your passion against child exploitation — no question.

You also used the word "opponents" in your speech. I would like to believe, Senator Miville-Dechêne — and in this particular case, we might vote differently on this issue — that we are not opponents on this issue. If you are as non-partisan as you say you are — and I respect that — then I would suggest that we are not opponents on this; we will vote differently, but we are in agreement on this issue.

[*Translation*]

Senator Miville-Dechêne: You are right, the term "opponents" in general was probably not the best choice. I should have said "adversaries" when speaking about Bill C-11, in general, and the objectives of Bill C-11, because, clearly, on other matters, whether it was the issue of pornography and children or forced labour, you supported my efforts to introduce private bills on the issue.

However, I did find that our names, Paula Simons' and mine, were often mentioned in connection with the amendments, and that led me to wonder whether it was about the content of the

amendments or the fact that senators from the Independent Senators Group had moved these amendments. That is something I wonder about.

I am not sure of anything, but, in any event, I thank you for your support on the issues we both agree on.

[*English*]

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of our former Clerk of the Senate and Clerk of the Parliaments, Mr. Gary O'Brien.

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

Hon. Senators: Hear, hear!

ONLINE STREAMING BILL

BILL TO AMEND—MESSAGE FROM COMMONS—
MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND
NON-INSISTENCE UPON SENATE AMENDMENTS—
VOTE DEFERRED

On the Order:

> Resuming debate on the motion, as amended, of the Honourable Senator Gold, P.C., seconded by the Honourable Senator LaBoucane-Benson:
>
> That, in relation to Bill C-11, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts, the Senate:
>
> (a) agree to the amendments made by the House of Commons to its amendments; and
>
> (b) do not insist on its amendments to which the House of Commons disagrees;
>
> That the Senate take note of the Government of Canada's public assurance that Bill C-11 will not apply to user-generated digital content and its commitment to issue policy direction to the Canadian Radio-television and Telecommunications Commission accordingly; and
>
> That a message be sent to the House of Commons to acquaint that house accordingly.

Hon. Michael L. MacDonald: Honourable senators, I have a few short remarks; I don't have a prepared speech. I just want to talk about our committee for a few minutes.

When I entered the Senate in January 2009, it was the Thirty-ninth Parliament, and I was immediately appointed to the Standing Senate Committee on Transport and Communications, which I really loved. I eventually became the deputy chair. When Senator Dawson was chair and I was deputy chair, and Senator Dawson had to spend time getting medical treatment, I was acting chair for over a year and I eventually became chair of the committee. I was chair of the committee until this Parliament, so I miss the committee and I have had a long history with it.

I must say I followed the deliberations of Bill C-11 closely — from a distance, but I still followed it closely.

• (1930)

I do want to congratulate the committee, the chair and all of the people on the committee for the great work they did. One of the things that we pride ourselves on in the Senate is the quality of our committee work, and I think that the committee work on Bill C-11 is another example of how strong our committee work is. The fact that the House had to adopt 19 amendments is illustrative of how slack the work was in the other chamber and how thorough our work was. I want to acknowledge the great work that was done.

When I proposed putting amendment 3 in — and insisting upon it — I knew that we had done a great job of listening to the people who spoke to the committee. That's one of the great strengths of the Senate committees: We listen to people. When we sent those amendments back to the House, we proved to the government, the public and especially to the people who came to speak to us that we were listening. I was hoping that — in this rare time — we would insist on this amendment because listening is one thing, but we should also have shown the public that we were willing to fight for what we believe in.

What would have happened if it had gone back? Would it have been delayed for a few days? It would have been back here. We wouldn't have played Ping-Pong with this forever. I think we're missing an opportunity. A friend of mine once said to me — and I think there's a lot of truth in it — "When you're a senator, it gives you something very rare in politics. It gives you the opportunity to be brave, if you want to be." I know it's hard to fight the system. I know it's hard to stick your neck out sometimes. In the future, going forward, I want us to keep this in mind: Being a senator gives us the opportunity to be brave and to take an extra step. It's one thing to listen and support — we took the message, and we sent it to the House — but it's also very important to fight for the things you believe in. I want to remind all of us of that. Thank you.

Hon. Marty Deacon: Thank you, colleagues. Thank you, Senator MacDonald. I'll start by saying that your amendment and your comments on talking and courage are extremely important and compelling — and both have been part of my big challenge in decision making regarding this bill, so thank you.

I'm going to speak very briefly this evening. I'm in absolutely no rush to repeat what we have heard over the past year in committee, in our communities, in this chamber, in the other place or in the media. It has been a challenge to decipher what is real, true and accurate — and what is not.

As senators, we are not — and cannot be — the experts of everything. Instead, we need to be informed, listen closely and ask for clarification from a variety of sources. I thank the experts and the stakeholders that we have all heard from on this, both in committee and in our offices, with a variety of perspectives.

Colleagues, though I don't sit on the committee that looked at Bill C-11, I followed the committee work, read and reread the transcripts and asked questions where I could right up until this moment. When I stepped off of the plane in Ottawa on Monday, I was still unsure about how I would vote on this bill. I share this because our job, as I see it, is to know as best we can what this bill will do, as well as the impact it will have on Canadians as individuals and as a country. My job is not to cheerlead a bill through to Royal Assent because the government wishes it to be. It has been clear to me since that first call from the Prime Minister informing me of my impending appointment that if the wishes are for true independence, there will be many days when we disagree. My voting record demonstrates this.

From my perspective, the bill, while deeply vetted, still falls short in some areas. Bill C-11 will not leave everybody happy — legislation rarely does. But this bill, for me, is a strong reminder, again, of what our role is as senators, and what our role is not.

The legislation in all of its iterations has been served second thought, third thought, fourth sober thought and then some. This message that I have just shared with you is proof that we did all we could to make it better. We've seen this, whether it has been debate on this bill directly or yesterday evening's debate on the procedure around this bill.

Like Senator Housakos said last night, debate is so important in the Senate; it's more important, frankly, than these scripted speeches and statements that we make at times. Last night, in a time of very divergent thinking and emotion, I was very proud to be a senator. At midnight, with a full chamber, we could all see the passion, the presence and the purpose of our collective work and desires. The will to act and the will to speak are both based on conviction and courage. I was reminded, again, of how important this is at every moment and juncture in our work. Even at that later hour, many of us lingered following adjournment — continuing discussions we had heard or had been part of in the hours earlier in order to clarify and recognize very different opinions. Even then, I was still working through my decision on this bill.

I woke up very early this morning, grabbed an umbrella and walked the streets of Ottawa. Through the solitude and quiet of the rain, I decided that, yes, I will vote in favour of this message before us because of what I have just mentioned.

On this, we've had dialogue at every level for a very long time. While it's not exactly what I hope for it to look like, I can live with it — not with a pushover attitude, but in hopes that we monitor and keep our eye on this. I think we should be proud of the work that has been done on this legislation through the hard work of many of you in this chamber. It has made this bill better.

My final thought — and it's probably my dominating thought — is that this bill must be well monitored for its intended and unintended circumstances. Senators, since I arrived, we have not done well on our commitment to review bills as stipulated in legislation. I do ask about this often during Question Period, and we simply have to do better.

Senators, I support this message, and I support Bill C-11, but I insist that we keep our eyes and ears open as this bill comes to life. Thank you. *Meegwetch*.

[Senator Deacon (Ontario)]

Hon. Leo Housakos: Before I enter into the crux of the debate, I want to share with colleagues that in my long time in this institution, there's no piece of legislation that's been more important than this one. It's important because I find that, as senators, we have an obligation to pay homage to the past and to fight for the present, but we also have responsibility in defending the future. This bill touches a young generation of Canadians particularly, and touches upon how we will be dealing with information going forward.

I'll say this before I enter into the crux of the bill, as well as the issue and my concerns with it, government leader. There's been accusations back and forth about partisanship in this particular debate. I'll tell you this: The people that I'm fighting for have been traditional Liberal voters. The people that came before my committee — the stakeholders that I met — are young Canadians who don't fit the stereotype of your typical Conservative voters. These are people who voted for the Liberal Party in 2015, 2019 and 2021, and they feel betrayed and concerned. These are the people that I'm fighting for.

Bill C-11, without a doubt in my mind, opens the door to censorship. The government has, of course, made a bunch of justifications that they're doing this in order to align traditional broadcasters with digital platforms. I've said on a number of occasions that digital platforms are not broadcasters.

We keep hearing about protecting Canadian content, but the reality of the matter is that Bill C-11 hardly dealt with Canadian content — other than the fact that we give a mandate to the CRTC to decide unilaterally what that Canadian content will be, which raises concerns from coast to coast to coast.

Colleagues, I'll say it again and again: I understand the importance of this legislation to certain unions, associations and legacy media who are struggling as the entertainment industry evolves and as digital platforms continue to take up more space. We know that. We know that traditional broadcasting is in decline and we know that their business models are facing risk of extinction.

• (1940)

I understand the desire for regulations to bring foreign streaming companies that behave like broadcasters — like Netflix and Prime — in line with other domestic broadcasters, and to make sure the Canada Media Fund and others get their cut and continue to be the gatekeepers who get to decide who becomes successful and who doesn't. Keep in mind, though, colleagues, that it's our responsibility in this institution to be fair.

Organizations like the Canada Media Fund — and, for that matter, the Canadian treasury — have benefited enormously from Canadian digital-first content producers in this country, because it's an industry that is exploding. Unlike traditional broadcasters, those Canadians are making hefty contributions to the Canadian government. Yet, this bill is going to allow the gatekeepers and these giant traditional broadcasters to feed at the trough while there's absolutely no accommodation for other Canadians. I don't consider that fair.

I also understand the government's desire to protect this paternalistic and antiquated system. However, I do not think that is our responsibility as senators. User-generated content will end up regulated by all means necessary, including algorithm manipulation. That is a fact under this bill. This puts the livelihoods of hundreds of thousands of Canadian digital creators at risk because of what it will do to their global rankings. That is what algorithms will do.

Someone at the CRTC or some bureaucrat at Canadian Heritage will determine whether their ranking should be at the top or bottom, based on whatever criteria the CRTC and bureaucrats decide — instead of having an open market where Canadians can choose for themselves what is a priority. I don't think that choice and putting customers ahead of bureaucratic decisions are bad things.

These are creators, by the way. I keep saying "digital-first creators" and "user-generated content." This is not some kind of techie, far-off concept. These are young Canadians, people from across the country — creators who have embraced the world of opportunities that has been opened up for them because of the internet. They haven't needed or wanted government intervention. Quite the contrary; these people were happily going about their business and all of a sudden there's a bill that raises deep concerns for them.

It is a noble thing to want to protect and promote Canadian culture. I have no issue with that. Who would? I'm not here to dispute that and I take no issue with the need to modernize the Broadcasting Act. However, colleagues, these young streamers and bloggers are part of the reason the Canadian cultural industry is exploding, both economically and artistically. We've seen Canada punch above its weight. Over and over again, I've seen statistics indicating that all of a sudden francophone streamers and bloggers are expanding their horizons. Instead of a limited francophone market of 7 or 8 million, all of a sudden at their feet is a market of hundreds of millions to which they can promote Canadian culture.

Why would we want to limit that? As the rest of the world is going global, Canada will become parochial and short-sighted. We will try to attach to the digital world antiquated solutions to cultural protection. These solutions were useful in the 1970s and 1980s, when the broadcasting industry was very different, but they don't apply today.

Look around at our children and grandchildren. They're no longer using cable. On a regular basis, they consume information from around the world. More importantly, they're exporting around the world Canada and all the greatness of Canada. We've seen a boom in the tourist industry in this country. People from all corners of the world want to go to Banff and Quebec City. We've seen this explosion in tourism in large part because of digital platforms.

Artists, actors, writers, producers and directors are busier in 2023 than ever before. The biggest injection of cash in our cultural industry is no longer to Telefilm Canada or from legislation that we pass here in terms of budgets from the federal government. Why? It is because we can't keep up. In today's world, it costs billions of dollars to produce films and documentaries. Netflix and other international streaming companies are investing billions in Canada. Why? Because we happen to be a great place to invest. It's cheap to produce films here and we have beautiful locations.

More important are the Canadian human resources and talent. Why would we want to hinder that talent? Why wouldn't we want to unleash it and compete with the world? Canadians can compete. Have faith in Canadians.

An Hon. Senator: Hear, hear.

Senator Housakos: I always say: Have faith in Canadians' choices and in their abilities. That is why it is so unfortunate that the government bungled this by turning it into an internet regulation bill rather than a broadcasting reform bill.

Minister Rodriguez, along with former Senator Dawson and the government leader, Senator Gold, love to say that when it comes to regulating user-generated content, "Users are out, platforms are in; trust us."

Colleagues, there are no platforms without users. I've said this a thousand times, and I had to learn it myself during the study: Platforms are just an empty shell. They're just a service that is provided to Canadians who want to use it. That could be individual journalists, media companies and even us politicians. When we export using these platforms, what we do here, we use them as a forum to communicate with as many people as possible in order to propagate our work. What is wrong with that? At the end of the day, are we going to call these platforms and say, "You owe us part of your revenue because we're content producers"?

Where do you draw the line? When does a government step in to pick who wins, who loses, who gets punished for their success and who gets rewarded for their failure? When you regulate these platforms, you regulate content and you regulate the users.

That's what this debate is all about. We know that this bill is about regulating the platforms. As I said, platforms are user-generated content producers and digital-content producers — which are, again, Canadians.

Basically, the government is saying that it will regulate bookstores but not the books or authors. How ludicrous is that? The government is saying, "We're going to regulate the platform, but — trust us — users won't be affected whatsoever. We'll ask the platforms for a desired outcome. Obviously, the only way to have the desired outcome is to force users to manipulate their algorithms in order to give us the outcome we want. But don't worry; trust us."

Most of us work with governments in good faith, but those of us who have been here for a long time recognize that unless you get it in writing, you will always be disappointed down the line.

I go back to the goodwill gesture on the part of the Canadian Senators Group to include an observation in the bill. Senator Quinn, I'm telling you that 6, 9 or 10 months from now, when we don't get the outcome we want from the CRTC or Canadian Heritage, nothing in this bill gives us any remedy to solve this problem and the outcome will be very dangerous.

The amendment that this chamber put forward to protect digital creators in this country and to protect consumer choice in controlling their own feed was not perfect. Many of you know that it wasn't perfect. However, I accepted it because I believed it was better than what we now have in the bill and what we had in the original bill. The fact that it was a non-starter for the Trudeau government makes it worthy of more pushback and insistence from this chamber.

At every turn in this debate — in our committee and in the other house — we've seen the government push back and not accept any concrete, written, black-and-white amendments that would protect user-generated content. That, in itself, has raised flags and concerns on the part of hundreds of thousands of Canadians who are wondering about their livelihoods and businesses — and their way of life, for that matter, because today digital communication is a way of life.

I will reiterate my grave concern for digital creators in this country as a result of this legislation. These are people from across Canada and from all walks of life. I've said it before, but it bears being repeated: All regions, ethnicities, linguistic and religious backgrounds have found incredible success on the internet, and they're pleading with this chamber for their concerns to be heard and to gain some sense of security. Unlike this government, they've embraced innovation and the lack of barriers. They've done it without any government help or intervention.

• (1950)

Again, I will repeat the people I'm fighting for because it's worth repeating. Darcy Michael comes to mind, for example; I mentioned him earlier. Jennifer Valentyne comes to mind; I mentioned her many times. Vanessa Brousseau is a proud Indigenous woman who expressed concern, as did other Indigenous groups, about their voices being heard and being heard in an unfettered fashion. These are the people for whom I'm so vociferously fighting every step of the way on this piece of legislation. I know they're watching because they communicate on a daily basis. They're hopeful that this institution will provide some added value to these stakeholders across the country.

I talked about algorithms. I talked about the impact it will have on user-generated content, and then there's Canadian content. We went through this review of the Canadian Broadcasting Act, which, of course, is at the pinnacle point of culture in this country, and we didn't open up the element of CanCon and the definition of CanCon. How ludicrous is that? How irresponsible as legislators?

By the way, the Broadcasting Act in this country hasn't been opened very often. Every 30 years or so, the government has the courage to look at it. Yet, we went after the digital platforms. We went after user-generated content to, by all means, help our traditional broadcasters, which are huge corporations in this country, and there's still no clarity on the definition of CanCon.

We're not listening to the ordinary Canadians who feel their livelihoods are being threatened. We're not even listening to Margaret Atwood. We're not even listening to icons of Canadian culture. Did you hear what she said about Bill C-11? Did you hear what she said? She called it "creeping totalitarianism." So if you don't believe Leo Housakos and my view on this being potentially a censorship bill, is Margaret Atwood also being partisan?

Senator MacDonald: No, she's a big Tory.

Senator Housakos: Please, her position is clear on it, and so is the position of many others. I guess everybody else who thinks there's potential for censorship — haven't they read this bill either? The truth of the matter, colleagues, is that a compelling case has been made that this bill has left out many important voices in this country. We are the last vestige of hope for these people to be defended.

Again, we had unanimous consent that this bill needed to be fixed by all groups. A concerted effort was made to fix it. The most important elements and amendments in this bill were ignored by the government. I'm pleading and asking this chamber to send it back one more time, to do our due diligence and to tell the government and insist that these are worth reconsideration.

Senator MacDonald: Just once. Just once.

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

Hon. Senators: Question.

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Gold, seconded by the Honourable Senator LaBoucane-Benson:

> That, in relation to Bill C-11, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts, the Senate:
>
> (a) agree to the amendments made by the House of Commons to its amendments; and
>
> (b) do not insist on its amendments to which the House of Commons disagrees;
>
> That the Senate take note of the Government of Canada's public assurance that Bill C-11 will not apply to user-generated digital content and its commitment to issue policy direction to the Canadian Radio-television and Telecommunications Commission accordingly; and
>
> That a message be sent to the House of Commons to acquaint that house accordingly.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed will please say "nay."

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: I see two senators rising, asking for a standing vote.

Honourable senators, it's after 5:30 p.m. Pursuant to rule 7-4(5)(c), the standing vote is automatically deferred to 5:30 p.m. on the next sitting day of the Senate, with the bells to ring at 5:15 p.m.

(*At 7:54 p.m., pursuant to rule 7-4(6) and the order adopted by the Senate on September 21, 2022, the Senate adjourned until 2 p.m., tomorrow*.)

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