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(HANSARD)

Wednesday, June 21, 2023

The Honourable RAYMONDE GAGNÉ,
Speaker

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THE SENATE

Wednesday, June 21, 2023

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

Prayers.

VICTIMS OF TRAGEDY

PETAWAWA—SILENT TRIBUTE

The Hon. the Speaker: Honourable senators, we were all saddened to learn of the military helicopter crash that occurred yesterday near Petawawa, which left two crew members dead and two more wounded.

Our thoughts are with their friends and families, and with all members of the Canadian Forces, as we express our condolences for those lost and our hopes for a full recovery by the injured.

Honourable senators, please join me in rising for a minute of silence in memory of those who did not survive this tragic incident.

(*Honourable senators then stood in silent tribute.*)

[*Translation*]

The Hon. the Speaker: Thank you, colleagues.

[*English*]

SENATORS' STATEMENTS

ROYAL CANADIAN AIR FORCE—450 TACTICAL HELICOPTER SQUADRON CRASH

Hon. Rebecca Patterson: Honourable senators:

> Oh! I have slipped the surly bonds of Earth
> And danced the skies on laughter-silvered wings;

So begins "High Flight," the aviator's poem, the official poem of the Royal Canadian Air Force, or RCAF. Today, we learned that two members of the RCAF have tragically slipped the bonds of life. Their CH-147F Chinook helicopter from 450 Tactical Helicopter Squadron at Garrison Petawawa, Ontario, crashed yesterday on June 20, 2023. Two of the four crew members on board survived and were recovered by base firefighters with the assistance of civilian first responders and support from 8 Wing Trenton. The two survivors were taken to hospital in Pembroke and have since been released. They are being monitored by Canadian Armed Forces medical personnel and their comrades in arms.

As the former commander of the Canadian Forces Health Services, I know that the two survivors and their teammates are being well taken care of. As a senator for Ontario, I want to thank all of those, both civilian and military, who helped in the search, recovery and treatment of the Chinook crew. Most importantly, however, as a veteran, as the mother of a soldier and as the spouse of a serving RCAF member, I know how much of a family the Canadian Armed Forces, or CAF, is.

We know service isn't just about the Canadian Armed Forces members but also about their community. We don't serve alone. So to the family, loved ones, friends and comrades of the fallen, we mourn your loss and stand with you in your grief.

Senators, the CAF truly is a family regardless of whether you serve in the air force, navy or army, and in times of tragedy, families stand together and support each other. Therefore, I ask of you, my new Senate family, to join with me and please keep those affected by this tragic accident in your hearts and on your minds.

In closing, I'd like to again read from the aviator's poem:

> Up, up the long, delirious, burning blue
> I've topped the wind-swept heights with easy grace
> Where never lark nor ever eagle flew—
> And, while with silent lifting mind I've trod
> The high untrespassed sanctity of space,
> Put out my hand, and touched the face of God.

We will remember them. Thank you.

Hon. Senators: Hear, hear!

NATIONAL INDIGENOUS PEOPLES DAY

THE HONOURABLE MARGO GREENWOOD, O.C.

Hon. Raymonde Saint-Germain: Honourable senators, on Canada's National Indigenous Peoples Day, I rise to offer my heartfelt congratulations to our very distinguished colleague Senator Margo Greenwood, who was officially inducted this morning into the Order of Canada and appointed as an officer of this order.

I would like to take a moment to reflect on Indigenous Peoples Day, in particular with our eight Indigenous colleagues. We are grateful for the contributions of our colleagues and for the knowledge and perspectives they bring to the Senate. Senator Greenwood's work has been instrumental in advancing Indigenous-led solutions that have helped improve the lives of countless Indigenous peoples across the country and beyond. It is worth noting that officer is the second-highest rank within the Order of Canada. This is a prestigious recognition of the most distinguished and accomplished Canadians recognized for their outstanding contributions in specific fields. Senator Greenwood's recognition is a testament to the importance of her work in advancing Indigenous health and well-being, notably.

As a proud member of the Cree nation, Senator Greenwood is a tireless advocate for Indigenous peoples and their rights. Her expertise in the areas of Indigenous health and social determinants of health has been widely recognized and respected both nationally and internationally. Today, we are celebrating one of her accomplishments; however, the list of awards and honours she has received throughout her career is long. Her ability and dedication to serve the causes that constitute her dream and vision is an inspiration to us all.

As Senator Greenwood stated in her maiden speech last Thursday:

> It is my responsibility as a senator to further the cause of reconciliation whenever possible, including today and every day.

This award serves as a reminder as well as an opportunity to reflect on the past and commit ourselves to building a better future for all Canadians — one that is grounded in the principles of truth, reconciliation and respect. Senator Greenwood's commitment to these principles is not only inspiring, it is indeed a driving force for change. As Senator Greenwood's journey in the Senate is only beginning, let's also celebrate that she will continue to be a strong voice for Indigenous peoples and all Canadians in the Senate, and we look forward to working with her toward a more just and equitable future for all.

On behalf of all your colleagues in the Independent Senators Group, I extend my warmest congratulations to you, Senator Greenwood. We are honoured to have you as a colleague and friend. *Hiy hiy*.

Hon. Senators: Hear, hear!

• (1410)

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Senator Greenwood's son Reid Church and her granddaughter, Everly Church.

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

Hon. Senators: Hear, hear!

NATIONAL INDIGENOUS PEOPLES DAY

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I rise in celebration of National Indigenous Peoples Day — a day to celebrate the history, diversity and achievements of First Nations, Inuit and Métis peoples across Canada. May I also acknowledge Senator Greenwood for her incredible achievements to date.

Today, we recognize the countless number of Indigenous peoples from all walks of life whose contributions and achievements have bettered the lives of their own people and all Canadians.

There are many inspiring individuals who have paved the way and continue to do so. I won't be able to list them all today. However, I wish to pay a special tribute to the service and sacrifice of our brave Indigenous veterans — especially those of the Korean War, to whom I and millions of people of Korean descent owe our lives.

One such veteran is the late Tommy Prince, who not only served in the Korean War but also in World War II. He is the most decorated Indigenous-Canadian war hero. Today, and always, we must remember our ancestors, our elders and all those who fought for freedom and democracy.

Canada is filled with so many inspiring First Nations, Inuit and Métis men and women. I encourage everyone, especially today, to take the time to learn and read about the many contributions of Indigenous peoples.

The historical relationship between Indigenous peoples and Canada is complex. Therefore, it is important that today, on National Indigenous Peoples Day, we acknowledge and make a special effort to cultivate and recognize the remarkable contributions and resilience of Indigenous peoples in building our country. As we look to the future, we not only want to celebrate these worthy Canadians but also to demonstrate our gratitude and respect. Thank you.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of participants in the Government of Nunavut Inuit Executive Career Development Program. They are the guests of the Honourable Senator Patterson (*Nunavut*).

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

Hon. Senators: Hear, hear!

INUIT EXECUTIVE CAREER DEVELOPMENT PROGRAM

Hon. Dennis Glen Patterson: Honourable senators, it gives me great pleasure to rise today to recognize the bright Inuit leaders of tomorrow.

Today, I was fortunate to meet the participants in the Inuit Executive Career Development Program. This program was developed by the Government of Nunavut to increase Inuit leadership capacity. It supports Inuit career development and the advancement of individuals into senior management and executive positions.

The program started in September 2021 and 11 participants are currently enrolled. They are slated to finish the program in December 2023.

Over three years, this program will support Government of Nunavut employees through the completion of a Graduate Diploma in Leadership and Management from Athabasca

University. The program provides wraparound supports such as study tours, access to subject-expert mentors and elders, and customized Inuktut language training.

It has been my honour and privilege to speak with these participants about the role of the Senate and, in particular, my role in advocating for Nunavummiut. We had candid discussions this morning about both the big challenges but also the tremendous opportunities in our territory.

Developing strong Inuit capacity at the executive level is crucial to realizing the dream we have for Nunavut. In government and across all industries, when we talk about Indigenous employment, it cannot just be focused on the entry or unskilled level. We need to ensure there is representation at the semi-skilled, skilled and managerial levels. We need to ensure we have Indigenous representation at the C-suite level. That is how long-term change and a shift in the status quo occur, and that is why I am so pleased to recognize and to have hosted this group here today.

Finally, honourable colleagues, I want to join in wishing you all a happy National Indigenous Peoples Day on this very special day — the longest day of the year and a day of glorious 24-hour daylight in most of Nunavut. I am delighted to be introducing these future leaders of Nunavut — most of whom, as you have probably noticed, are women — on this very important national day of celebration of Indigenous peoples.

[*Editor's Note: Senator Patterson (Nunavut) spoke in Inuktut*.]

Thank you. *Qujannamik.*

IMAMAT DAY

Hon. Mobina S. B. Jaffer: Honourable senators, on July 11, Ismaili Muslims in Canada and around the world will gather and celebrate Imamat Day, which marks the day that His Highness Prince Karim Aga Khan succeeded his grandfather to become the forty-ninth hereditary spiritual leader of Ismaili Muslims.

Over the past 66 years, when so much has changed in the world, the Aga Khan's unwavering commitment to improve the lives not only of Ismaili Muslims but of vulnerable people around the world has remained the same.

For more than six and a half decades, the Aga Khan has built upon his grandfather's legacy, providing education for girls and advocating for equality for women. It is because of the guidance and work of the Aga Khan and his grandfather before him that my mother attended school. It is because of that same guidance that my sisters and I were afforded the same opportunities as my brother. Personally, I would not have had the honour and privilege of standing in this chamber had it not been for the investment and belief in women's education.

His Highness the Aga Khan also arranged with then-prime minister Pierre Elliott Trudeau for thousands of Ugandan refugees to seek asylum in Canada. He found my family and many other Ismaili families the best country in the world to live in, and he encouraged us to always call Canada our permanent home.

At one of the most difficult times of our lives, the Aga Khan told us that we should never become a demotivated, marginalized minority; instead, we should demonstrate the will to rebuild our future — and we have done just that.

Honourable senators, the Aga Khan has committed his entire adult life to service. He has been a beacon of hope during extremely challenging and divisive moments in global history, and he continues to drive change by promoting pluralism and diversity and challenging the world to view difference not as a weakness but as a powerful force of good. He has said:

> Diversity is not a reason to put up walls, but rather to open windows. It is not a burden, it is a blessing.

Honourable senators, on the occasion of Imamat Day, I know you will join me in thanking the Aga Khan for challenging us to make space for one another, to understand and accept our differences and to find ways to build and grow from them.

To my Ismaili brothers and sisters around the world, *khushali mubarak*. Thank you.

ROUTINE PROCEEDINGS

HORSE PROTECTION BILL

BILL TO AMEND—FIRST READING

Hon. Pierre J. Dalphond introduced Bill S-270, An Act to amend the Health of Animals Act and the Agriculture and Agri-Food Administrative Monetary Penalties Regulations (live horses).

(Bill read first time.)

• (1420)

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

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

[*Translation*]

L'ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

MEETING OF THE PARLIAMENTARY AFFAIRS COMMITTEE OF THE APF, MAY 23-25, 2022—REPORT TABLED

Hon. Éric Forest: Honourable senators, I have the honour to table, in both official languages, the report of the Assemblée parlementaire de la Francophonie concerning the Meeting of the Parliamentary Affairs Committee of the APF, held in Brussels, Belgium, from May 23 to 25, 2022.

WORKING GROUP ON REFORMING THE APF CONSTITUTION, NOVEMBER 3-4, 2022—REPORT TABLED

Hon. Éric Forest: Honourable senators, I have the honour to table, in both official languages, the report of the Assemblée parlementaire de la Francophonie concerning the Working Group on Reforming the APF Constitution, held in Paris, France, from November 3 to 4, 2022.

UNITED NATIONS CONFERENCE ON CLIMATE CHANGE, NOVEMBER 10-11, 2022—REPORT TABLED

Hon. Éric Forest: Honourable senators, I have the honour to table, in both official languages, the report of the Assemblée parlementaire de la Francophonie concerning the Twenty-seventh United Nations Conference on Climate Change, held in Sharm el-Sheikh, Egypt, from November 10 to 11, 2022.

SUMMIT OF LA FRANCOPHONIE, NOVEMBER 18-20, 2022—REPORT TABLED

Hon. Éric Forest: Honourable senators, I have the honour to table, in both official languages, the report of the Assemblée parlementaire de la Francophonie concerning the Eighteenth Summit of La Francophonie, held in Djerba, Tunisia, from November 18 to 20, 2022.

LEADERSHIP WORKSHOP FOR FRANCOPHONE WOMEN PARLIAMENTARIANS, DECEMBER 12-16, 2022—REPORT TABLED

Hon. Éric Forest: Honourable senators, I have the honour to table, in both official languages, the report of the Assemblée parlementaire de la Francophonie concerning the Leadership Workshop for Francophone Women Parliamentarians, held in Paris, France, from December 12 to 16, 2022.

[*English*]

QUESTION PERIOD

PUBLIC SAFETY

COSTS OF LEGAL PROCEEDINGS

Hon. Donald Neil Plett (Leader of the Opposition): Senator Gold, I will put on the record part of a *Montreal Gazette* article dated August 13, 2021. It concerns the court case brought by the families of Kristen French and Leslie Mahaffy to obtain information from the Parole Board of Canada and Correctional Service Canada as they prepared for Paul Bernardo's parole hearings. It states:

> As legal victor, the government wanted the families to pay its legal costs for fighting for the killer's privacy — in a lump sum of $19,142.27.
>
> Lawyers for the government argued the families weren't pursuing public interest litigation but a personal pursuit: "Their personal motivation is to use the information sought to make statements to the parole board," the government agreed.

I have a hard time even talking about this, leader. It is so shameful and so horrific that these families have been tortured by this government.

Leader, your government wanted these families to pay the government's legal bills because it was personal to them. It was personal to them that their daughters had been tortured, raped and murdered.

The judge later reduced the amount. Seeking the amount of costs in the first place, leader, was wrong, was it not?

Hon. Marc Gold (Government Representative in the Senate): Thank you for raising this again, Senator Plett. It is difficult to understand the pain that the families of Kristen French and Leslie Mahaffy must have felt. We continue to suffer with them as they are reliving the tragedy that befell them.

Positions that the government may have taken in the past in the face of litigation are not something that I'm in a position to comment upon. However, as the Representative of the Government of Canada in the Senate, I understand the preoccupation of those and I certainly will make inquiries to better understand the circumstances.

CORRECTIONAL SERVICE CANADA—TRANSFER OF INMATE

Hon. Donald Neil Plett (Leader of the Opposition): Preoccupation? "The preoccupation of those"?

Leader, in a delayed answer from the Department of Justice tabled last fall, the Parole Board said it was aware of the concern with respect to costs. Costs had not been collected, and the Parole Board was considering its position. The answer was tabled more than a year after the original court case ended, yet they were still "considering" it.

Costs never should have been sought. And you're right, they continue to suffer. Why do they continue to suffer? Because now the government has decided — but they haven't said it — that somehow it is okay to move this murderer to a medium-security institution. And they say they have no recourse.

Leader, contrary to what you said yesterday, Minister Mendicino has not explained what he meant by saying that "corrective steps" have been taken with the staff, but the buck stops with the minister.

Again, contrary to what you said yesterday, leader, I cannot find on what date Katie Telford knew about Paul Bernardo's transfer. She testified before the House committee that nothing is ever kept from her boss, Prime Minister Trudeau.

Leader, Canadians want to know what happened here. What, leader, are the answers to my questions? What has Minister Mendicino done to take "corrective steps"? On what date did Katie Telford know? These are simple questions that require simple answers.

Hon. Marc Gold (Government Representative in the Senate): Thank you for your questions. I answered to the best of my ability yesterday, but I think Canadians also need to know that, despite the statements that you've made and the assertions implicit in it, both the Parole Board of Canada — which I served honourably, I hope, and certainly with great privilege, appointed by the previous government — and Correctional Service operate independently of the government. The Parole Board decisions are their own decisions. They're not directed by the minister, nor should they be.

The Correctional Service's decisions to evaluate risk and to decide whether or not to transfer an inmate from one facility to another are, again, decisions made based on criteria set out in the law and applied objectively, impartially and, more importantly, independently of the minister. Canadians need to understand that.

The suffering of the families of Kristen French and Leslie Mahaffy will be with them, tragically, for the rest of their lives. But it is also important that Canadians understand the democratic system under which we live and upon which we depend draws distinctions between what is and is not appropriate for government and politicians to direct.

[*Translation*]

NATIONAL DEFENCE

ARCTIC SOVEREIGNTY

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

Senator Gold, the Standing Committee on National Defence is very concerned about security in the Arctic, as you know. In Senate Question Period, the minister responsible for the Canadian Coast Guard said that she would provide a cost estimate for the procurement of two Polar-class icebreakers.

However, in a response tabled yesterday, her department is refusing to make that information public. One of the excuses given is that your government has not yet signed a contract with either the Davie or Vancouver shipyards. However, the Trudeau government has released cost estimates for surface combatant ships, even though no contract has yet been signed.

Explain the logic to me, leader. Why has the government provided cost estimates for the construction of warships when it has no cost estimates for the Polar-class icebreakers?

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

I don't have the information you requested. As you pointed out, when the government has information about the costs, it is publicly disclosed.

Therefore, I will make further inquiries to obtain a more definitive answer to your question.

Senator Boisvenu: Thank you, because I will give Senator Gold a lead.

Senator Gold, you know that Canada is in urgent need of warships and Polar-class icebreakers in the North.

• (1430)

We know that this is about jobs, but it's also about Canadians' ability to pay for these ships, so it's very important that we get an estimate. Why, then, has the Parliamentary Budget Officer already provided an estimate of $7 billion for the construction of those ships?

My question is this: If the Parliamentary Budget Officer can publish the cost estimates of those two ships, why can't the minister and the government do the same? Perhaps the minister could give the Parliamentary Budget Officer a call and he'd have the answer to her question.

Senator Gold: Thank you for the question. I have no information on any negotiations between the government and potential suppliers, but thank you for the suggestion and I'll add that to my inquiries with the government.

[*English*]

PUBLIC SAFETY

NATIONAL IMMIGRATION DETENTION FRAMEWORK

Hon. Mobina S. B. Jaffer: My question is also to the Government Representative.

Leader, I follow Senator Pate's question on the detention of refugees. Fifty years ago, I arrived as a refugee from Uganda to the best country in the world called Canada knowing that I would find safe refuge. Today, the news that our government has contracts with provincial governments to incarcerate hundreds of refugee claimants and migrants in provincial jails is just mind-boggling. I shudder to think what would have happened to my beloved mother, father and five siblings if we had faced this detention. We would have been broken people and would never have flourished in this great country as we have.

Since last week, Ontario, Quebec and New Brunswick have announced that they're ending their detention contracts with the Canadian Border Services Agency. They joined British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick and Nova Scotia to make it eight provinces who have now cancelled their immigration detention contracts. Newfoundland and Labrador, Prince Edward Island and the territories have not yet cancelled their agreements.

According to the latest data from Canada Border Services Agency, as of the second quarter of fiscal year 2022-23, these regions did not have any detainees. That said, it's still crucial for the federal government to put a federal policy in place.

Just for your information, leader, during the COVID-19 pandemic, detention numbers dropped dramatically, and yet people were still showing up for immigration hearings.

Leader, last week, Senator Pate asked you almost the same question, and I'm repeating it: Why is our government continuing to detain vulnerable and marginalized people who have not committed any crimes?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. Unfortunately, I don't have any new information to add to the answers that I provided to our colleague Senator Pate.

Canada has a welcoming and just policy towards refugees. That includes the obligation, when we receive them, to house them and welcome them in the most appropriate and humane way. In that regard, I understand the Government of Canada is in continual discussions with those provinces and territories that have not yet changed their policies, to which you made mention, to ensure we continue to improve the way we welcome, house and otherwise treat those who seek asylum in our country.

Senator Jaffer: Thank you, leader. You spoke the kinds of things I would like to see. When my family came, we also got housed and treated in a very humane way. But, leader, that's not been the experience of some refugees — some, not all. Last week, you said the government is looking at a directive to stop the detention of minors and also improving health services for refugee claimants and migrants.

Why is the government not also reviewing the broader practice of detaining refugees, claimants and migrants in jails in Canada?

Leader, I know what you've said. I'm not expecting an answer from you because you've said it. May I respectfully ask that you speak to the government, which you do on a regular basis — I'm not trying to be rude — and ask, "How long will this go on," and let us have the answer? Thank you, leader.

Senator Gold: I certainly will do so. Thank you.

DISPROPORTIONALITY OF INDIGENOUS PEOPLE IN INCARCERATION

Hon. Kim Pate: My question is also for Senator Gold.

Senator Gold, on this day — National Indigenous Peoples Day — we reflect on the legacy of colonization and celebrate the incredible accomplishments of Indigenous peoples. I recognize the reality, as I stand here, that Indigenous men are one in three in federal prisons, Indigenous women are one in two in federal prisons and 95% of those segregated in structured intervention units. We know that the significantly high numbers of youth mean these numbers will continue to increase.

I cannot help but ask how the government is planning to address the mass incarceration and overrepresentation of Indigenous peoples at every stage and negative component of the criminal legal system such that we can hope it will eventually be a just system.

Hon. Marc Gold (Government Representative in the Senate): Thank you for the question, senator. This is a real problem, as you and many others have pointed out and quite properly so. There are approximately 12,400 inmates in federal custody currently in the Correctional Service of Canada, of which 32% are Indigenous.

This government has taken many steps in many areas to address the historical injustices and the intergenerational consequences to individual families and their communities.

This morning, I was pleased to be present at the refreshing and raising of the Survivors' Flag, surrounded by Indigenous leaders, senators, colleagues from here and from the other place. With that and many other measures, this government is committed to accompanying us and leading us, in some respects, on the path to reconciliation.

It's impossible to look into the future with any certainty, but the Government of Canada continues to support and create initiatives to address the overrepresentation of Indigenous men and women, Black and racialized people in Canada's criminal justice system, and they will continue to do so.

Senator Pate: Thank you for that. I agree there has been a lot of discussion, a lot of good intentions around this. I just left a meeting with Indigenous leaders. Their appropriate, concrete question is this: By what percentage will the government commit to reduce the population of Indigenous peoples in prisons by this day next year?

Senator Gold: Thank you for the question. I understand the question and I understand the preoccupation, but it's impossible to know that.

First of all, the administration of justice is within the hands of the provinces and the territories. The prosecution of offences is within the hands, in large measure, of the provinces and territories. The sentencing of offenders is a matter for the judicial system. Many such cases go before provincially constituted courts, not superior courts under federal jurisdiction. Policing is, in large measure, a local matter.

The Government of Canada is taking a leadership role; it's doing its part. It's just impossible to set a percentage, but what the government can do, should do and is doing is taking concrete steps, whether in law reform or in bills we've passed to reduce but not entirely eliminate mandatory penalties; to provide alternatives to incarceration; to provide assistance to the provinces and territories so that the social service networks are more robust and better able to play their role; and to support Indigenous policing. The list goes on.

No one measure is a panacea or a silver bullet. In the aggregate, let us hope and commit ourselves to ensure that they will make a difference.

[*Translation*]

NATIONAL DEFENCE

MILITARY EQUIPMENT

Hon. Jean-Guy Dagenais: My question is for the Government Representative in the Senate. We learned from *La Presse* that Canadian soldiers based in Latvia had to buy their own helmets with better hearing protection, ammunition belts and rain gear to be able to carry out their mission properly.

This is not the first time that I have brought this up, but I want to echo the observation made by journalist Stéphanie Grammond, who said that this is truly shameful. We are not talking here about procuring fighter planes or submarines. We are talking about basic equipment that is easy to find on the market.

• (1440)

Our soldiers are the victims of bureaucratic red tape at Public Services and Procurement Canada, which spends more time talking than getting things done. That leads to a huge duplication of costs.

Leader, could your Prime Minister recognize how shamefully these soldiers in Latvia are being treated and tell us when the government intends to get its procurement system in order?

Hon. Marc Gold (Government Representative in the Senate): Thank you for the question. There are many challenges associated with the procurement system, and you are right to point that out. That being said, the government is stepping up and working on it with financial support for the Canadian Armed Forces and other measures.

In that respect, it is important to remember that this government has increased financial support for our armed forces year after year. The percentage of our GDP dedicated to defence continues to rise. There is a lot of work to be done, including resolving the problems that you mentioned, but the government is aware of that and is working on it.

Senator Dagenais: The government you represent claims to have developed an economic policy based on the countries of Indochina to counter China's power in the Asia-Pacific region. The same article in *La Presse* reported that the growing number of delays in equipment procurement and chronic underinvestment in the military have ensured that Canada is not welcome in AUKUS, the pact between Australia, the United Kingdom, and the United States that was created in 2021 to counter Chinese power.

Are we to conclude that Canada and its military are no longer reliable enough to be part of certain strategic alliances with some of the world's major powers?

Senator Gold: No; the answer is no. It is true that the Canadian Armed Forces are facing challenges, as you point out, but it is not true that we are not prepared to play our role. On the contrary, we have long-standing partnerships with our allies, including those who are in that region.

As I already explained in response to a question on the same topic, there are very specific reasons why Canada was not part of this small group. It is about the nuclear submarines that were central to this organization. That being said, Canada continues to play an important role everywhere, but especially in defending our interests in the Asia-Pacific region.

INDIGENOUS SERVICES

SERVICE IN INDIGENOUS LANGUAGES

Hon. Pierre J. Dalphond: I am asking the Government Representative in the Senate this question on behalf of Senator Audette.

As you know, Senator Gold, Indigenous peoples live all across Canada and have diverse cultures, experiences and lifestyles. Some of them still speak their native tongue, while others must fight hard to preserve that knowledge, which is so vulnerable and so important. Some had to learn English as a colonial language, while others were forced to learn French.

In Quebec, approximately half the First Nations communities use French as a first language or as a second language if their mother tongue is Indigenous. The federal government creates Indigenous programs and organizations where the linguistic realities of Quebec's Indigenous communities are not taken into account. Because everything is done in English, the communities do not have the same access to those organizations' expertise and services, despite the fact that we have the Official Languages Act and the Indigenous Languages Act.

How does the government intend to respond to the minority within a minority?

Hon. Marc Gold (Government Representative in the Senate): Thank you for the question. Today is the day we recognize and celebrate the history, heritage, vitality and diversity of First Nations, Inuit and Métis peoples across Canada, including their languages and cultures, which were showcased this morning in the ceremony I just mentioned.

In that regard, the reclamation, revitalization and strengthening of Indigenous languages are front and centre.

Given our history, the systems in place and the issues at stake, the challenges facing Quebec's Indigenous peoples are admittedly sometimes troubling in terms of the relations between the First Nations and the Quebec government. The Government of Canada is working at the federal level to assess and strengthen the capacity of federal bodies to provide services and even opportunities for members of Indigenous communities to work in their language and to access appropriate services, given the challenges you've mentioned.

Linguistic diversity, both across Canada and in that province, is once again a significant concern. The Government of Canada is working with its provincial and territorial partners and they will continue to work together.

Senator Dalphond: Senator Gold, is the federal government prepared to work with all the Indigenous senators on strengthening the Indigenous Languages Act and improving access to services in Indigenous languages throughout the country as soon as possible?

Senator Gold: The answer is yes, and I will briefly explain how this could happen. The Indigenous Languages Act, which was passed in 2019 under this government, is landmark legislation developed in cooperation with Indigenous partners. It is being implemented in an ongoing partnership with Indigenous peoples who know best what they need to revitalize their languages.

The Government of Canada recognizes the importance of listening and following the lead of its Indigenous partners with respect to their linguistic priorities. Furthermore, I note that section 49 of this act requires a three-year independent review of the provisions and administration of this act, agreements made with Indigenous governments and organizations and provincial and territorial governments to coordinate efforts to support Indigenous languages in Canada.

I believe that work is under way in that area and that the person or body chosen in consultation with the Office of the Commissioner of Indigenous Languages is required to consult Indigenous governments and organizations about the findings and recommendations.

In addition, my staff and I are offering to those interested — I have already mentioned it to one of your colleagues who is not here today, so I will not name her — to work with them, as well as with all senators, to advance this very important file.

[*English*]

PUBLIC SAFETY

FOREIGN INTERFERENCE

Hon. Leo Housakos: Senator Gold, yesterday, in the U.S., three men were convicted of various charges relating to "Operation Fox Hunt," which is a concerted effort by Beijing to threaten and intimidate expats living abroad in order to get them to return to mainland China to be dealt with by the authoritarian regime for speaking or acting out against them. All three men were accused of taking part in scare tactics aimed at a former Chinese official who was quietly living in New Jersey, and Beijing wanted him back.

These same operations are occurring right here in Canada. They are often facilitated through illegal police stations that Beijing is operating throughout our country. While the U.S. is busy prosecuting foreign agents responsible for terrorizing innocent people on American soil on behalf of maligned foreign regimes, we're trying to figure out whether the minister responsible knows his left hand from his right.

Has the minister figured it out yet, government leader, and does he know whether the illegal police stations operating here in Canada are finally shut down? Why did Minister Mendicino mislead Parliament a number of weeks ago when he claimed that all operating stations in this country had been shut down? What happened?

Hon. Marc Gold (Government Representative in the Senate): Thank you again for repeating the question that you've asked me many times, and I'll answer it again, as I did.

• (1450)

Investigations are under way by the RCMP into these allegations. If and when the RCMP determines that crimes or illegal activities were committed, they will take the appropriate steps, and if such is the case, charges will be laid. I presume some similar process gave rise to the charges in the United States to which you referred, as is appropriate in a democratic country. But beyond that, the investigations are ongoing, and there is nothing more that I can report at this stage.

Senator Housakos: We know the RCMP has confirmed that they exist in Canada, and we know from the RCMP that the investigations are ongoing. That's not the question. Why doesn't the minister know that the RCMP, which is under his responsibility, is operating and investigating while he's saying to the House, "No, they've already been shut down"? That's the problem with Minister Mendicino; he doesn't know what is happening in his own ministry.

And while we have the Australians, the Americans and the U.K. taking seriously transnational repression and taking action, in this government we see a minister and a government that isn't taking the same approach of seriousness and action.

Just over a year ago, I had Minister Mendicino right on the floor of the Senate Chamber recognizing the merits of a foreign registry, saying he would do something and put one into place — over a year ago. A year later, he's still in the consultative stage. We're still waiting for when it's going to happen.

The question is one I've asked many times, and I know you're tired of it. I've asked many times because we don't get a concrete answer. The question is this: Will the minister and your government make sure a foreign registry will be put into place before the next new government of Pierre Poilievre is sworn in?

Senator Gold: I'm really going to exercise restraint in a different context and not address the softball you have just thrown me.

The question of foreign interference is an important question. It's an interesting question. It is always appropriate to ask questions, but the answer is the same as before. This is a matter that is being considered seriously and responsibly by this government. It is not the case that a foreign registry should be put into place without proper consideration for the consequences to those who may be inadvertently affected or indeed tarred by it. The government is doing the proper and responsible thing, and when it reaches a decision, it will be communicated.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Patti LaBoucane-Benson (Legislative Deputy to the Government Representative in the Senate): Honourable senators, I have the honour to table the answers to the following oral questions:

Response to the oral question asked in the Senate on June 8, 2022, by the Honourable Senator Martin, concerning the cost implications of Bill C-13.

Response to the oral question asked in the Senate on May 18, 2023, by the Honourable Senator Wells, concerning a Canadian airline crew detained abroad.

PRIME MINISTER'S OFFICE

COST IMPLICATIONS OF BILL C-13

(*Response to question raised by the Honourable Yonah Martin on June 8, 2022*)

On March 1st, 2022, the Minister for Official Languages and Minister responsible for the Atlantic Canada Opportunities Agency tabled Bill C-13 (*An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts*) in the House of Commons. Bill C-13 is still currently under study by parliamentary committees.

On March 18, 2022, the Parliamentary Budget Officer (PBO) sent a letter to the Minister of Canadian Heritage (PCH), requesting information on the direct and indirect expenditures related to the administration of Bill C-13 as well as related tax expenditures, among others.

On April 6, 2022, the Deputy Minister of PCH, provided a response to the Parliamentary Budget Officer regarding his questions about the costs of Bill C-13. Seeing as a copy of the response from PCH would be posted on the PBO's website, the department was advised to not include, in the response letter, any information that is confidential or still under the seal of Cabinet. Due to an administrative error, additional confidential information was not sent in a timely matter. When this error was discovered, the department immediately corrected this mistake and provided the additional information.

TRANSPORT

CANADIAN AIRLINE CREW DETAINED ABROAD

(*Response to question raised by the Honourable David M. Wells on May 18, 2023*)

Transport Canada

Transport Canada takes all allegations of incidents involving aviation safety and security seriously. The responsibility for aviation security and investigation for incidents at the Punta Cana International Airport rests with the Dominican Republic.

Transport Canada has investigated within the scope of its authorities by reviewing details of the incident provided by both Pivot Airlines and Dominican authorities. It has assessed whether there were compliance issues in the Dominican Republic with international aviation security standards and conducted an on-site aviation security assessment of the Punta Cana airport. This assessment included the area where the incident occurred, which Transport Canada would not normally be allowed to see since it is a private terminal.

Dominican authorities appear to have taken the necessary steps to address possible vulnerabilities. During Transport Canada's on-site assessment, no major security issues were discovered. Transport Canada continues to collaborate with authorities to encourage the continuous improvement of aviation security.

No further review of this issue is planned by Transport Canada.

BUSINESS OF THE SENATE

Hon. Marilou McPhedran: I have a question, a point of clarification. It may be a point of order. I have the distinct recollection that yesterday when I was not able to complete my question, you said very clearly that you were going to recognize me today and give me the opportunity to do that. I would very much appreciate knowing why that did not happen.

I need to say that I'm a non-affiliated senator. The system that operates in this chamber discriminates against me. It limits my opportunities to speak, so it was very precious to me yesterday when it seemed that you were going to be fair and let me speak today and continue my question. I would really like to understand why that did not happen.

The Hon. the Speaker: Thank you, Senator McPhedran. Yes, I was even reminded today that I had said that yesterday. I must admit that a lot of questions being asked have very long preambles. I had a list of people, and I had you on the list after Senator Housakos. I had other senators also who asked to be added to the list, and I tried to respect the order that has been given to me. That is my explanation, and I will have you on the list. I have other senators whom I didn't recognize who were on the list also. So I will keep that in mind.

Yes, I had yesterday mentioned that, but, again, I'm trying to be respectful of the groups and also the non-affiliated senators.

Just a reminder, please keep your preambles short and get to the question as soon as possible so we have more time for more senators to ask questions.

Senator McPhedran: Thank you very much. I would like the record to note that this was not a typical situation. I was given an assurance by you. It's reasonable to think that I could rely on that, and so I would very much appreciate it when and if you use your discretion to allow me to continue my question.

The Hon. the Speaker: That was just a point of clarification. I don't believe it's a point of order. I had the choice. I was clarifying the position, so I will call upon the Orders of the Day.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Patti LaBoucane-Benson (Legislative Deputy to the Government Representative in the Senate): Honourable senators, pursuant to rule 4-13(3), I would like to inform the Senate that as we proceed with Government Business, the Senate will address the items in the following order: consideration of Motion No. 114, followed by all remaining items in the order that they appear on the Order Paper.

THE SENATE

MOTION TO AFFECT TODAY'S SITTING ADOPTED

Hon. Patti LaBoucane-Benson (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of June 20, 2023, moved:

> That, notwithstanding the order adopted by the Senate on September 21, 2022, the sitting of Wednesday, June 21, 2023, continue beyond 4 p.m., if Government Business is not completed, and adjourn at the earlier of the completion of Government Business or midnight.

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

Hon. Senators: Agreed.

(Motion agreed to.)

BUDGET IMPLEMENTATION BILL, 2023, NO. 1

THIRD READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Loffreda, seconded by the Honourable Senator Gold, P.C., for the third reading of Bill C-47, An Act to implement certain provisions of the budget tabled in Parliament on March 28, 2023.

Hon. Scott Tannas: Honourable senators, let me say, first of all, I'm speaking as a senator from Alberta and not in my capacity in any way as the leader of the Canadian Senators Group. I rise to speak to Bill C-47, known as the budget implementation act. I would suggest that it should probably be renamed the "budget implementation and a bunch of other stuff act," but we'll leave it where it is.

This is my eleventh year here and the eleventh June when I have seen a budget implementation act come through.

I want to make my comments today really around three things, first of all, the growing problem, as I see it, of omnibus legislation on a wide range of issues, unrelated to the actual implementation of a budget.

• (1500)

I want to highlight what I believe is one of the most egregious items that would stand as an example of the growing problem which we have in this bill that we are being asked to pass today.

Finally, I will propose a simple amendment that would provide a vehicle for us to improve this legislation, which I believe is our job, as always.

I'll start with the budget implementation problem that I believe we have. Page 30 of the Liberal 2015 electoral platform states:

> Stephen Harper has . . . used omnibus bills to prevent Parliament from properly reviewing and debating his proposals. We will change the House of Commons Standing Orders to bring an end to this undemocratic practice.

I believe it's as true today as it was then that this is an undemocratic process, at its worst; at its best, I think it adds efficiency.

Nonetheless, that was a platform of fresh ideas and new ways of doing things. I believe it was brought forward with the best of intentions.

A few months after Parliament reconvened with a new government, the first budget implementation act under the Liberal government was proposed, and it ran to 179 pages, which was seven pages longer than the egregious last budget implementation act of the Harper government. We didn't start out very well on the fresh and good idea of limiting omnibus budget bills. We now know that we are over 400 pages — for the last six or seven budget implementation acts that have been presented, we've reached up to 800 pages, in one case.

Colleagues, a budget implementation act, in its absolute purest form, should be a list of required legislative items that are tied to the spending and the revenue lines in a budget. Much of this budget implementation act does, in fact, do that. But budget implementation acts now — and going back many years — contain a litany of legislative items that are unrelated to the actual budget, but have been placed in the bill for convenience, efficiency or time sensitivity.

Sometimes — and I worry it is happening more frequently now — items are also stuffed into the budget implementation act for the purpose of avoiding proper scrutiny. I think that should concern us all.

My wife and I enjoyed the Netflix show called "The Crown." I don't know how many of you saw it; I recommend it if you haven't. In the opening episode, a dying King George has the young mother and bride Elizabeth — the soon-to-be queen — in his study because he knows he's dying, and he needs to start schooling her on the practical elements of being the monarch. In that episode, and in that particular scene, he's there with the red box in his study. The red box has all of the papers that the king is supposed to read regarding what is happening in the government. He explains that to Elizabeth. He said, "Here is a very important thing to do." He lifts up the box's lid, takes all of the papers out and turns them upside down. He said, "What they don't want me to see is on the bottom."

That brings me to Division 39 of our budget implementation act. It is, in fact, on the bottom. It is on page 409, and it is the last division in the budget implementation act.

It deals with the privacy laws that apply to federal political parties. Essentially, up until 2018, federal political parties were exempt from privacy legislation. In 2018, the government passed legislation that required federal political parties to develop and adopt a formal privacy policy. They never said what had to be in it. They never said there had to be any consequences. They just had to have one — that is the legislation that exists today.

In 2018, when they included that tiny provision — that forced political parties to have a privacy policy — it was proclaimed by the minister as the first step in the protection of privacy for citizens.

Five years later, nothing has changed. As far as I can tell — in the research that my office and I did — there is not a single other organization in this country that is not subject to privacy laws except for federal political parties.

What did we get in this bill? It's interesting — we got nothing. If you read it, we have a declaration that said that what exists is a uniform, exclusive and complete regime to protect citizens' privacy in regard to political parties. That's all it said. It didn't provide for anything other than that — there were no details; there was nothing.

All we have at this moment are those words that mean exactly nothing.

Some would suggest — and I think Senator Loffreda mentioned this — that the declaration sets the stage for future legislation, just like the first step five years ago set the stage for future changes. In fact, Senator Loffreda, in his second-reading speech, said the following when talking about the Legal and Constitutional Affairs Committee that studied this particular provision:

> In its report, the committee reminds us, "The amendment creates a framework for a potential future regime. It does not actually establish any such regime."

He went on to say:

> I appreciate some may feel the division is not robust enough and does not go far enough, fast enough. So I would urge the government to make this a priority and not delay any further.

I think that is a fair and optimistic view by a self-proclaimed optimist, and I'm a fan. It's important to look for the best in people and look for the best of intentions; I believe that way of thinking is my reflex as well.

A more cynical view of this potential division would be that this declaration is meant to be a shield to protect the status quo — where political parties operate with impunity, while provincial privacy commissioners are being bombarded with complaints because there is nobody else to complain to. They are looking to take action. In fact, in one province, they have begun a court challenge.

As cynical as it might be, some are of the view — and it was mentioned at committee, but it might not have been on the record — that there is no intention to change. There is simply the intention to place the shield here that would prevent the provinces from acting on behalf of the citizens of their own province in the vacuum that exists right now regarding accountability.

• (1510)

So my amendment, which I will get to in a few minutes, builds on the work and the words of our committees and simply provides a timeline in which this "new regime" must be developed and brought forward. It gives two years, whereupon if nothing is done, then this shield — this fig leaf — drops away.

If optimists are right, two years is plenty of time to get the proper legislation in place. If the cynics are right, then this shield — the fig leaf — to protect the status quo and keep other regulators away would drop off and allow provincial regulators to again take up the case on behalf of their citizens who believe that they have been wronged by political parties and their data and their privacy. That's it. It's that simple for me.

This isn't the only division in the budget implementation act that is troublesome. There was a host of items. We're going to change a bunch of items in the Criminal Code. There are other items that need proper scrutiny and were put in this bill for reasons that were not always explained. In fact, I asked Minister Lametti a question about this bill, and he had an interesting comment. It was quick and off-the-cuff, but he said that he doesn't always like what goes into a budget implementation act, and he believes sometimes that they should be full bills, but it's not always his decision, so fair enough.

Before I read my amendment, let me just say a couple more things. I think we have a growing problem, and I think it is the Senate's problem. Clearly, the evidence shows that we are suffering not just through financial inflation in Canada, but our budget implementation is also suffering from the same inflation — 172 pages in 2015 to 430 pages today. I believe if we don't do something, someday we will see more situations where governments are using both good and undesirable purposes in their budget implementation acts.

So, someday — maybe it isn't today — we're going to have to do something about it. If this government serves its full term, and there is a deal, as we know, on confidence and support, we'll have two more budget implementation acts, one in 2024 and again in June 2025. We should reflect between now and then and prepare to better manage these — to actually manage rather than react — rather than have I don't know how many times by how many people in how many reports we've said that there were items in this bill that were inappropriate to be in this bill, yet we're not going to do anything about it today. I'm going to propose something. I expect to lose spectacularly. That's okay. We're all going to get a chance to stand and begin our reflection on what we need to do here.

I believe for the utility and the sustainability of the Senate, this is an issue that we need to tackle. We need to communicate what we want to do appropriately with the House of Commons going forward, and we need to do this before the government changes. Imagine if we delay and all of a sudden we all get the religion when the government that didn't appoint us is now in power and we decide we're going to do something like this; we'll look like a bunch of hypocrites. So let's think about it between now and next year, and let's figure out how we deal with this issue between us and the House of Commons.

MOTION IN AMENDMENT NEGATIVED

Hon. Scott Tannas: Therefore, honourable senators, in amendment, I move:

That Bill C-47 be not now read a third time, but that it be amended,

(a) on page 402, by adding the following after line 5:

"**680.1 Section 385.2 of the Act is repealed.**";

(b) on page 402, by adding the following after line 10:

"**Coming into Force**

682 Section 680.1 comes into force on the second anniversary of the day on which this Act receives royal assent.".

The Hon. the Speaker: In amendment, it was moved by the Honourable Senator Tannas, seconded by the Honourable Senator Osler:

That Bill C-47 be not now read a third time, but that it be amended,

(a) on page 402, by adding the following after line 5:

"**680.1 Section 385.2 of the Act is repealed.**";

(b) on page 402, by adding the following after line 10:

"**Coming into Force**

682 Section 680.1 comes into force on the second anniversary of the day on which this Act receives royal assent.".

Hon. Marc Gold (Government Representative in the Senate): Would the senator take a question? Thank you, Senator Tannas, for your remarks. You alluded in the early part of your remarks to the promise to amend the standing orders. Are you aware that the standing orders in the House have, in fact, been amended on several occasions consistent with the electoral promise of 2015? Can you provide us with a short summary of those changes to the standing orders?

Senator Tannas: Well, I would tell you I was here before and I'm here now, and the standing orders may have changed. The work product is identical.

Senator Gold: I appreciate your comments, though, on this particular issue because, in fact, the standing orders were changed, providing the Speaker of the House of Commons with the ability to carve out separate votes on any part of an omnibus bill that was not announced in the budget documents that were tabled before Parliament. In fact, the standing order provides that it shall not apply, that is, the ability to carve it out:

> . . . if the bill has as its main purpose the implementation of a budget and contains only provisions that were announced in the budget presentation or in the documents tabled during the budget presentation.

The Speaker ruled that Division 39 of Part 4 met this task because it was contained in the annex and, therefore, ruled that it was appropriately contained.

Senator Tannas: I'm glad you raised this. It's a good one that goes to an episode of "The Crown." The finance minister did not say one word about this in her speech. You're right; it was in an annex to the budget. It was on page 254 of Annex No. 3 of the budget plan for 2023. It says:

> . . . the government proposes to amend the Canada Elections Act to establish a uniform . . . approach in respect of federal political parties' collection, use, and disclosure of personal information in a manner that overrides overlapping provincial legislation.

• (1520)

That's what it said. There is not a peep about it in the budget speech, and here we have one paragraph of two sentences in the back.

Yes, the rules have been sufficiently torqued such that all you have to do is stick it somewhere in the volumes of budget documents, and it qualifies as a budget. If I were asking you the question, I would say, "Can you point me to any line item of spending at which this particular division applies?"

Hon. Marilou McPhedran: Would you take a question, please, Senator Tannas?

Senator Tannas: Certainly.

Senator McPhedran: As I understand it, Bill C-47 is, in effect, a confidence vote. It's a budget bill. Could you please help me understand the nature of this amendment? What impact will this amendment, if we were to accept it, have on the ability of the government to function?

Senator Tannas: I don't believe it is a confidence vote. We've seen budget implementation acts amended before. In fact, we've seen in this government's time frame that they have been amended. The government didn't fall.

That is one of the pressure tactics that is used, but if that's the case, if we can't touch the budget implementation act, then how could a government ever resist sticking something in there that no one can do anything about?

It goes to what those bright-eyed people in 2015 said about frustrating the work of Parliament and making it undemocratic. I think that it is intellectually dishonest to say that this piece, because it happens to be in a giant omnibus bill that is named the "Budget Implementation Act," that our changing something in it would, in fact, cause a government to fall.

I would also say that we are at the end of the session, but we're not at the end of the session. The government is still over with their colleagues in the House of Commons. They are still meeting today. They haven't upped and gone home like sometimes when we get the budget implementation act and we have to deal with that issue. I would also say that they have voted and approved hybrid, so them coming back isn't them coming back at all. They just have to get on their laptops at home to deal with whatever it is that we have sent.

I reject completely the idea that something that is not to do with the budget somehow becomes a confidence vote if you stick it in a budget implementation act. Thank you.

Hon. Denise Batters: Would Senator Tannas take a question?

Senator Tannas: Yes.

Senator Batters: Thank you. I'm very sympathetic to your point of view on this. Perhaps one of the most egregious examples of how this government, several years ago, used a budget implementation act was to plug a 200-plus-page carbon tax into a budget implementation act, with no ability to really debate it or amend it or anything like that in that sort of fashion.

I'm part of the Legal Committee, and we were discussing this Canada Elections Act change and found that it was not a great way to do it, to say the least. Is that what your amendment precisely purports to do — simply remove that part of it? It wasn't specific in the actual amendment, so I wanted to give you a chance to explain.

Senator Tannas: Yes, that's exactly right. Our legal minds here in the Senate, who do such a great job for us, the way that they have written it is that section would stay in, but it would be repealed in two years. That's to give everyone time.

When you read it, it's kind of clunky. It seems as if it's backwards, but it's not. It's essentially saying that we have a sunset clause of two years and that these two sentences that are in there proclaiming this wonderful new privacy regime that doesn't exist would go away if it hasn't been replaced, essentially.

Hon. Leo Housakos: Would Senator Tannas take a question?

Senator Tannas: Yes.

Senator Housakos: Senator Tannas, thank you for your amendment and for highlighting what has become progressively worse year after year with these omnibus bills. Those of us who take our constitutional responsibilities in this chamber seriously recognize that we're impeded from doing some serious work on some serious bills that have nothing to do with the budget. Yesterday, Senator Simons spoke to the passenger rights bill that has been plugged into this particular budget bill and has nothing to do with the budget, and, of course, it's very important.

At the end of the day, I don't think there is anything nefarious on the part of the government. I just think it's a matter of convenience and a matter of bypassing the nuisance of Parliament, and what comes of it is bad legislation that touches particular citizens.

If this amendment that you propose is gloriously defeated by the government, would you take the principled stance of finally joining those of us in this chamber and send a message by voting against this budget implementation act and by saying that we're not going to stand for this anymore?

An Hon. Senator: Hear, hear.

Senator Tannas: I have made it a habit of supporting government budgets. They're elected; they're there. I will continue to do that no matter which government is in power and no matter whether I agree with the spending or not.

I haven't, frankly, got that far yet. I still have a light in the window that maybe this will pass.

There is so much that is good in this act. I would sure love to be able to vote, having received a message that the government has at least considered an amendment from us, at least received the message that we've reached our fill of this and that we need to do something else.

Senator Housakos: Senator Tannas, we've heard this complaint from colleagues of ours for years and years. What action do you recommend we take to finally send a message to the executive branch of government that they should not treat Parliament as nothing more than a rubber stamp?

Senator Tannas: Thank you, I've been thinking about this because I hate people who put problems down and don't have any solutions.

First, I intend to launch an inquiry where we can get some ideas on the table. My own personal idea is that, at some point, we should send a message that says that the first order of business for a budget implementation act is that we will review it to look for possible items that we believe need more study, more time or should be in a separate bill, and we will carve those out of any future BIAs. That would be something we could do.

If we gave them advance notice, maybe they would consider that. If they didn't consider that, then we could decide whether we want to follow through with something that we have indicated we would do.

That's one idea. I think there are a lot of other ideas.

This is part of what Senator Gold has always talked about: that he is the representative of the government in the Senate and he is the representative of the Senate in the government. I think if we spent some time and all made some proposals and discussed what we think and got the conversation going, we could arrive at a consensus here on how to deal with this so that we're not again having Groundhog Day next June on the budget implementation act.

Hon. Pat Duncan: Senator Tannas, will you accept a question?

Senator Tannas: Yes.

Senator Duncan: Thank you. I won't be long. I don't want to get into a discussion of omnibus bills versus non-omnibus bills. I've been on both sides of that question, and I can appreciate both sides of it.

I am thinking back to when I first arrived in the Senate — it was June — and sitting on the Finance Committee. We dealt with the Federal Prompt Payment for Construction Work Act that was buried in the BIA. We're still waiting for it to be proclaimed, for any number of reasons. It might be federal-provincial discussions. I don't know why. I'm not privy to those discussions. Therein, we approved something, and we're still waiting for it.

You summed it up: Members are on the horns of a dilemma here. We can certainly appreciate that it's a minority Parliament. At the same time, we can appreciate and understand this issue you're bringing forward. Quite frankly, anyone who has campaigned for office knows very well that political parties have a great deal of information and that this information should be protected. I also believe that a number of the political parties are not necessarily supportive of this notion.

• (1530)

You asked about problems and solutions. My question is this: Is there another way for the Senate to create a public discussion because we really need the Canadian public to be crying for this. Is there another way?

Senator Tannas: First of all, I think there is. We can hold public hearings if we want. We could figure out which committee needs to go. We can go out on the road and hold some public hearings.

At the end of the day, you can't blame the political parties. Why would any organization rush headlong into something that is going to bring more accountability and a whole lot more transparency and work, et cetera?

As far as political parties go, I think there are a lot of complicated issues. You knock on somebody's door, and they tell you something, "I'm going to do this; I hate this" — whatever. Now all of a sudden you're in possession of information they've given, but they don't know what you're going to do with it.

These days with technology, you walk down to the bottom of the sidewalk, you key what that person said into your phone and it goes into a database. For all I know — nobody in here knows — it might go to the fundraising arm of the party immediately with a customized letter that says, "We are doing on X and Y" on the thing that person just said they hated. They could sell it — who knows — because they are not required under any law to do anything. They could have had a data leak. We had a data leak. The Green Party had a data leak and voluntarily disclosed it. They didn't have to because they're not subject to any law, but they disclosed it anyway. We don't know if any or all the other parties have had a data leak and didn't disclose it. That's the situation.

So I agree with you. This is an issue that maybe a Senate committee could be helpful with. I don't know, though. I guess that's for us to decide in the fullness of time.

Hon. Elizabeth Marshall: Would Senator Tannas take another question?

Senator Tannas: Absolutely.

Hon. Elizabeth Marshall: Senator Tannas, the second anniversary, which is the time frame for the sunset clause — what's your rationale for that? As you know, governments move slowly, and now you've got a lot of political parties getting involved. As well, there's an election in 2025, so it seems the deadline will be maybe just before the next election. Was that part of your rationale? I'd just like to know why you picked two years and not three years.

Senator Tannas: Well, originally I thought 18 months because I had heard somewhere that you can get just about anything written and consulted on within 18 months. However, I did purposely pick two years instead of three because I think they should make an effort to do this before the next election. By all accounts, it's going to be a highly active election. The public is very engaged. They're going to say things — in my example —

at the door. Things are going to happen around artificial intelligence and all of the data work. We had the Cambridge Analytica revelations.

Going into this particular upcoming election, there are a lot of things that may have lasting impacts on people's privacy and the data they will be disclosing that will be collected on them. Therefore, I think it's reasonable to say that this needs to be dealt with in the next two years.

Hon. Donna Dasko: Senator Tannas, would you take another question? My question may overlap slightly with Senator Batters' question, but I wanted to very specifically focus on this.

When Stéphane Perrault, the Chief Electoral Officer, appeared at committee, he did express frustration about changes to the Canada Elections Act appearing in this bill. You're focusing on the privacy element. I wanted to ask you specifically: Why didn't you just simply remove this clause related to the Canada Elections Act? Why didn't you amend it so that it be removed from this bill if, in fact, one of the important issues here is changes to this act appearing in this bill? Why didn't you suggest, "Let's take this out of this bill altogether because it doesn't belong here" instead?

Thank you.

Senator Tannas: I really wasn't ready to go that far by deleting things that a government is intending to do. I felt it was better that we try to improve upon it while making a point. I was also thinking of the public. This isn't on the public's radar screen, but if it were, they would be hopping mad, and they would expect something to be done.

So deleting it leaves us where we are. I think this, at least, has highlighted it and can continue to highlight it.

That's the best answer I can give. Thank you.

Hon. Tony Loffreda: Honourable senators, as sponsor of the bill, it will come as no surprise that I rise to speak against the amendment proposed by Senator Tannas. I'm happy to have more time to speak to Bill C-47, but I wish it was under different circumstances.

Thank you, Senator Tannas, for your comments. There is proof that optimists do live longer, happier lives. By the way, I loved "The Crown." My wife, Angelina, and I loved it. In my business, though, we had no box. The priority was always on top.

Allow me to say a few words on why I oppose this amendment. First, as we all know, budgets are expressions of the policy priorities of the government of the day, and budget bills implement, in part, some of those priorities. By way of background information, the measure that appears in Division 39 of Part 4 of Bill C-47 is clearly listed on page 254 in annex 3 of the 2023 budget book. It says this:

> . . . the government proposes to amend the Canada Elections Act to establish a uniform federal approach in respect of federal political parties' collection, use, and disclosure of personal information in a manner that overrides overlapping provincial legislation.

I think most of us would agree — as did two of our committees through their reports — that changes to the Canada Elections Act probably deserves its own stand-alone legislation. I raised that issue in my speech yesterday.

Nevertheless, changes to the Canada Elections Act were announced in the budget, and I believe we must respect the government's will. It is not inappropriate for these amendments to appear in the budget implementation act. In fact, Speaker Rota in the other place also judged that this was sufficient to meet the definition in their Standing Orders that this was germane to Budget 2023, and he did not designate the item for a separate vote during the marathon of amendments held last week.

Let me speak now to the policy rationale behind this measure. Federal political parties are key actors in a healthy democracy and help voters make informed choices through their engagement. Effective engagement requires federal political parties to collect a significant amount and variety of personal information. Canadians rightfully expect that all federal political parties will protect their personal information when it comes to the activities they undertake, such as canvassing, fundraising and polling.

The amendments in Division 39 seek to achieve two main objectives. First, they will empower the government with the authority to establish a uniform federal approach in respect of federal political parties' collection, use, disclosure and retention of personal information.

• (1540)

Second, they will ensure that all federal political parties have consistent and appropriate national safeguards in place to protect the personal information of Canadians, which further contributes to broader efforts to protect Canada's democracy.

This commitment is informed by an evolving privacy landscape, which Senator Colin Deacon skilfully addressed in his second-reading speech — thank you, Senator Deacon. It's also informed by calls from subject-matter experts and growing expectations from Canadians with respect to the protection of their personal information. This measure dovetails with the spring 2022 ruling of British Columbia's Information and Privacy Commissioner, which applied B.C.'s privacy legislation to include federal political parties. This creates an uneven playing field across jurisdictions, and could result in federal political parties having to handle data differently in every single provincial and territorial jurisdiction. This is obviously not tenable, and could restrict the ability of volunteers, elected officials and parties to engage with Canadians.

It's also worth noting that the ruling of the B.C. Information and Privacy Commissioner is being challenged by all three major federal political parties represented in the other place: the Liberal Party of Canada, the Conservative Party of Canada, and the New Democratic Party of Canada. That consensus amongst parties demonstrates the importance of this measure.

Honourable senators, you may recall that in 2018, Parliament previously set out an exclusive, complete and uniform set of rules for the collection, use and disclosure of personal information by federal political parties. Parties are required to establish and comply with privacy policies that are regulated by the Canada Elections Act. There are six specific elements that parties must adhere to, including the type of information they collect, how they collect it and, perhaps most importantly, how they protect it. Employees of political parties must also be trained if they have access to personal information under the party's control. This legislation confirms that it has always been the intention of the Canada Elections Act that voters across Canada benefit from the same set of privacy rules in federal elections, and that federal parties are not subject to provincial legislation.

It is worth pointing out that the matter before us was debated in the other place. The government's intention, as I have described it, was confirmed in an intervention from the parliamentary secretary to the Associate Minister of Finance on June 7, when she said:

> The changes that this bill makes to the Canada Elections Act confirm that Parliament has always intended that the Canada Elections Act should regulate uniformly, exclusively and comprehensively the federal political parties with respect to privacy.

Honourable senators, I'm told that the government is not stopping here. As set out in Bill C-47, the government has signalled and is committed to bringing forward additional legislative measures to ensure a uniform federal approach regarding the federal political parties' collection, use and protection of personal information. This will further build trust in our democracy and increase protections of Canadians' personal information.

Senator Tannas's amendment suggests that this ought to happen within two years. I appreciate where he's coming from — and I'm a fan, too, by the way — but I think an amendment is unnecessary. In fact, in my second-reading speech, I recognized that some senators may feel that this division is not robust enough, and does not go far enough fast enough. I even urged the government to make this a priority and not delay any further. Based on the government's statements, I am confident that this will happen soon.

It is also a priority item for the Minister of Intergovernmental Affairs. As per his mandate letter, he's been asked to consider the recommendations of the Chief Electoral Officer, which includes recommendations on protecting electors' privacy and enhancing their confidence in how political parties manage their personal information.

I've been told that the government intends to bring legislative amendments on the subject as soon as possible. I am hopeful and, dare I say, confident that the framework for the future regime that Bill C-47 is proposing will soon see the light of day.

Legislation is not a static process. It's not static at all; it's dynamic. Trust, as I've always said, is the currency of every relationship. I think it was President Reagan who said, "Trust, but verify."

We can always resist and revisit this issue in the future. There is nothing that impedes us from looking at this in the future, if it is not done. I feel that it's not necessary at this point in time for many reasons. For the sake of brevity, you've all heard what it entails to amend a budget bill. I appreciate that the amendment before us would basically force the government to achieve concrete and permanent results within two years, but I think it would be inappropriate to put a legislative deadline on such an important matter. The government needs to get this right.

You referred to "The Crown," Senator Tannas — in our business, we have to get it right. When someone would say that a client needs something, I would say this — and I've said it many times: "The client is going to be with us for a long time. We're going to live with this for a long time. Let's get it right." An extra day won't make a difference; an extra two days won't make a difference; and an extra year won't make a difference. We have to get this right, so I don't believe a deadline is appropriate.

As honourable senators consider Senator Tannas's amendment, I also want to point out, as we enter our final sitting week, or weeks — it could be weeks — the knock-on effects of an amendment to the budget implementation act could further delay its passage. I'm not suggesting that senators do not have the legislative authority to amend budget bills, but I am concerned that an amendment could delay the implementation of other measures contained in the bill. For instance, I think of the automatic advance payments of the Canada workers benefit, which seeks to deliver advance payments to lower-income Canadians who are struggling with the cost of living — we talk about inflation and the cost of living so often here. I will leave that for your consideration.

Once again, I thank senators for their attention, and I would humbly urge you all to vote against the amendment of Senator Tannas. Thank you. *Meegwetch*.

[*Translation*]

Hon. Clément Gignac: Would you take a question?

Senator Loffreda: Yes.

Senator Gignac: As you know, Senator Loffreda, I mentioned this week in the Senate that I will support the budget implementation bill. However, it makes me somewhat uncomfortable that the government is including things in the budget that have nothing to do with its economic or fiscal policy. Our colleague Senator Deacon talked a bit about that. I look forward to listening to all of the arguments.

My question is as follows. If ever this amendment is accepted, if the majority of senators vote in favour of this amendment and in favour of the bill, are we going to send everything back to the House of Commons? The House of Commons is free to reject the amendment and send it all back to us. That would bring us to Friday, rather than tomorrow, but either way, we do not have much time. It would be the same as other times that they had already come to an agreement.

However, we still need to send the message that the Senate is independent. The government should not be including anything and everything in the budget implementation bill. It should only be including things that are related to economic and fiscal policy. In this case, we are talking about Elections Canada. We are talking about the ground rules for a democratic country.

My question is the following: If we vote on this amendment, is it a confidence vote? I do not believe so, since there is no monetary aspect at play. We can vote in favour of the amendment and vote for the budget implementation bill at the same time. There would be no vote of confidence in this government. I would just like to understand. You are the sponsor of the bill and I need clarification on how we should conduct ourselves. Thank you.

Senator Loffreda: Thank you for your question, Senator Gignac.

[*English*]

With respect, it doesn't have any impact or implications on the Senate, but the budget implementation act is a confidence motion in the House, as we all know. I did move an amendment last week, which I knew would not pass, but I moved it as a matter of principle for my community and the minorities I represent. It's not the point of moving an amendment. I believe we have the right to move amendments — but, in this case, I believe that it's unnecessary.

As I said, I'm a fan of Senator Tannas and many of you here in this house. I'm privileged and honoured to be here. I pinch myself almost every day and say, "Wow. Look at where I am." It's a weak argument because the government plans on doing it anyway.

• (1550)

Including a two-year deadline should not be an issue or really have any consequences. It's not static; it's dynamic. Legislation is dynamic. We have a right of overview. We have a right to revisit the situation. We have a right to look at it again if it's not done. I want to get the quote right, but it is former President Reagan who said, "Trust, but verify." We will do that in the future. If it continues to be the case, we will act accordingly.

Today, however, I feel it's unnecessary. Trust is the currency of every relationship. I do believe it will be done. I'm looking forward to that. Thank you for your question.

Senator Gold: Honourable senators, it's my pleasure to rise briefly to speak to Senator Tannas's amendment.

Colleagues, I strongly urge you not to support this amendment. First, it is unnecessary for all the reasons well outlined by Senator Loffreda.

Let me reinforce Senator Loffreda's comments as the Government Representative in the Senate. I can indicate formally here, on behalf of the government, that the government will be bringing forward legislation at the earliest opportunity to ensure a uniform federal approach regarding federal political parties' collection and use of personal and private information. This will go to the core of many of the concerns that senators, and others, have raised around privacy implications and the need to create a robust and effective regime at the national level. When that legislation is brought forward, we in the Senate will have our opportunity, as will our colleagues in the other place, to scrutinize it, debate it and study it in as granular and as detailed a fashion as we choose.

This legislation that the government intends to bring forward will build off the provisions contained in Bill C-47. Given the government's commitment, including the fact, colleagues, that maintaining the health of Canada's democracy is an element of the supply and confidence agreement of which we are all aware, I am confident that these proposed legislative changes will be brought forward quickly. Therefore, a sunset window of two years would be unnecessary.

I would also echo, but will not repeat, Senator Loffreda's reminder of the many important measures that may be at stake should Bill C-47 not pass swiftly.

Second, and to be frank, I also believe that it is a concerning course of action within the context of the Senate's overall relationship with the other place. Bill C-47 is a matter of confidence in a minority parliament. In putting it to a vote in the other place, the government tested this confidence and put its survival at risk. And the bill passed. In such circumstances, the Senate has customarily — and wisely, I might say — exercised a significant degree of restraint.

There is more as well. When it comes to rules governing elections, we must be circumspect, careful and, indeed, somewhat deferential vis-à-vis the choices made by elected members in the other place. They're the ones who have to play by the rules and they're the ones who will be accountable for whether they do play by the rules.

The provisions in Division 39 of Part 4 of this bill, which lay the groundwork for a privacy and data collection regime, were supported by the elected members in the other place, representing the major political parties that they would affect. As our former colleague Senator Dawson said during our debate on Bill C-76, the Elections Modernization Act:

> Well, amendments are always normally considered by this place. As far as elections law, *je pense qu'on a une petite gêne.*

Honourable colleagues, is it within our power to send back Bill C-47 to the other place, even though it's a budget bill and a matter of confidence? Yes. Is it within our power to amend laws relating to the electoral process that has been endorsed by the elected members of Parliament? Yes. However, it's not because one has the power to do it that means it's advisable to wield it.

The relationship between our two houses of Parliament is crucial for the proper functioning of our democracy. As an appointed body, when we're dealing with a matter of confidence, a matter that is covered by a budget bill, I believe we must tread lightly, and when we're dealing with matters related to the electoral process, so too should we tread lightly.

Colleagues, in this session, I feel that the other place has shown tremendous respect and openness to our good work. As some of you may know — certainly those who pay attention — we in the Government Representative Office advocate behind the scenes for the government to accept Senate amendments, for the government to allocate House time for the Senate messages we send over. The government must, in turn, advocate for those so that it will be accepted to the other parties in the House.

Colleagues, this is far from easy. However, despite the minority context in the other place, the government has been able to secure support for Senate amendments from other parties, including the New Democratic Party and the Bloc Québécois, which, as you all know, question, if not deny, the very legitimacy of the Senate.

Despite these different viewpoints, Parliament has functioned well. We have sent back amendments on a wide range of initiatives, and the other place has been able to respond before the summer adjournment, often with many amendments accepted. We've been able to work constructively, collaboratively and positively with the other place. This week, it looks like the session will end on a positive note, with many bills receiving Royal Assent, with contributions from both chambers. I dare say we have been fostering a very positive form of bicameral collaboration.

When the House rises is still not fully known, although it may be much sooner than we think. It's been a good session, a collaborative session and one that we in the Senate should be proud of. We should be mindful of the respectful response that our amendments have gotten from the other place, from the government and from other parties.

The course that Senator Tannas is proposing is to send a confidence measure back to a minority House in the very twilight of the session — a proposal that would set us up for a standoff with the other place. This is not the way I wish to end a sitting that has been so fruitful, so collaborative and so successful. Therefore, I will be exercising restraint. I will be voting against the amendment. I urge you to do the same. Thank you.

Hon. Colin Deacon: Honourable senators, based on my second reading speech — where I offered no solutions whatsoever — you won't be very surprised that I am going to speak in favour of Senator Tannas's amendment.

Colleagues, I recognize that it's rare for the Senate to amend the budget implementation act, as it should be. Some have said that amending the budget implementation act may put the Senate's reputation at risk. I completely disagree under these circumstances and with this specific issue.

In 2017, as senators debated whether to hive off a portion of the budget bill for further study and debate, the Prime Minister offered that "it's important to understand that the House of Commons has the authority when it comes to budgetary matters."

• (1600)

I agree fully. I expect most, if not all, of us agree as it relates to "budgetary matters." The proposed change to the Canada Elections Act in Division 39, on the last page of a budget bill, is not a budgetary matter. Typically, a budget bill is about giving Canadians financial support in challenging times, about providing access to new rights and opportunities, like affordable childcare or investing in our future. Budget bills are not about undermining a Canadian voter's right to privacy — an issue that our three major political parties have refused to act on for more than a decade.

So let's talk about that issue. To Senator Duncan's question to Senator Tannas, according to a 2021 Elections Canada survey of voters, 96% of Canadians agreed that laws should regulate how political parties collect and use Canadians' personal information.

This is not the case today. These political parties self-regulate. This remains the case because the organizational leadership of the Liberal, Conservative and NDP parties have demonstrated that they cannot get past — as far as I'm concerned — their conflicts of interest as it relates to this issue. It's ironic that the 96% of voters who want legal privacy protections to be extended to political parties can now only look to the unelected Senate for help. I'm of the opinion that we offer a beacon of hope, simply because 80% of us are not whipped by partisan leadership and can look at this issue independently. This is our time to provide that counterbalance to the elected House of Commons, where less than 1% of elected members are independent of the partisan whip.

Colleagues, the Prime Minister made one request of me when he appointed me to the Senate, and that was to challenge "the government" — whichever government is in power.

I try to do so as collegially and responsibly as possible. I have never, to this point, voted against a budget implementation bill, and I doubt that I will do it this time, but I am in favour of this amendment.

I chatted with most of you about the Prime Minister's request, and I understand that he made a similar request of many, if not all, of his appointees. We're independent. We're not whipped. This is a luxury in Ottawa. It's also a profound responsibility. Few have had this luxury and responsibility in the history of Canada. Well, now is our moment to fulfill that responsibility. This is why I support Senator Tannas's amendment. It gives the political parties two years to implement new legislation that actually creates:

> . . . a national, uniform, exclusive and complete regime applicable to registered parties and eligible parties respecting their collection, use, disclosure, retention and disposal of personal information.

It is a firm and clear response that I believe, Senator Shugart, shows restraint.

The only ones who've been denying Canadians access to these privacy protections are the individuals and organizations that lead the Conservative, NDP and Liberal parties. But they're conflicted in this debate, and their actions have proven that they're serving their own political interests and clearly not the wishes or interests of Canadian voters.

The NDP, Liberals and Conservatives have worked in concert for more than a decade, seemingly doing everything in their power to not give Canadians privacy protections as it relates to political party data, despite the wishes of 96% of voters. For more than a decade, Canada's three main political parties have ignored the two officers of parliament responsible for these issues. The Privacy Commissioner and the Chief Electoral Officer have repeatedly called for legislative, or even voluntary, protections to be put in place, but to no avail. They've ignored the strong and compelling recommendations from the House of Commons Ethics Committee report, specifically called *Democracy Under Threat: Risks and Solutions in the Era of Disinformation and Data Monopoly*. This demonstrates that the political party leadership is even willing to ignore the voices of elected MPs from their own parties. And they've joined forces to thwart the efforts of the Information and Privacy Commissioner for B.C. by challenging him in the Supreme Court of British Columbia to stop him from trying to protect B.C. voters' privacy in the perpetual absence of federal protections.

As I said in my second-reading speech on Bill C-47, it's remarkable and deeply disturbing that this is one issue that unites Liberals, Conservatives and NDP in these hyper-partisan times. It is a sad irony that, instead of uniting to address the threat of foreign interference — the number-one political issue of 2023 — they are united in their desire to deny Canadian voters privacy protections that almost every Canadian voter says they want.

But why are privacy protections important in the first place? Large databases have been said to be like gold. True, they can have enormous value. However, the architect behind much of Australia's work to develop and apply their consumer data rights, my friend Scott Farrell, describes it differently. He sees data as being like uranium because it's both extremely powerful and dangerous, and it has a long half-life. That's because data can continue to deliver harms for a long time if not handled very carefully.

Access to large amounts of detailed personal data enables political parties to micro-target their political messaging. This personal data allows them to target and speak compellingly to the interests of increasingly narrow slices of our voting population to motivate those voters to donate and get out to vote, as Senator Tannas alluded to.

Consequently, our political parties and their messaging increasingly focus on the issues that divide Canadians, not the issues that unite us. As I mentioned, political party organizers now openly admit that they choose their voters; voters no longer choose their political parties. This is equivalent, in my mind, to digital gerrymandering.

Currently, our political parties are not required to secure any voter consent, regardless of the data they gather. They do not need to be transparent in terms of the data they have or how it's used. They are not required to provide any guardrails, meaning nothing is out of bounds, and they're not accountable to an appropriate governance body. There is no authority to which voters can complain or who can investigate abuses. There are no protections. All of the evidence, including Division 39 in the BIA, suggests that our political parties may be very happy to keep it that way.

As I said at second reading, these databases represent a powerful target for foreign adversaries who intend to interfere in our democracy. If a political party is hit by a cyberattack, they have no obligation to report that breach to anyone. A decade of evidence suggests that this status quo will continue unless the Senate rises to the challenge and adopts Senator Tannas's amendment.

One of the very first debates that I heard when I was appointed to this chamber was by the Honourable André Pratte, a dearly missed former colleague for so many of us. He described four criteria that justify the Senate's actions if it were to continue pushing to amend a government bill. In that situation, he was speaking to the message back from the House related to Bill C-45, the Cannabis Act. Senator Pratte offered that the Senate should insist on an amendment in relatively rare cases where: one, the issue is of special importance related to our constitutional role; two, where we are prepared to lead a serious fight and see it to its completion; three, where a significant part of public opinion is on our side; and, four, where there are realistic prospects of convincing or forcing the government to change its mind. These four points have helped me as I considered Senator Tannas's amendment and, if adopted, our potential response to the government if they were to reject this reasonable amendment.

I firmly believe that it was entirely inappropriate to include Division 39 in this budget bill. Regardless, Senator Tannas's amendment gives the Conservative, Liberal and NDP party leadership what they want, and it gives us the confidence that Canadians' privacy rights will ultimately be protected.

This amendment also allows us to fulfill each of Senator Pratte's criteria. It provides a counterbalance to the whipped House of Commons where the leadership of the political parties are conflicted, denying Canadian voters their fundamental right to privacy. I would argue that it fulfills the distinct constitutional role of the unelected Senate while respecting the House of Commons' ultimate authority on budget matters. It empowers us to fulfill the objective of the serious fight that has been led by the officers of Parliament who are responsible for these issues and by the House Ethics Committee who saw and warned that the status quo presents threats and risks to our democracy and, finally, by a provincial privacy commissioner who has been trying to protect the privacy of B.C. voters when federal political parties refused to do so voluntarily.

These collective efforts have been rebuffed for more than a decade by the political party leadership that has a blatant conflict of interest. It also responds to the public's conviction — not just

its opinion, its conviction — as 96% of Canadians want political parties to provide legal privacy protections. The last 10 years have clearly demonstrated that if Canadians are to get those privacy protections, the whipped House of Commons will not lead the way. Only independent senators can. It is up to us, colleagues.

• (1610)

And finally, Senator Tannas' amendment provides a realistic prospect of convincing the government to change its mind. It gives the NDP, Conservatives and Liberals what they want, as long as they deliver what is also promised in Division 39. If a complete national privacy regime is implemented within 24 months, then they get to keep the change to the Canada Elections Act that makes that federal privacy regime exclusive.

I'm sure that the irony of this situation is not lost on any of us — the fact that an unelected Senate might stand firm to protect the foundation of our democratically elected House of Commons. I know that voting in favour of this amendment might be disruptive, but it's our responsibility to look out for the rights of Canadians. Only the Senate can finally bring certainty to the 96% of Canadians who want legal political party privacy protections.

For me, the question is clear. If you agree with the 96% of Canadians that laws should regulate how political parties collect and use Canadians' personal information, then this is the moment to stand firmly behind and in favour of Senator Tannas' amendment. If we choose to stand firm, which I desperately hope we will, I think the Senate will have done something for which we can be incredibly proud and for which Canadians will someday be thankful. Thank you, colleagues.

Hon. Ian Shugart: Honourable senators, I just want to put a few points fairly briefly on the record. The first point is that I completely agree with my friend, our colleague Senator Tannas. I agree wholeheartedly with the points that he has made about omnibus legislation, and I'm afraid I also agree with his prediction about the fate of the amendment.

I said yesterday that I'm having a little bit of a challenge in moving from the executive to the legislative branch. Today I find it a great deal easier. This is a practice that has been carried out by governments of both parties, and there is a great danger that, because it is a bipartisan practice, it becomes acceptable and a way of doing business. But I would argue that bad behaviour does not constitute convention, and this is bad behaviour.

I will say on the amendment that I think, while it is creative and while I agree with the points that you made, Senator Deacon, in your comments, or most of them — it's not an area that I'm sufficiently familiar with — but in principle, I agree that we have to come to deal with this issue of privacy and the regimes under which political parties are governed.

My own view in relation to the roles of the two chambers is that to pass this amendment now, at this stage in the process and in relation to the larger picture, would be disproportionate. On that basis, I personally would respectfully vote against the amendment.

Let me turn my attention to what we should do in the alternative, because I think we should not stop there. I think we should address this issue of omnibus legislation. Notwithstanding the rulings of the Speaker in the other place, I don't believe it does go far enough in addressing what is at issue here. I think that ruling is tantamount to saying that this is beyond question because it was written in the budget document. The issue is: Should it ever have been put in the budget document? My response to that in this particular case is, "No."

My view is that budgets relate to the fiscal and, more broadly, the economic position of the government. Yes, they do constitute the policy position of the government, but to the extent that they are the vehicle for transporting other legislative priorities, the government should be exercising far more caution and principle than it has been. Again, this is a practice of both governments of long standing. It is not a partisan comment in any way.

I would argue this is not just poor governance, restricting, as it does, the ability of parliamentarians to be proper legislators; it verges on being a question of privilege. It's on that basis that I think we have a right and a responsibility to pick this issue up and carry it forward. I would venture to guess that it is a question of privilege for our colleagues in the other place as well.

I'm going to suggest that we take up this issue. I don't know exactly by what means. I think some statistical work about what has happened in the recent past would be useful. I think we should have conversations with our colleagues in the other place. I think we should give due warning to the government that we are taking this issue very seriously and this is not just an annual cri de cœur of anxiety about bad practice, but that we want to address it and we want to change it permanently. I think we should do that sooner rather than later. Thank you, senators.

Hon. Rosemary Moodie: Would the honourable senator take a question? I would like to ask you if you could help us understand further what you mean by "disproportionate." Should we vote for this amendment? Please help us understand: disproportionate to what?

Senator Shugart: Thank you, senator. I would simply refer to the comments about this being a confidence measure, being late in the process, balanced against the fact that, technically, the Senate does have the prerogative or the right to amend the legislation, but that prerogative has to be exercised appropriately. In my judgment, the issues at stake do not justify the use of that prerogative at this stage in the process. That's what I meant by "disproportionate."

Hon. Clément Gignac: Will my colleague accept another question? Thank you, Senator Shugart. We are fortunate to have you here because you provide guidelines. I referred to you in my speech yesterday.

If I read between the lines — and I've been in politics in Quebec for a few years — if this amendment had been presented, let's say, in April or May — not five minutes before midnight like this week, but a month or two months ago — is it possible that you would have been more comfortable voting for it? I tried to read between the lines, and five minutes before midnight is not the best timing, I would say, but at the same time, we have to send a message.

Would your position be different if this had happened a month or two before adjourning for the summer?

Senator Shugart: Unlike you, senator, I have never been in politics, although I've been around it. I have learned that in politics it's very unwise to answer a hypothetical. I do think that after we have explored the possibilities for amending this practice, if that proved fruitless, I personally, without imagining at this point what they might be, would be open to this chamber taking more draconian measures in order to get the attention of the executive branch. What those might be and when those might be, I'm not sure. But I think we should do our homework. We should make a good-faith best effort to address this situation, and then after that we will see.

• (1620)

Hon. Denise Batters: Senator Shugart, thank you for your remarks. Just recently here, in response to a question, I believe, you said this was a confidence measure; however, of course, the Senate is not a confidence chamber. In the event that Senator Tannas' amendment on this issue passed, the government would not fall. This is something that then would be sent over to the House of Commons, which is still sitting as we speak right now. Would you acknowledge that though we're dealing with a budget implementation act, it is within the power of the Senate to provide an amendment to that?

Senator Shugart: Yes, it technically is, strictly speaking, very much within the rights of the Senate to make this amendment, as Senator Tannas knows. He's done his homework. I would still take the view personally that it would be a disproportionate use of that right to pass this amendment now.

Hon. Ratna Omidvar: Senator Shugart, thank you for your comments yesterday and today on senatorial restraint and wisdom. This is an important matter. I can already predict — although we do not want to deal in hypotheticals — that next year at the same time we will be having the same conversation, more or less.

Senator Tannas has said, outside of this amendment, he will launch an inquiry. Do you believe that our excellent Senate Committee on National Finance should undertake a study on omnibus bills and all that is good, bad and ugly around them to facilitate a better position for us by the time next June comes around?

Senator Shugart: Senator Omidvar, I think the National Finance Committee would be very appropriate. Given the issues at stake, there may very well be other committees of the Senate that would have an interest in the subject. We could organize that and perhaps even broader initiatives that would move this forward.

Hon. Pierre J. Dalphond: Honourable senators, I want to thank Senator Tannas for having provided us an opportunity today to discuss the practice of putting a lot of other things in a budget implementation act, including amendments to various laws with no financial aspect and, of course, even less budgetary aspects, like taxes. Maybe the carbon tax was a budgetary issue; according to the Conservatives, it's a tax.

This practice that was supported by this Senate in Parliaments must stop. I'm happy to see a change of opinion amongst many of us here today who were there at the time. I really appreciate the fact that they are changing their mind about this type of budget implementation act.

As I was reported to have said, and rightly so, in *The Globe and Mail* last week, I'm of the view that this practice continued by the current government, despite its promise to do otherwise, is an abuse of parliamentary process, preventing us from fully debating important issues unrelated to the budgetary aspects of the government's agenda.

The question, then, is this: What shall we do to stop such a practice by Conservative and Liberal governments? What Senator Tannas is proposing is to add a sunset provision on an amendment to the Canada Elections Act. Colleagues, the provision in question was proposed by the government without any prior consultations with the Chief Electoral Officer or the Privacy Commissioner, as was said at the Legal and Constitutional Affairs Committee. In fact, the amendment is nothing but an attempt to derail legal proceedings pending in B.C. introduced by the provincial Privacy Commissioner against all the federal political parties operating in the province of B.C., excluding the Bloc Québécois. All these parties are united in challenging the authority of the B.C. Privacy Commissioner.

In my view, the logical approach will be to propose to delete the provision, but it seems Senator Tannas proposes to keep it but only for two years. This is not a good provision and was not adopted with prior consultations, but, nevertheless, it should be in force for two years. I don't really understand the approach.

That said, I think our response to the BIA — the budget implementation act — should be in full exercise of restraint, as was pointed out by Senator Shugart yesterday in his very interesting speech. It was a very good maiden speech, sir, and today's was another one which was very good. Instead of sending an immediate message to the other place at the eleventh hour, I would prefer the adoption of a strong motion or an amendment to our Rules that will be both published well before their coming into force and well before the next budget.

Instead of a prior warning, what is proposed today is an amendment that would likely create havoc at the eleventh hour before the summer recess. This is not, in my opinion, a wise way to press for change. Accordingly, I will vote against the proposed amendment. Thank you.

Hon. Yuen Pau Woo: Honourable senators, let me start by saying how edifying I found this exchange on Senator Tannas' amendment and how I think it reflects well on this chamber as a place that thinks deeply about important questions. It's a measure of the quality of Senator Tannas' amendment, his speech and the speeches of those who have spoken in favour of that amendment

that I have to say I agree with so much of what has been said and yet disagree with the amendment and will vote against it. The reason I'm doing so, colleagues, is because, though well intentioned, it is unprincipled. I don't mean that as an insult. I mean that in the sense that it is inconsistent.

You see, colleagues, there are two separate problems that we're trying to deal with here. The first is that of omnibus bills, which is recurrent and, it would seem, perennial. As Senator Dalphond has mentioned and as Senator Dasko has intimated, the proper solution to an overly broad bill with items that do not properly belong in it is to excise those items from the bill.

• (1630)

The other conundrum we're working on is the question of privacy in the Canada Elections Act. That is a distinct and separate issue from the omnibus problem.

The way to deal with that issue is to do what the Senate always does — study it carefully, put it through a committee, debate it in second and third reading, talk to constituents and stakeholders and talk amongst ourselves — not to do it in half an hour or 45 minutes at third reading in the Senate Chamber, at the eleventh hour of a parliamentary sitting.

These two objectives are irreconcilable, and for us to try to find a solution that preserves this clause in an omnibus bill simply by tweaking it is to undermine both our principled objection to omnibus bills and our commitment to detailed and careful study of important issues.

I would suggest, dear colleagues, that if we were to go ahead with this amendment, we would be subject to the kind of criticism that says we are — I don't want to say hypocritical — not consistent in our opposition to omnibus bills, but we're also going against the very thing that we say we do best, which is to study issues carefully and deliberately and come to conclusions after deliberate consultation and study have been done. Therefore, colleagues, I will be voting against this amendment. Thank you.

Senator Moodie: Would Senator Woo take a question?

Senator Woo: Yes, of course.

Senator Moodie: Senator Woo, I have a question for you about another approach. Should we consider that instead of responding to the BIA now, we delay, continue discussions until the fall and adopt it then, so that we conduct the discussions that we feel are necessary around some of these issues?

Senator Woo: If you're referring to a delay of the vote on the BIA, I think the answer is unequivocally no, for all of the reasons you've heard from my colleagues, including Senator Shugart. However, if you're talking about a delay in the sense of coming up with an alternative approach to deal with the substantive question of privacy in the Canada Elections Act, yes, I agree with that. I don't know what that approach would be. Someone has talked about a motion, a study or a bill. There could be different options. That I would be in support of.

Senator C. Deacon: Would Senator Woo take a question?

Senator Woo: Yes.

Senator C. Deacon: Thank you very much. I wish to ask for clarification.

You made excellent comments. I wish we were doing this differently, but the reality is that 96% of Canadians would like to see some legal privacy rights related to political parties. If we pass this bill unamended, there's nothing; there is intention. I've dealt with open banking, digital government and digital identity for four years now and the intention for progress to be made. It's like the sign in the British pub: "Free beer tomorrow." If you come back tomorrow, it still says, "Free beer tomorrow." I learned that the hard way.

My concern is that there is 10 years of evidence that there is no intention. Did you consider that?

Senator Woo: Yes, I did. Your question is about the substance of privacy considerations in the Canada Elections Act. The proper way to deal with that as the Senate, as we are reputed to do, is to study that issue in isolation and in its entirety rather than to tack on an amendment to an omnibus bill at the last minute.

I would suggest, Senator Deacon, that whatever favour we may gain with the 96% of Canadians who are pushing for changes, we would lose with an equally large percentage of Canadians who see us as not being principled in our approach to this question.

[*Translation*]

Hon. Lucie Moncion: Senator Woo, would you take a question? It has to do with the comment you made when you said that we were talking about tacking on an amendment at the last minute and you mentioned the consequences of adopting that amendment at the last minute. The Standing Senate Committee on Legal and Constitutional Affairs recently tabled its report in the Senate. Since the tabling of the report, there has been no comment about or mention of this specific section. I think that people have had enough time to bring this to our attention. I would like to hear your thoughts on that.

[*English*]

Senator Woo: You bring up another valuable point about why this has not come up sooner. To the extent that we had an opportunity to bring it up earlier and did not, until the last minute, does not reflect so well on us. My principal objection is not so much the last-minute nature of this amendment but the contradictory character, if I can put it that way, of its presentation: on the one hand, accepting the omnibus nature of the bill — and, in a sense, expanding on it by making this amendment — and on the other hand, not fulfilling our duty to, in fact, study this issue carefully before throwing out an amendment at third reading for consideration just a few minutes before a vote.

Senator Tannas: Senator Woo and I have an understanding. The reason we went this way is that the amendment specifically asks — begs — for a bill to be placed before us to do our study in a full and complete fashion. It preserves what is there and asks that we have a bill. Did you miss that, or am I not catching the nuance?

Senator Woo: It is nevertheless an amendment that was argued extensively by you, Senator Tannas, on the grounds that an omnibus bill is intolerable. You cannot have it both ways, to my mind — well, you can, of course, and if this amendment goes through, you will have your way.

On the one hand, if you say that this item does not belong in the bill — because it's in annex 3, it's buried on page 400 or wherever it might be and it has nothing to do with the budget — then the principled approach is to say, "Let's get rid of it." But to actually play with it and finesse it is basically going against your argument that omnibus bills should not be tolerated.

I accept your point that you are trying to provide finesse to what was intended in the BIA. However, that is exactly my point: The finesse should be done with a lot more study and consideration rather than thrown on the floor at the last minute.

Senator Dasko: Senator Woo, will you take a question?

Senator Woo: Yes, of course.

Senator Dasko: Thank you. You have correctly made the point that there are two separate issues here. One of the issues is the fact that these omnibus bills, as you've just said, are intolerable. I would guess that many of our colleagues would agree with this observation.

Would you be willing to put forward an amendment removing all reference to the Elections Act in Bill C-47, given the fact that we may not need more study of the particular issue, which is omnibus bills: good or bad? Many of us would agree we don't need to study this topic. We would probably agree that this is not good. Would you be willing to put forward an amendment to that effect? Thank you.

• (1640)

Senator Woo: Thank you, Senator Dasko. No, I would not because if making an amendment to the current provision on the Canada Elections Act is already an excess of enthusiasm, I would say that removing that clause altogether would be even more so.

Hon. Denise Batters: Senator Woo, I think I may have missed a little bit here getting the translation, but I believe the exchange you were having with Senator Dasko was about how this issue of removing the Canada Elections Act — or that it's not an appropriate place to have this provision in a budget implementation act — and I believe there was some discussion to indicate that this hasn't been discussed in the chamber prior to today.

I just wanted to bring to your attention, Senator Woo, in case you didn't realize that, actually, is not correct. Senator Loffreda mentioned it in passing in his second reading speech about how the Legal Committee presented a report from our chair, Senator Cotter, which referenced this and Criminal Code amendments that were included in the budget implementation act. We made observations indicating it was not appropriate.

Then, after Senator Loffreda made that remark, I brought that to his attention to say specifically that these Criminal Code provisions and the Canada Elections Act should not be in here.

Do you recognize that perhaps you missed that because this has been a matter that we have raised in debate in this chamber?

Senator Woo: Thank you for bringing that to my attention.

The point is that we haven't studied the Canada Elections Act, its implications for privacy and how to craft an appropriate privacy regime for political parties. I think that assertion is accurate.

Hon. Donald Neil Plett (Leader of the Opposition): I will be brief. But I do want to make a few comments. Senator Woo will be the most surprised person in this chamber when I say I agree entirely with everything Senator Woo said today. I also agree with everything Senator Shugart said. I'm in agreement today. I'm in a good mood.

Colleagues, we have spent I don't know how many hours of debate on an amendment that the sponsor of the amendment said doesn't have a snowball's chance of making it, and here we are debating it. We have the government leader who doesn't know how to take yes for an answer when he already has the sponsor telling him that this will never pass, and then he gets up and gives us every reason why we should vote for it because that's actually what the government leader did. He said we should not do this because it's the eleventh hour; the House might not be able to deal with it. The House might be rising so they won't be able to deal with this issue.

The fact of the matter is, colleagues, the House doesn't care what we do here, which is evident by when they send us the bills. We don't have supply. We want to rise tomorrow and we don't have supply now. We don't have Bill C-18 now. We're going to have to vote on a message on Bill C-18; we don't have it, yet we want to rise tomorrow.

Senator Gold somehow defends what this government is doing. This government over there cannot organize a two-car parade, and we are somehow supposed to carry their water.

Then Senator Gold and Senator Loffreda, quite frankly, both said, "But trust this government." I haven't seen anything in the last couple of weeks that makes me want to trust this government. We have ministers and the Prime Minister telling us things that aren't true, and yet we're supposed to trust them.

We have the right to amend legislation here, no matter what time of the day, no matter what time of the month and no matter what time of the sitting. For the government leader to say, "Don't do it now because they won't have time to deal with it," they don't really care if we have time to deal with supply; we don't have it. So are we going to deal with it on Friday? Are we going to come back here after Saint-Jean-Baptiste Day and deal with it? We don't know; we don't have it. But we're supposed to not do something on the eleventh hour.

Senator Tannas and I talked earlier, and since it was me saying this, I don't think it was confidential. I told Senator Tannas I wasn't going to vote for this amendment. Now I find myself in a quandary. I may change my mind. I'm sure if my colleagues are going to support whatever I do, then Senator Deacon is going to say we've all been whipped.

As Senator Tannas said at the start of his speech, he was making it as Senator Tannas, not as the leader of the Canadian Senators Group. That's what I'm doing here today. But one thing I do tell you, colleagues, if there is a standing vote on this and there is a bell, then myself and my colleagues are going to go up and we will discuss the pros and cons of this bill. When we come back, we may all vote the same way, and we may not. We will put our arguments forward.

For people to say we are whipped because we are like-minded, I actually find that offensive. Like-minded people do like-minded things. That's why we're all Conservatives because, at least philosophically, we are on the same page. But we don't always vote the same. If Senator Deacon wasn't in the far corner, he may occasionally see that some of us vote differently than others.

We have unanimous consent motions that we're told all the time we are supposed to vote in favour of because it was unanimously decided over there, so we should vote for it here because it was unanimously decided over there. And I'm arguing both sides of the coin here, just in case anyone was wondering about that.

Colleagues, we had unanimous consent on this issue. One thing I did agree with Senator Gold on, four parties over there voted on this and decided this should be there. I don't agree with omnibus bills. I do agree that both parties in the other place have done that, without question. I was part of the government when we received omnibus bills and it made it very difficult because there were parts of a bill sometimes that I didn't want to support, but I had to support it because it was an omnibus bill.

I don't believe in defeating budget bills. I don't think this would defeat the budget bill, I agree there. But it was unanimously decided by the four elected parties over there that this should be where it is.

Senator Shugart was quite correct when he said we need to find a way of correcting some of this. One of the ways that we need to have of correcting this is to have a government leader in the Senate tell the House leader in the other place that here is the last date we're going to deal with your legislation. If you don't have it to us by that date, you're not going to get it through, and that includes the budget.

They are treating us with contempt. I was told on Twitter — before Bill C-21 was introduced in this chamber, the parliamentary secretary in the other place tweeted Senator Plett should stop stalling Bill C-21. It had not yet been introduced. That's the way they treat us.

Then the day after my good friend made his speech, on June 1, the minister tweeted again saying Senator Plett should stop stalling Bill C-21. Tomorrow, we're going to have at least two speeches on Bill C-21 before I'm speaking, according to the list, and yet I'm stalling it. That's the way they treat us.

Then Senator Gold says to us, but trust us. I'm sorry, I don't trust them.

Now I'm going to see what my colleagues tell me what to do, how they whip me. They might convince me to vote one way on this bill, they might convince me to vote the other way. I'm not sure how I'm going to vote. I'm going to let them tell me how to vote. We're going to discuss this properly.

But colleagues, let's not defeat this amendment because it's late in the day or late in the chamber. Let's defeat the amendment if the amendment deserves defeating, and I'm leaning towards that. But not because it's the last hour of the last day. They can be here. If they want to send us legislation this late, then maybe they have to spend a couple of extra days here. That's not our concern. We do our job; they do theirs.

• (1650)

Colleagues, I'm going to leave it at that. I will vote my conscience in due course, but others want to speak. I know Senator Dupuis suggested she wanted to speak. But when the leader says that we should do things because we want to get out of here — so do I; it's 10 to 5 — if we want to get out of here this week, let's make our speeches and move on. Thank you.

Hon. Jane Cordy: Did you know that former Senator Carstairs, when she was leader of the Liberal caucus in the Senate a number of years ago, told the other place that they had to have all of the legislation they wanted to pass in the chamber by a specific date? It might have been June 1. I can't quite remember, but maybe Senator Ringuette remembers. In fact, that year, the Senate rose before the House, because all the legislation they had given us by, let's say, June 1 was passed and we left.

The members of the House of Commons were not very happy, but that didn't happen the next year because we had all the legislation by the date that Senator Carstairs specified.

So do you think that would be a good idea?

Senator Plett: Thank you very much for that question, Senator Cordy.

Let me just say that the first year I was here, we sat until the third week of July, because we didn't have somebody that did that. I was reminded a number of times of what Senator Carstairs had done. The Prime Minister, of course, was Jean Chrétien, and she absolutely did that. I applaud her for it. I have reminded our leader in the Senate a number of times that maybe we should do that. I think I reminded my cousin Senator Harder of that when he was the leader as well, so, yes, I would certainly support doing that.

Hon. Pierrette Ringuette: Honourable senators, it's hard to follow Senator Plett on his good days.

I have no prepared speech, but I took note of your different comments, and I feel compelled to put in my two cents' worth.

Senator Tannas, I totally agree with you in regard to omnibus bills. You and I were from both in different partisan caucuses when our partisan leaders agreed to accept omnibus bills. That was something like 17 years ago and omnibus bills have not stopped since.

We brought up the issue at the Rules Committee, and the Rules Committee was operating and is still operating on consensus basis. We had no consensus, so we didn't resolve the issue of how to deal with omnibus bills in the Senate.

We're not about to tell the other place how to deal with their legislation and how they want to do it, but we are masters of our own chamber. Every year in December and June, we talk about omnibus bills. We make remarks in our different committee reports about omnibus bills. Yet we go home and then we come back, and we've forgotten until the next omnibus budget bill.

So, colleagues, can we agree — at least the members of the Independent Senators Group, and as per Senator Plett's statement earlier, he would agree with us — that when we come back in September, it is going to be our first order of priority to agree on how to deal with omnibus bills, and send that message to the other place so they know well in advance where we stand, not at the eleventh hour?

That is the first issue that we're discussing.

By the way, isn't it nice that we take on an issue, and we don't stop after 15 minutes and wait two weeks to continue that discussion? Isn't it nice that we entertain an issue, and we can all voice our opinions and deal with the situation?

That is another thing that we, as an independent Senate, have to start to deal with: How do we manage our discussions and how do we move forward with legislation and motions? Enough is enough of this "a little bit here and a little bit there." Enough is enough of that.

Okay, I'm going off topic. But Senator Plett got me all energized.

The other issue that is really the crux of your amendment is in regard to the Canada Elections Act. Unfortunately, in all the discussions so far, nobody has brought forth the very important issue in regard to that. It is our primary document that creates democracy in Canada.

In order to create that democracy in Canada, political parties need funding. The names of people who fund political parties — because it's in the Canada Elections Act — will be public and transparent, because our democracy demands that. If it is public and transparent, it is also subject to a cap; individuals are maximized per year regarding donations to political parties.

How can you ensure that Elections Canada will make sure that those maximums are respected? How can we make sure that our political parties are transparent in regard to donations? It is through the Canada Elections Act and through the transparency therein.

Why do you think the other place, so far, has not been able to deal with this issue of privacy versus democratic transparency?

I understand there will be pressure on them to deal with this, but I honestly believe that Canadians who make donations to a political party understand that the system will make their names public, along with the amount of their donations. That has been on the books for 30 years.

So that's not the issue.

How will the political parties in the other place that face elections and need to make amendments to the Canada Elections Act be able to differentiate the personal information of their donors and the transparency of political party funding and the survival of our democracy?

Colleagues, I would definitely say that the other place cannot deal with this issue because of the four political parties in the other place — not in the time frame that you would like, Senator Tannas. It is mission impossible. I think they're all just getting their heads around this because of the process in B.C.

Senator Tannas, I believe that your intentions are good. But this is not the place to move your intention in regard to getting this privacy issue done and, Senator Deacon, in regard to personal privacy. This is not where it will be accomplished.

• (1700)

The third message I want to convey — and I'm taking this opportunity to say so — is that when we send a message from the Senate in regard to the budget bill, it better not be on a Canada Elections Act issue. It better be on an issue that is concerning every Canadian's pocketbook. Then, we will, from my perspective, be justified in making an amendment and sending a message to the other place in regard to what we think. It's like how Senator Shugart put it when he said "disproportionate" — I agree with him.

Therefore, Senator Tannas and colleagues, I will not be voting for this motion on the grounds of my statement.

Thank you.

Hon. Andrew Cardozo: Will Senator Ringuette take a question?

We've had a good discussion on the issue of omnibus bills. You've said that this should be the first item, or we should deal with it pretty soon. I'll note a few ideas that have been put forward: Senator Tannas suggested that he would launch an inquiry. Senator Shugart suggested that the National Finance Committee should review it. There has been a suggestion for a motion. Senator Cordy talked about having a deadline for when we would accept the bills.

Are these the types of items that you think we can take to reach a conclusion and to make our voice clear in order to let the House know how we want to proceed on omnibus bills going forward?

Senator Ringuette: Thank you for the question. I believe that all of the items you've listed should be part of the discussion and part of the analysis. If we are an independent chamber, then we should be able to come to an understanding on the kind of work we want to perform.

I suppose the other question is this: Is the government putting forth omnibus bills because of the growing inefficiency in the House of Commons? If that is the case, then we have to force them to also deal with their inefficiency — for the sake of democracy.

Perhaps sometimes I have too much of an opinion for my own good. Thank you.

Hon. Colin Deacon: Will Senator Ringuette take one more question?

Senator Ringuette, just as a clarification, you do understand that the private information gathered by political parties goes well beyond the voter list and donations. It includes personal information about one's family, their ethnicity, the language they speak, the job they have and social media — and it goes well beyond that.

My second point is that there have been very specific recommendations put forward to the government and political parties by the Privacy Commissioner and the Chief Electoral Officer about what this legislation should look like. That work has been done, and it has been done for many years.

Are you aware of those two items?

Senator Ringuette: Yes, Senator Deacon, I am aware of those issues — having been an elected person, and having worked in a partisan caucus. The Privacy Commissioner has his specialty in regard to privacy, but the Canadian people want transparency in our political parties and in our democratic process. How will the other place — with all four political parties — be able to justly balance the two? I wish them a lot of luck.

[*Translation*]

The Hon. the Speaker: Senator Dupuis, did you want to ask a question?

Hon. Renée Dupuis: Yes, I have a question.

The Hon. the Speaker: Would Senator Ringuette take a question?

Senator Ringuette: Yes.

Senator Dupuis: I have a question for Senator Ringuette, rather than prolonging the debate on this issue.

Senator Ringuette, do you think that we, in the Senate, have done everything we can to deal with the issue of including bills on issues separate from budgetary matters in omnibus bills?

With respect to this very specific issue, which is being discussed here at the last minute — rather than in the committee that dealt with this matter, the Standing Senate Committee on Legal and Constitutional Affairs . . . The Legal Affairs Committee had many opportunities to examine amendments to the Canada Elections Act.

Do you think it's reasonable to say that an amendment is needed at this point in time, when we haven't pushed further to do everything we can in the Senate? Do you think it is reasonable to say that we should amend a budget implementation bill right now because we don't like omnibus bills?

The Hon. the Speaker: Senator Ringuette, you have 55 seconds left.

Senator Ringuette: No. Thank you.

[*English*]

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: Those in favour of the motion, please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion, please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: I think the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: I see two senators rising. Do we have an agreement on the length of the bell?

Some Hon. Senators: Now.

An Hon. Senator: 45 minutes.

The Hon. the Speaker: We will return at 5:52 p.m. Call in the senators.

• (1750)

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

YEAS
THE HONOURABLE SENATORS

Ataullahjan	McPhedran
Batters	Moodie
Boisvenu	Oh
Dagenais	Osler
Dasko	Pate
Deacon (*Nova Scotia*)	Patterson (*Nunavut*)
Greene	Quinn
Housakos	Richards
MacDonald	Tannas
Manning	Verner
Marshall	Wallin—23
McCallum	

NAYS
THE HONOURABLE SENATORS

Arnot	Jaffer
Boehm	Klyne
Boniface	Kutcher
Boyer	LaBoucane-Benson
Burey	Loffreda
Busson	MacAdam
Cardozo	Martin
Carignan	Marwah
Clement	Massicotte
Cordy	Mégie
Cormier	Mockler
Cotter	Moncion
Coyle	Omidvar
Dalphond	Petitclerc
Deacon (*Ontario*)	Petten
Dean	Plett
Duncan	Ravalia
Dupuis	Ringuette
Forest	Saint-Germain
Gagné	Seidman
Gignac	Shugart
Gold	Smith
Greenwood	Sorensen
Harder	Wells
Hartling	Yussuff—50

ABSTENTIONS
THE HONOURABLE SENATORS

Audette	Miville-Dechêne
Bernard	Patterson (*Ontario*)
Gerba	Simons—6

• (1800)

The Hon. the Speaker: Honourable senators, it is now six o'clock. Pursuant to rule 3-3(1), I am obliged to leave the chair until eight o'clock when we will resume unless it is your wish, honourable senators, to not see the clock.

Hon. Donald Neil Plett (Leader of the Opposition): Your Honour, there were some conversations and discussions among the leaders of all the caucuses and groups. In light of the pressing agenda that we have today and tomorrow, we have come to an agreement.

Honourable senators, with leave of the Senate, I move:

> That, notwithstanding any provision of the Rules, previous order or usual practice, the evening suspension provided for in rule 3-3(1) be for only one hour on June 21 and 22, 2023, starting at 6 p.m.

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

Hon Senators: Agreed.

The Hon. the Speaker: Just to be clear, Senator Plett is asking that if we see the clock, it will be for one hour today and tomorrow. Is it your pleasure to adopt the motion?

Hon. Senators: Agreed.

(The sitting of the Senate was suspended.)

(The sitting of the Senate was resumed.)

• (1900)

[*Translation*]

THIRD READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Loffreda, seconded by the Honourable Senator Gold, P.C., for the third reading of Bill C-47, An Act to implement certain provisions of the budget tabled in Parliament on March 28, 2023.

Hon. Marilou McPhedran: Honourable senators, hello, *tansi*.

As a senator for Manitoba, I recognize that I live on Treaty 1 territory, the traditional lands of the Anishinaabe, Cree, Oji-Cree, Dakota and Dene peoples and the homeland of the Métis Nation. I acknowledge that the Parliament of Canada is situated on unceded and unsurrendered Algonquin Anishinaabe territory.

[*English*]

Colleagues, I rise to speak to Bill C-47, An Act to implement certain provisions of the budget tabled in Parliament on March 28, 2023. I wish to emphasize some issues that were touched upon by previous senators. I thank Senator Loffreda for his sponsorship of this bill, and in particular for his very measured speech, in which he openly and fairly acknowledged many of the concerns and frustrations voiced by senators regarding the strictures under which this bill was studied — namely time constraints and concerns over the omnibus nature of the legislation. I also thank him for highlighting many of the observations reported by numerous committees, all of which will — should the government choose to heed them — improve the implementation of this bill.

Further, I wish to explain today what I was not allowed to explain at our second reading vote — why I abstained. In short, I am very concerned in the short- and long-term over the framing of this legislation. I find the tactic of omnibus legislation deeply troubling because it is one indicator of the erosion of the principles of democratic transparency and accountability. Abstaining was one small way to make my concerns known.

I know I am not alone in this concern, as our previous debate definitely showed us earlier today. There are so many ways for us to make known our opposition to this practice generally, but in truth, they are few in number in terms of effectiveness.

To me, this is the most abusive variant of omnibus legislation — an omni-budget bill. However, these bills present a special challenge because they are money bills and de facto votes of confidence. There is much I support in this budget; there are also, however, other sections about which I am concerned and would have chosen to speak and vote against had the provisions been presented as stand-alone legislation.

Objections to omnibus legislation are many, but to identify a few key critiques that I believe many of us share, they would include, one, a calculated complexity and confusion that hinders transparency. Omnibus bills are increasingly extensive and complex by design, making it difficult for legislators and the public to fully understand and analyze all the provisions they contain. This lack of transparency certainly weakens our democratic process as it limits meaningful debate, reduces scrutiny and restricts public participation. As Senator Marshall alluded to in her comments, the imposition of artificially imposed timelines detracted from meaningful committee study of the bill's numerous provisions.

A second critique is that of bypassing the regular legislative process, resulting in inadequate debate and scrutiny. Fast-tracked through the legislative process, these bills allow for only limited debate and study. By bundling various and all-too-often unrelated provisions together, the aim is to expedite the passage of controversial or less popular measures by leveraging the inclusion of essential ones. This bypassing of the regular legislative process undermines the principles of checks and balances. Professor Ned Franks characterizes this as a deliberate way to ". . . subvert and evade the normal principles of parliamentary review of legislation."

The third is diminished accountability. When diverse unrelated provisions are combined into a single bill, which sadly has become the norm for budget bills, it becomes challenging for legislators to be held accountable. Kevin Wiener, a Toronto-based human rights and refugee lawyer, summarized this deliberate evasion of democratic accountability as follows: "One way to look at it is that the government is saying, with great power should come no responsibility."

Law professor Adam Dodek, examining the fractious history of omnibus legislation in Canada, cites a significant ruling made in 1971 by speaker Lucien Lamoureux, who, when questioned on the validity of omnibus bills, was constrained to rule that "the government has followed the practice that has been accepted in the past, rightly or wrongly."

Speaker Lamoureux then added this poignant caution:

> . . . we may have reached the point where we are going too far and that omnibus bills seek to take in too much.
>
> [W]here do we stop? Where is the point of no return? . . . [W]e might reach the point where we would have only one bill, a bill at the start of the session for the improvement of the quality of life in Canada which would include every single proposed piece of legislation for the session. . . . But would it be acceptable legislation? There must be a point where we go beyond what is acceptable from a strictly parliamentary standpoint.

Given the increasing propensity of successive governments to employ omnibus tactics, we may never see another bell-ringing incident like was experienced in 1982, when opposition to a government omnibus bill led to 15 straight days of division bells. That crisis resulted in the bill being divided and the appointment of a committee to consider reform of the procedures of the house. Ironically, the issue of omnibus bills — the very issue that sparked the study — was never addressed in the report

recommendations. There seems to be no appetite to stop these bills anymore, certainly not when we clearly see a revolving door attitude between parties of simply decrying such undemocratic procedures when not in power, but embracing them when voted in.

Parliamentarians have periodically risen in the other place to decry omnibus strong-arming tactics. Let me quote one:

> Speaker, I would argue that the subject matter of the bill is so diverse that a single vote on the content would put members in conflict with their own principles.
>
> . . . in the interest of democracy I ask: How can members represent their constituents on these various areas when they are forced to vote in a block on such legislation and on such concerns?
>
> We can agree with some of the measures but oppose others. How do we express our views and the views of our constituents when the matters are so diverse?

That was Stephen Harper in 1994. He spoke against the government's omnibus budget bill. It was 24 pages long, compared to the hundreds of pages we've seen since. Clearly, he had a change of heart after forming government in 2006. But so did the current Prime Minister, who, when campaigning in 2016 while in opposition, promised that whereas:

> Stephen Harper . . . used omnibus bills to prevent Parliament from properly reviewing and debating his proposals. We will change the House of Commons Standing Orders to bring an end to this undemocratic practice.

• (1910)

Governments of all partisan stripes come into office promising to curb this practice but end up succumbing to it. As described by the Winnipeg-based Frontier Centre for Public Policy, "Nothing increases voter cynicism more than politicians using tricks to advance partisanship over the common good."

This could be laughable if it weren't so lamentable. The crucial balance between legislative efficiency and democratic accountability is being overturned, and we, my honourable colleagues, may well be seen as complicit.

I focus my final remarks on a few specific elements of Bill C-47 that concern me and underscore why I feel that the omnibus nature of this budget bill has weakened our role as legislators.

In Senator Loffreda's remarks regarding Division 17, which proposes substantial changes to the Immigration and Refugee Protection Act, he referred to observations put forward by the Standing Senate Committee on Social Affairs, Science and Technology, or SOCI, that warned, first, that refugee caps may result in the exclusion of those who are most in need of refugee protection; and, second, that the increased use and reliance upon artificial-intelligence-assisted decision making in the refugee claimant process is of great concern.

Again, these observations from SOCI, along with scores of others, attest to the dangers of omnibus legislation. Each of the proposed changes to current immigration and citizenship laws are substantial, with wide-ranging ramifications; they merit deeper scrutiny, study and debate, far more than was possible. I am hard pressed to understand how they are intrinsically related to the budget implementation process. These changes should have been introduced as separate legislation and not embedded in the budget bill.

According to the government, the caps on refugees are needed to reduce the processing backlog, and the group-of-five and community sponsorships are responsible for those backlogs at Immigration, Refugees and Citizenship Canada, or IRCC. This was the position put forward by immigration officials in their very brief appearance at committee.

During COVID, the IRCC inventory and backlog grew to over 2.7 million. Following the pandemic, however, IRCC expanded the digitization of applications and hired over 1,000 additional staff. According to numbers from IRCC as of April 26, there were 110,661 refugee applications — 38,681 government-assisted and 71,980 privately sponsored refugees — awaiting processing. Yet as recently as May 2023, Minister Fraser is quoted as saying that, despite COVID or the recent public service strike, IRCC is on track to very shortly return to pre-pandemic service standards in most application streams.

It is difficult to reconcile on one hand the imposition of this private sponsorship cap system when, on the other hand, the minister recently announced an expansion of other refugee streams.

I note that private sponsorship, which includes sponsorship agreement holders, group-of-five and community sponsors, contributes more than $135 million annually in refugee settlement funding. Private sponsorship accounts for much of all refugee resettlement in Canada. Private sponsorship helps Canada welcome more refugees each year than the Government of Canada could possibly settle alone.

Last night, at Pearson airport, two young Afghan women got off a plane from Pakistan, reuniting with their family members, including an older lawyer sister, whom I helped evacuate days after the fall of Kabul in 2021 and who came to Canada as a government-sponsored refugee; and another older doctor sister, who arrived in Canada just a few days ago, in large part due to support from the Afghan Women's Organization, her private sponsors and interventions by another doctor, our own Senator Ravalia. This Afghan woman doctor was a high-profile human rights defender in her practice and a leading spokeswoman for sexual and reproductive rights in Afghanistan. We have written documentation that she has been on a Taliban "kill list" and her security in Pakistan was very much in question. Private sponsorships save lives and they provide additional supports upon arrival that rebuild and sustain lives as refugees become productive, committed Canadians.

In committee, we heard that the stream of government-assisted refugee figures will also be decreased annually between now and 2025. Adding it up, we're looking at a situation where there is a modest increase in private sponsorships.

In closing, I want to point out that there are legitimate concerns in the inclusion of such trenchant changes to IRCC practices. Having said that, I do consider this a confidence bill and I will vote to support it because the government has to be able to operate. Thank you. *Meegwetch*.

(On motion of Senator Martin, debate adjourned.)

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

BILL TO AMEND—FIFTEENTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE ADOPTED

The Senate proceeded to consideration of the fifteenth report of the Standing Senate Committee on Legal and Constitutional Affairs (*Bill S-12, An Act to amend the Criminal Code, the Sex Offender Information Registration Act and the International Transfer of Offenders Act, with amendments and observations*), presented in the Senate on June 20, 2023.

Hon. Brent Cotter moved the adoption of the report.

He said: Honourable senators, this is a report on Bill S-12, which proposes amendments to the Criminal Code, the Sex Offender Information Registration Act and the International Transfer of Offenders Act. It is an important bill which is intended to respond to certain provisions of the Criminal Code that were declared invalid by the Supreme Court of Canada and certain other matters of public importance, particularly to victims of sexual crimes.

Your committee actively considered the bill, received four briefs over the course of five meetings and 12 hours' deliberation and heard from 15 witnesses, including the Honourable David Lametti, Minister of Justice and Attorney General; witnesses from the law enforcement community; witnesses responsible for the sex offender registry; representatives of women's organizations, victims' organizations; and victims of sexual violence themselves. The testimony was impressive and powerful and in some cases moving.

As a preamble to this report, I note that this bill was introduced in the Senate, somewhat unusually for this type of bill. It was sponsored by Senator Busson; the critic is Senator Boisvenu.

One of the advantages of this bill coming to us first — turning us, in a way, into a chamber of sober first thought — was that there was a greater degree of freedom and openness in the development of amendments to the bill, including amendments from the government itself, through the good graces of Senator Busson. Many amendments were, in fact, presented by the sponsor with the support of the government. It was as though Minister Lametti was outside our committee room, listening to the witnesses and identifying ways in which he could support a good bill being made better. I don't think he was actually there, but that's the way I wanted to think about it.

Senators listened to the witnesses with care and developed amendments responsive to the concerns and ideas advanced in the committee hearings and in the briefs submitted.

Next, let me speak a bit about the bill and about the amendments to the bill that were adopted by the committee. The first is a bit of repetition of remarks at second reading. I'll try to be succinct, but this is an important bill not just in what it does but in the statements it makes about the place of respect for and agency of victims in the criminal justice process.

• (1920)

A central dimension of Bill S-12 responds to the Supreme Court of Canada's 2022 decision in *R. v. Ndhlovu*, which held that two provisions of the Criminal Code of Canada — that relate to the registration of sex offenders in the National Sex Offender Registry — are unconstitutional. Since 2011, the Criminal Code has required the mandatory registration in this registry of anyone who has committed a sexual offence, and it required anyone found guilty of more than one sexual offence to be registered in the registry for life.

The Supreme Court struck down the provision requiring mandatory lifetime registration for repeat offenders with immediate and retroactive effect. The provision relating to mandatory registration for all sex offenders was declared invalid, but the effect of that declaration was delayed by one year to give Parliament time to respond to that decision with legislation. The provision will become invalid in October 2023 unless Parliament responds effectively.

Bill S-12 amends the Criminal Code, the Sex Offender Information Registration Act and the International Transfer of Offenders Act in seeking, in particular, to address the constitutional issues, but it also introduces some other provisions.

With respect to the registration of sex offenders in the national registry, serious child sex offenders and repeat sexual offenders will continue to be subject to mandatory registration. I should say that the nature of this registry is not quite like the Canadian Police Information Centre, or CPIC, which you may be more familiar with. This registry is one that is available to police to access in conducting investigations of potentially similar crimes and, I think in some circumstances, to prevent crimes. It is a fairly substantial registry that maintains a significant amount of information about sex offenders, and it is required to be updated; that is, sex offenders are required to submit to provide additional information to keep the registry, including their whereabouts and the like, current.

I mentioned that sex offenders and repeat sexual offenders are required to be mandatorily registered. All other sex offenders will be subject to a presumption of registration in the registry. Certain offenders may be able to rebut this presumption of registration if they can satisfy certain criteria and demonstrate that they do not pose a public risk. In those cases, a judge has the discretion to decide whether to order registration or not. These

provisions of the bill — the ones related to the rules around registration and some moderation of the requirement — were adopted by the committee without amendment.

Bill S-12 also seeks to amend the Criminal Code as it relates to victims, including by providing them with opportunities to have their wishes considered when courts impose, vary or lift publication bans that protect their identity. Under Bill S-12, the victims will have the opportunity to indicate if they want to receive ongoing information about the offender after sentencing as well.

I think you will appreciate that publication bans were put in place — fairly aggressively — with the view of protecting the victim and their privacy from broadly based disclosure, but this bill tries to moderate and be more responsive to the interest of the victims. I'll focus the remainder of my remarks on this aspect of the bill, as well as the amendments made by the committee to its various provisions. In these remarks, I will not take you through the details of the support for the amendments — other than to say they were generally supported, or urged upon us, by witnesses and their submissions. Modifications were made to these publication bans, particularly by the committee.

Clause 2 and clause 3 of the bill focus on this: The first raises the issue of the scope of the publication bans. The Criminal Code currently provides for a publication ban on information that could identify a victim or witness of a sexual offence, and states that the information cannot be published, broadcast or transmitted in any way.

The original Bill S-12 expanded this publication ban to state that the protected information could also not be "otherwise made available." The committee removed this addition. The relevant Criminal Code section, then, remains essentially unchanged. Committee members were concerned that the phrase "otherwise made available" was too broad, and could even retroactively capture publications that predate a ban, such as information contained in news archives.

The second dimension of the publication ban in these amendments focus on victim input and information. I think these are critical in the way they try to better respect the wishes of victims. The Criminal Code currently requires a judge or justice of the peace, at the first reasonable opportunity, to inform the victim or underage witness of the right to apply for a publication ban. Clause 2 and clause 3 of the bill amended the Criminal Code to require a judge or a justice of the peace — who orders a publication ban — to inform the victim or witness that they are subject to a publication ban, and that they can apply to vary or revoke the ban. The witness or victim must be informed as soon as it is feasible.

The original bill also required a judge or justice of the peace, before ordering a publication ban — the words are important here — to inquire if the prosecutor had taken steps to consult with the victim before applying for the ban. The committee did not feel that this was a strong enough statement of the victim's agency with respect to the victim's position regarding the imposition of the ban. This is important for victims and witnesses because if a publication ban is imposed, it applies to them and severely limits their ability, if they wish to do so, to speak about the case or the experience.

Accordingly, the committee amended the bill to require a judge or justice of the peace to do the following: If the victim or witness is present, they must be asked directly if they wish to have a publication ban imposed, and not just be consulted; and if the victim or witness is not present, the prosecutor must be asked if they have determined whether the victim or witness wishes to have the publication ban imposed.

The amended provisions also now require a prosecutor to inform the victim or witness about the following: when a publication ban is imposed, the effect of the ban, the circumstances under which the information can be disclosed and how to avoid contravening the publication ban. The prosecutor must also inform the witness or victim of their right to revoke or vary the order. The prosecutor must then inform the judge or justice of the peace when they have satisfied this duty.

I hope you will feel that this raises the sense of agency and control over a matter of great importance to victims and witnesses in these circumstances, and that it is a good deal less deferential to the decision-making process of both prosecutors and judges.

Another dimension of this, which is important, is the potential vulnerability of people who might violate the publication ban, and this would be a criminal hardship that would focus, most likely, on the victim or witness. The flip side of publication bans is the potential for criminal liability imposed on people who violate the publication ban, and, in some cases, it feels like being put through the criminal justice mill twice.

The bill provided a degree of protection for victims and witnesses in this regard. The committee expanded this protection by amending the bill so that the victim or witness would not be criminally liable for breaching their own publication ban, as long as they did not intentionally or recklessly reveal the identity of another person protected under the publication ban. Similarly, a publication ban does not apply when a victim, witness or justice system participant discloses information but does not intend for it to be shared publicly.

There is also a dimension of these provisions relating to how one goes about varying or revoking a publication ban in the future. The original bill stated that the victim or witness could apply to the court to have a publication ban varied or removed, and the court was then required to hold a hearing. The committee amended this provision to facilitate the process for the victim or witness who wishes to have a publication ban varied or revoked. The amended bill introduces that obligation on the prosecutor. The amended bill by committee requires a prosecutor, when requested by a victim or witness, to apply to vary or revoke the order on their behalf, as soon as feasible, although it's also the case that a victim or witness could still make that application on their own if they wish.

• (1930)

Furthermore, a court must vary or revoke the publication ban as requested, again strengthening the agency for victims and witnesses, unless it could affect the privacy interests of another person who is also protected by the publication ban, and, in that case, the court must hold a hearing to determine whether the publication ban should be varied or lifted.

It is important in this context to note that the accused is not considered to be one of the people protected by the ban. The amended bill specifies that the accused cannot make submissions relating to the lifting or revoking of the publication ban. This, in a way, is pretty obvious since the purpose of the publication ban is to protect the privacy interests of victims and witnesses, not the accused. The only part involving the accused is that they're entitled to be informed if the ban has been lifted, revoked or varied.

Finally, with respect to another clause — clause 5, on publication bans, again, and criminal liability — returning to the issue of criminal liability for the breach of a publication ban, the committee also amended clause 5 of the bill to specify that a victim or witness should not be prosecuted for breaching their own publication ban, unless they knowingly breached the order and, in doing so, revealed information that could identify another person protected by the ban and a warning would not be sufficient in the circumstances.

It's fair to say at this point that the committee has enriched the respect that the criminal law will show for victims and witnesses in these often very traumatic and life-altering circumstances for victims and witnesses.

Lastly, on the publication ban point, a new clause was —

The Hon. the Speaker: Senator Cotter, are you asking for more time?

Senator Cotter: Two more minutes, if I may.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Cotter: I apologize for not talking a little faster.

Clause 32.1 was a new clause introduced at committee, which mirrors the earlier committee recommendations that I have already spoken to, but extends the framework of protecting victims, both in terms of publication bans and the protection from criminal liability, and imposes the publication ban framework on review boards dealing with people who are found not criminally responsible on account of mental disorder.

There are two more or less technical amendments about which I won't speak. I would just close by noting, firstly, the hard and collegial work of the committee on this bill, including a three-and-a-half-hour clause-by-clause session Monday evening and then the staff being able to report the bill yesterday. It enabled us to do our work well, and they went well beyond the call of duty in guiding us through the clause-by-clause deliberations and having the report available for you. I would also like to express appreciation to Senator Busson, who sponsored the bill and guided us through many of the amendments; Senator Boisvenu, who was the critic and in particular to senators, and our Clerk, Mark Palmer, who made a sometimes disorganized process seamless, logical and effective. Thank you.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

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

(On motion of Senator Busson, bill, as amended, placed on the Orders of the Day for third reading at the next sitting of the Senate.)

BILL TO AMEND CERTAIN ACTS AND TO MAKE CERTAIN CONSEQUENTIAL AMENDMENTS (FIREARMS)

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Yussuff, seconded by the Honourable Senator Boehm, for the second reading of Bill C-21, An Act to amend certain Acts and to make certain consequential amendments (firearms).

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to speak to Bill C-21, An Act to amend certain Acts and to make certain consequential amendments (firearms). This bill is a necessary and urgent step to protect the lives and safety of Canadians, especially women and other marginalized groups who are disproportionately affected by gun violence.

I would like to thank Senator Yussuff for sponsoring this bill, and Senator Coyle, the Independent Senators Group's legislative lead, for her work on this bill.

[*Translation*]

I want to begin with a story. It is a story that many of you know very well, one that we need to tell over and over again when we deal with issues like those raised by Bill C-21.

On December 6, 1989, engineering students at École Polytechnique in Montreal were studying. At around 5 p.m., a 25-year-old man, later identified as Marc Lépine, entered the building. He was dressed in a military uniform and was carrying a concealed Ruger Mini-14, a lightweight semi-automatic rifle that he had bought at a local sporting goods store three weeks earlier.

[*English*]

After spending an hour in the lobby, Lépine made his way to the second floor of the building, where he intruded on a classroom of about 60 students, women and men alike.

Forcing the men to leave, he proclaimed to hate feminists, and at 5:10 p.m., he opened fire. Quickly, he left the classroom and shot numerous women as he made his way to the ground floor and to the third floor, where he intruded into another classroom.

Having taken the lives of 14 women and injuring 10 others and 4 men, Lépine fired his last shot at 5:29 p.m., ending his own life.

That day, Lépine left behind him the grieving families and friends of those he killed. Among the confusion that ensued, Lépine was deemed insane by the press and professionals, who chose not to focus on the gender of Lépine's victims.

The horrific event has become etched in the psyche of Canadians, sparking a national debate on gun control and violence against women. However, it also revealed how much work still needs to be done to prevent such tragedies from happening again.

That is why I believe we need to study Bill C-21. It introduces several measures that aim to reduce the risk of firearm-related violence and death in Canada. Honourable senators, despite this tragic incident, violence against women remains a persistent challenge in Canada.

In 2018, around 600 incidents of police-reported intimate partner violence involved firearms, up from 401 in 2013. In 2020, Public Safety Canada stated that women accounted for almost 8 in 10 victims of intimate partner violence. Furthermore, a 2022 Statistics Canada report revealed that women and girls are disproportionately affected by gun violence, as are visible minorities, LGBTQ2 people, children and youth, lower-income families, those living in poverty and people in northern and remote communities.

Bill C-21 is a safety bill which aims to keep Canadians safe from gun violence. No single solution is ever perfect, but there are measures we can take to mitigate risks of injury or death by firearm.

As you know, gun violence has been on the rise in Canada this past decade. Statistics Canada reported that in 2013, 26% of all homicides involved a firearm. By 2020, that number had risen to 37%.

• (1940)

A 2021 Statistics Canada study revealed a woman in Canada is killed by an intimate partner approximately every six days. The Canadian Women's Foundation also found that access to a firearm is the best predictor that domestic violence will turn lethal.

Bill C-21 seeks to address intimate partner violence and gender-based violence by enacting red flag and yellow flag laws. The red flag provision would enable anyone to make an application to a provincial court judge for an emergency weapons prohibition that would require the immediate removal, within 24 hours, of firearms from an individual who may pose a danger to themselves or others. This provision is further strengthened by the applicant's ability to apply for a limitation on access order if the respondent has access to someone else's firearms.

In such a situation, the judge can decide to immediately remove firearms from that individual as well. The temporary prohibition would last 30 days. However, a longer prohibition is possible — up to five years if a judge decides that there are reasonable grounds to deem that the firearm owner continues to pose a risk to their safety or the safety of others.

Furthermore, the bill protects the safety of red flag applicants by allowing judges to close red flag hearings to the public and media, seal court documents for up to 30 days or remove identifying information for any period of time that the judge deems necessary, including on a permanent basis.

The yellow flag provision is an administrative process through the Chief Firearms Officer. It allows any member of the public, including medical professionals, to notify a Chief Firearms Officer of a situation or behaviour that may affect someone's firearms licence eligibility. If the Chief Firearms Officer determines that there are reasonable grounds to suspect that a person is no longer eligible to have a firearm licence, they will suspend the holder's authorization to use, acquire and import firearms for up to 30 days while conducting an investigation.

If through the investigation the Chief Firearms Officer decides that the individual is no longer eligible to hold a gun licence, they will issue a revocation and the firearm owner will need to surrender all firearms to the Chief Firearms Officer, firearms officers or a peace officer within 24 hours of notification.

These provisions, though not perfect, are well-received by a majority of women's organizations who foresee positive impacts on reducing gender-based violence, intimate partner violence and family violence in Canada.

Senators, these are good provisions, but there is still an issue that I have in mind. The government has great laws, and there are many laws for violence against women in this country, but there are no resources to prosecute them, and some violence that is on the books has had no prosecutions at all. So I urge the committee that will be studying this bill to ask: What resources will be provided? Otherwise, the red and yellow flags will mean nothing if the government is not willing to give resources.

[*Translation*]

Honourable senators, I believe that all senators will agree that armed violence is a real and urgent problem. However, some may disagree on how to solve this problem.

[*English*]

Bill C-21 plans to enhance background checks and further expand the $250-million fund to address root causes and social determinants of gun crime such as poverty, racism, mental illness and gang involvement. This will help prevent crime before it happens, and offers positive alternatives and opportunities for vulnerable youth. I ask the committee to study whether this money will really be applied to what it is set out to, and how it will be applied.

Nevertheless, there has been a sufficient amount of misinformation and disinformation spread about this bill, which has caused fear among firearms owners. However, I would be remiss if I did not speak to the valid criticisms and weaknesses of the bill. I hope these issues will be comprehensively studied in committee.

To start, there is a widespread misconception that the main purpose of Bill C-21 is to target lawful firearms owners, including hunters, and that it does not focus on criminal activity and gang members who tend to use illegal arms. Indeed, the Service de police de la Ville de Montréal claimed that 95% of handguns used in violent crimes come from the black market, and that there's a strong correlation between the drug trade and firearm violence. This is something that needs to be studied at the committee stage.

This leads to a second point that Parliament should be addressing the U.S.-Canada gun trafficking problem. Indeed, illegal guns often arrive in Canada by boat, train or drones, which is why we should make more resources available that enable border service officers to patrol our borders between our official border crossings.

[*Translation*]

Third, some have said that Bill C-21 will have negative repercussions on sport shooting and airsoft, which have nothing to do with the increase in crime.

Finally, some maintain that our government should invest more money and resources into mental health, because some of our young people are being radicalized or joining gangs for several reasons.

[*English*]

Honourable senators, I believe these concerns should all be studied in committee, and I call on those who study this bill to take these issues seriously.

I will close this speech with another very sad incident that is very close to my heart and to my faith. I've had the possibility to go to the Quebec mosque in Quebec City many times, from the second day this incident happened. The last time I visited this mosque was with the Human Rights Committee, and I had the privilege of meeting Imam Boufeldja Benabdallah of the Quebec mosque last summer when we took part in the Standing Senate Committee on Human Rights' study on Islamophobia.

He had a kind smile and an open mind. He welcomed us into the mosque where a nightmare had taken place to the congregation and held a service in our presence. On that day, the imam took us to the main praying hall. Slowly, we were shown where his fellow members — his brothers in faith — were shot and killed in 2017 by Alexandre Bissonnette.

We were told that six men had tried to cram themselves in a small opening in the wall to protect themselves from bullets. We were told that someone had died in the corner and someone else on the ground. These victims had families, wives and children, and one man had not seen his mother for six years, and she had just come from Gabon.

When I first went there and saw that woman who just saw her son for two days before he was shot, I will never forget that. That was the deep and profound tension in the air — fear, anger, pain, devastation mixed with a sense of dignity and even hope.

During our visit to the mosque, a man stood up and asked a question. I still think about that question often. I have tried to answer it myself ever since. This man asked us — senators — how our visit would be any different from the previous ones, and how our hands would be different than those he shook last month.

• (1950)

May I have five more minutes? I have one page of my speech left.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Jaffer: Thank you.

He asked if our presence would lead to anything more than pretty pictures and speeches — if it would lead to any sort of action on the government's part.

I don't know if he's listening or following these hearings. I know that this isn't a perfect answer, but Bill C-21 is part of the answer that I would have liked to give him at that time.

Honourable senators, Bill C-21 will not solve all of our problems with gun violence. It will not heal the wounds or bring back the loved ones killed by firearms. However, it is a step in the right direction. It is a tool that will help us reduce the risk of firearm-related violence and death in Canada.

After the incident at l'École Polytechnique, I visited the institute as the president of YWCA Canada. I will never forget how Mrs. Edward, whose daughter had been killed, was trying to bring about changes in gun violence. I don't know if she is alive now, but if you saw her pain — and the pain of all the mothers who lost their daughters at the university — you will understand why we, as senators, have to do something. This bill is not perfect, but it is a start. Thank you, senators.

Hon. Mary Coyle: Honourable senators, I rise today on National Indigenous Peoples Day, on the lands of the Algonquin Anishinaabe people, to speak at second reading of Bill C-21 — a bill that aims to build on existing national gun control legislation in order to build a safer Canada.

Many colleagues will remember Bill C-71 — the most recent firearms legislation, which received Royal Assent in 2019. Bill C-71 expanded background checks, required businesses to keep point-of-sale records for non-restricted firearms and reinstated a requirement related to authorization to transport restricted and prohibited firearms.

My intention today is to quickly touch upon the main elements of this new firearms bill — Bill C-21 — including clearly stating what is not in the bill; and then I will highlight a few key areas and key stakeholders that I would suggest the committee examine in their study.

Honourable senators, let's review the main elements of the bill:

First, the bill brings in a national handgun freeze in order to cap the number of legal handguns circulating in Canada. It is not a ban; it is a freeze. There will be no confiscation of legally owned handguns.

Second, it brings a new prospective, not retroactive, definition of assault-style weapon characteristics.

Third, as you have heard Senator Jaffer mention, the bill introduces red flag laws and yellow flag laws, with the purpose of reducing and preventing firearm-related family violence, self-harm and suicide.

Fourth, the bill includes a number of elements aimed at strengthening border controls, including anti-firearms smuggling and trafficking measures, and requiring a firearms licence in order to import ammunition.

Fifth, it includes measures to address illegally manufactured firearms, otherwise known as ghost guns. The prevalence of 3-D printing of guns makes traceability very difficult. This law will provide a new definition for a "firearm part," and require a person to have a licence to import, purchase or transfer a prescribed firearm part.

Sixth, and finally, there are new firearm-related offences and strengthened penalties in this bill.

To clarify again, the government is not proposing in this bill to ban or confiscate any existing hunting guns. The new prospective "assault-style weapon" definition only applies to long guns designed and manufactured after Bill C-21 receives Royal Assent.

Senator Yussuff, the bill's sponsor, addressed these key components of the bill in detail in his speech kicking off this debate, and I will not repeat what he's already said so thoroughly.

Public Safety Canada's technical briefing on Bill C-21 is entitled *Building a safe and resilient Canada*. We know that this piece of legislation has more than one purpose. It is aimed at reducing and preventing gun violence that we are seeing in cities, often perpetrated by gangs; it is aimed at preventing further mass tragedies, such as the one experienced in my province in 2020, as well as l'École Polytechnique murders, and the Quebec City mosque murders that we've heard about tonight; and it is aimed at addressing family violence, self-harm and suicide.

Our job will be to determine whether this bill is, in fact, fit for purpose. Will the bill's measures contribute — and contribute effectively — to the intended outcomes? This legislation is meant to enable Canada to make advances in these critical areas and — pardon the analogy — it is not meant to be a silver bullet. As with most legislation, this bill is meant to be one piece of a much larger puzzle.

I will now turn to a few key areas that I would recommend the committee investigate.

Colleagues, we have heard Senator Manning and Senator Boisvenu speak about the scourge of femicide and intimate partner violence. Several of us have spoken to Senator Boniface's inquiry on intimate partner violence; we have heard about this tonight.

With that in mind, it is important to examine if — and how — Bill C-21 responds to the recommendations of the Nova Scotia Mass Casualty Commission and the Renfrew County inquest. The proposed red flag laws and yellow flag laws respond partly to Recommendation C.22 of the Mass Casualty Commission, as well as recommendations 56 to 62 and recommendations 70 to 72 of the Renfrew County inquest.

It will also be important, colleagues, to examine which firearms restrictions are handled through regulations versus legislation. We know that around 1,500 firearms were banned through regulations in May 2020 in response to the mass murders in Nova Scotia and the case of intimate partner violence which kicked off that horrible rampage.

In the House committee, the government proposed amendments to Bill C-21 that would ban those firearms and others through legislation, but, as we all know, they later withdrew those proposed amendments. Therefore, those are no longer part of this legislation.

I also believe that it will be important for the committee to examine how Canada measures up internationally on gun control and gun violence. In the recent *Time* magazine article entitled "Canada Risks Following the Path of the U.S. on Gun Violence," the authors point out that Canada has the fifth-highest gun ownership in the world, and now has the third-highest rate of firearm homicide among populous high-income countries, after the U.S. and Chile. Worldwide, Canada has the ninth-highest age-standardized rate of firearm-related suicide among men — more than twice the global average.

Canada's gun control measures are stricter than those of the United States, but less stringent compared to some other Western countries. Countries like Australia, the United Kingdom and Japan have implemented more comprehensive gun control measures than Canada, and these countries have achieved lower rates of firearm-related deaths and mass shootings compared to Canada. The U.K. banned handguns following the Dunblane school massacre in Scotland in 1996. In the U.K., there have been no school shootings and one mass shooting event since then.

Studies suggest that red flag laws in the United States have prevented potential acts of violence. Research conducted in Indiana and Connecticut found a reduction in firearm-related suicides after the implementation of those laws.

• (2000)

In the U.S., states with more comprehensive "red flag" laws, adequate resources and strong community outreach have seen better outcomes. All of this important international data and much more will be critical for the committee to examine in detail.

It will also be critical for the committee to listen to the perspectives of a number of key stakeholder groups, and these include mass shooting victims' groups such as PolySeSouvient, Danforth Families for Safe Communities and Centre Culturel Islamique de Québec. These groups are devoted to the prevention of future tragedies.

The committee should also meet with women's organizations, including #Women4GunControl, a coalition of 33 women's and feminist organizations, which includes the National Association of Women and the Law. These groups are naturally engaged on this given that access to firearms is one of the top five risk factors when determining a woman will die in domestic violence situations.

It might be instructive for the committee to hear from Lisa Banfield, the spouse of the Nova Scotia mass murderer, on how she was subjected to coercive control and almost died herself the night of the mass tragedy.

It will be important to connect with both urban and rural women's groups, as the risks related to firearms and the implications of "yellow" and "red flag" laws have different nuances in different contexts. These women's groups are clear that gun violence against women needs to be treated as a distinct issue from the "guns and gangs" issue. They want us to look at both of those.

Indigenous groups such as the Assembly of First Nations, the Federation of Sovereign Indigenous Nations, Inuit Tapiriit Kanatami, the Métis National Council, the Native Women's Association of Canada, Pauktuutit, Les Femmes Michif Otipemisiwak — Women of the Métis Nation and others should be contacted and communicated with.

We know that Bill C-21 includes a specific provision stating that nothing proposed within it derogates from the rights of Indigenous peoples, recognized and affirmed under section 35 of our Constitution. It will be very important to balance the valid interests of hunters with the rights of all people to live in safe homes and communities in all communities in Canada, be they Indigenous or non-Indigenous.

Of course, police groups, including the Canadian Association of Chiefs of Police, the National Police Federation and the Association des directeurs de police du Québec, should all be called to testify. They will have feedback on all of the measures in this bill, as well as issues related to the capacity to implement those measures. And, of course, court officials who will handle "red flag" laws will have an important perspective to add as well.

With the main focus of this legislation on prevention of smuggling and trafficking, the Canadian Border Services Agency will have important feedback on, again, the specific measures as well as their own capacity to implement those measures.

It will be important to hear from firearms advocates and hunters, including the Canadian Coalition for Firearm Rights and the National Firearms Association.

I live in rural Nova Scotia and I know how important hunting is to many families in my area. We've heard from Senators Wallin, Richards and LaBoucane-Benson on the importance of respecting hunters. I believe that part of respecting hunters is equipping those hunters with honest information on what is actually included in this bill so an honest discussion can be had.

Consulting sports shooters, including the Shooting Federation of Canada and the International Practical Shooting Confederation, is very important.

The handgun freeze in Bill C-21 does not remove handguns from any current owners but makes it illegal to acquire one, with exemptions for Olympic and Paralympic competitors and select individuals such as police officers. The exact rules for an individual to qualify as training for Olympic handgun disciplines will be determined by regulations.

Finally, and very importantly, as we've heard from Senator Kutcher in his speech, it will be essential for our committee to hear from people with expertise in health, mental health and suicide prevention. The group Canadian Doctors for Protection from Guns argued that this legislation should be informed by public health science.

Colleagues, my staff team has done extensive research on the perspectives and positions of these key stakeholders and expert groups. As legislative lead on Bill C-21 for the Independent Senators Group, I've shared some of that research with our ISG colleagues, and we would also be happy to share it with anyone else in this chamber who would be interested; just let us know.

Unfortunately, colleagues, we know there has been a well-organized campaign of disinformation on this bill.

Colleagues, I came to this chamber from St. Francis Xavier University in Nova Scotia, whose motto is *Quaecumque Sunt Vera* — "Whatsoever things are true." As you all well know, it is our responsibility as senators to pursue, find and share the truth.

Senator Yussuff said in his speech introducing Bill C-21 at second reading:

> . . . I want to recognize . . . that the conversation about guns is never an easy one to have. It is usually filled with high emotion and strong opinions, and it can be very divisive and polarizing because it is about life and death . . . people's rights and privileges.

Colleagues, we may not all agree on the best ways to keep Canada and Canadians safe, but I know we all believe we share a responsibility to protect Canadians from gun violence. Colleagues, that is what Bill C-21 is intended to do.

Honourable senators, while second-reading debate on this bill is essential — and I look forward to hearing Senator Plett in a few moments — I believe we are close to being ready to send Bill C-21 to committee. There, at committee, I have confidence our colleagues will work diligently to seek and consider the evidence required to further inform our deliberations on whether and how this bill is or can be fit for purpose.

Colleagues, let's fulfill our duty to Canadians and move this bill to committee.

Thank you, *wela'lioq*.

Hon. Donald Neil Plett (Leader of the Opposition): Another thing about the good old days was we had a bit more room in our seats. That has nothing to do with the makeup of the Senate but, rather, of the building.

Honourable senators, I rise today to speak to Bill C-21. Before I get into the meat of my remarks on this bill — and I have a lot of meat here — I wish to devote a few comments to the unjustified pressure that this government has attempted to exert on us here in the Senate to simply adopt this bill without even hearing from witnesses, as they have with so many other bills.

I find it extremely objectionable that both the minister and the Parliamentary Secretary to the Leader of the Government in the House of Commons have, in recent weeks, been pressing for the Senate to simply rubber-stamp this bill. Even before Senator Yussuff or a single senator spoke on this bill in the chamber, the Parliamentary Secretary tweeted that I should stop delaying the bill.

To set the record straight, I believe it is useful to go over the timeline of Bill C-21.

Bill C-21's journey began in the House of Commons with first reading on May 30, 2022. Second reading occurred on June 23, 2022, and the bill was then sent to the House committee. There, the bill ran into multiple and serious problems.

As I will explain in my remarks, this is a very badly thought-out bill, and its problems were made worse by the amendments that the government itself attempted to make to the bill in the late fall of 2022. As we shall see, these amendments were proposed with no meaningful consultation and certainly without meaningful consultations with the Indigenous people whom they seriously impacted.

The government was forced to withdraw these amendments from the bill itself, though I do not believe that it had actually abandoned the objectives behind those amendments. I will discuss this matter as well in my remarks later on, but I think it is fairly clear that the government will now attempt to leave further changes to future regulation and orders-in-council, just as they have already done through the arbitrary gun ban they imposed in 2020 and through their arbitrary ban on the purchase and sale of legal handguns held by licensed sport shooters and collectors, which they imposed last year through an order-in-council.

• (2010)

To stifle all further debate, the government then introduced time allocation in the House and forced the bill through third reading on May 18, 2023. It was only then that Bill C-21's journey in the Senate began. Although the bill was introduced in the Senate on May 18, debate did not begin until May 31, when our colleague Senator Yussuff, the sponsor of the bill, delivered his speech over a period of two days. But even before Senator Yussuff had said one word, the parliamentary secretary to the Government House Leader was again accusing me of delaying the bill.

The minister then followed this up with a letter sent to the leaders of the different Senate groups on June 8, demanding that we pass the bill. The minister even had the gall to write to the chair of the Senate National Security and Defence Committee with this demand. Colleagues, the Senate itself determines which committee will study any piece of government legislation, and the minister attempted to intervene in that process before we had even taken a decision.

The minister not only demanded that the bill be passed without any substantive debate; he also prejudged which committee might review the bill. In effect, he made additional demands about how exactly the committee should review it. This represents an unprecedented level of interference in the business of the Senate, and it fully exposes the very little respect the government has for this chamber.

Since June 8, we have had a number of senators who are not from the official opposition speak to this bill, and I submit that these senators had every right to prepare their remarks to be able to speak to this bill. We have an unwritten rule here that the critic is typically the last person to speak. I have done the same as my colleagues and spent a fair bit of time preparing my remarks. I was also informed by a critic briefing that I received from officials. My remarks are also informed by the research that my staff had to do on this bill. That research work reveals how deeply flawed this bill actually is, and I submit that it will be absolutely the duty of the Senate to hear from a broad cross-section of Canadians who are very concerned about this bill and who have views on all sides of this issue in relation to this legislation.

In that regard, colleagues, I want to assure the government that up until now, the official opposition has not delayed this bill. However, having personally reviewed the very negative implications of this bill, I wish to say that since the last speaker in this chamber spoke on the bill literally two minutes ago, I have now officially begun to delay Bill C-21. So let there be no question, and let the minister know so the minister and his parliamentary secretary can mark that in their calendars for future reference.

Colleagues, this bill amends the Firearms Act and other legislation to impose new requirements and restrictions on Canada's legal firearms owners. There are currently well over 2 million gun licences in Canada, and in almost all cases, Canadian gun owners are extremely responsible members of our society. That has been the case throughout Canada's history.

I think we need to understand who Canada's gun owners are. They are, of course, Indigenous peoples who have used firearms as an integral aspect for their sustenance for centuries. They are Canadian hunters who have also used firearms responsibly for centuries. They are rural and urban Canadians. They are sport shooters and collectors who use firearms at clubs across the country. They are shooters who use pistols in a variety of disciplines, including Olympic competition.

These are people like Linda Thom from Ottawa, who won the Olympic gold medal at the 1984 Olympics in the 25-metre pistol competition. They include people like Lynda Kiejko, who won double gold at the 2015 Pan American Games, also in the 25-metre pistol event. They include thousands of Canadians who participate in International Practical Shooting Confederation matches across the country. They are people who will be subject to the new restrictions being proposed by Bill C-21, a bill that the government claims is ". . . part of a comprehensive strategy to address gun violence and strengthen gun control in Canada."

Bill C-21 does no such thing. It does not do so since there actually is no strategy from this government to address gun violence in Canada. In fact, this bill not only fails to address gun violence, it also significantly weakens gun control in Canada, and it may even destroy it.

In my remarks today, I will examine the policy rationale for this bill. In doing so, I will need to speak about the many flaws of this bill.

Second, I will discuss some of the implications of this bill and, in particular, about how I believe this bill will actually contribute to a growth in violent crime on our streets.

Third, I will address what I believe are the negative implications of all of this for gun control in Canada.

I want to begin by looking at the government's policy rationale for this bill. At a core level, I believe this legislation illustrates the fact that ministers in charge of this bill don't know very much about firearms. I believe this ignorance explains many of the serious flaws of this bill. It also explains why, over the past year, this bill has faced so many tumultuous ups and downs.

This became particularly evident late last year when a series of amendments were hastily proposed to the bill, which made it clear that ministers themselves did not understand the key issues. The government now claims to have abandoned these amendments, but I believe the mistaken ideas that led to the amendments remain at the heart of this bill. It is reasonably clear that the government will now attempt to do by regulation what they failed to do as completely as they would have liked through legislation.

The amendments in question were proposed by Liberal MP Paul Chiang, and what they did was expand the scope of the bill significantly to try to introduce bans on a wide range of hunting rifles. The amendments opened to complete prohibition any semi-automatic centrefire firearms that were designed to accept a detachable cartridge magazine and whose magazine capacity was greater than five cartridges. The provision would have immediately applied to as many as 1 million legal firearms in Canada, most of them non-restricted and almost all of them owned by hunters. I do not believe ministers gave the slightest thought about the likely impact these measures would have on Indigenous hunters, many of whom rely on them for subsistence hunting. I do not think that ministers really understood that when one talks about semi-automatic firearms, these are actually employed by hundreds of thousands of Canadian hunters.

For the information of colleagues who may also not be familiar with long guns, rifles and shotguns are actually manufactured in several different firing modes called actions. Some firearms are pump-action firearms, where the cartridges are moved into the chamber based on a pumping action. Some are lever-action firearms, where the same process is accomplished through a lever-action mechanism. Some are bolt-action firearms, where the process is accomplished — you guessed it — through a bolt-action mechanism. Some are semi-automatic firearms, where the process is accomplished automatically when a previous round is discharged.

• (2020)

All of those actions can be fast, particularly when the firearm is in the hands of an experienced shooter. It is a commonly held belief that the semi-automatic action is the fastest, but that is not necessarily the case. Much depends upon who is using the firearm and how well it is maintained.

In Canada, semi-automatic long guns are legally limited to no more than five rounds in the firearm. That has been the case for decades, colleagues. There is no similar limitation for lever-action, pump-action or bolt-action firearms. Those firearms might commonly hold 10 rounds, for example.

What colleagues should understand and what ministers should have understood is that semi-automatic long guns are very common among hunting firearms. They should also have understood that semi-automatic firearms already have magazine restrictions that are greater than those imposed on other long guns.

I think a reason that was overlooked and not well understood is because the government has consulted so inadequately on this bill. They certainly did not consult with Indigenous authorities on this amendment. We have often heard government ministers claim that when it comes to laws impacting Indigenous peoples, the slogan "nothing about us, without us" applies. But the reality is that this slogan is observed more in its omission than in its implementation.

Despite the government's repeated claims that the enactment of the United Nations Declaration on the Rights of Indigenous Peoples requires them to consult with Indigenous peoples on issues affecting them, that certainly did not occur in any systematic way on Bill C-21.

The question, "With whom did you consult?" was posed to the officials during my critic's briefing on the bill. When the officials were asked to describe their process of consulting with Indigenous peoples, they turned and looked for answers to the representative who was present from Minister Mendicino's office. Departmental officials did say they had consulted on the previous Bill C-21, which died on the Order Paper, but they

engaged in no such consultations with Indigenous peoples in advance of introducing this bill, which has different provisions from the previous bill.

Subsequent to my critic's briefing, officials sent my office a list of meetings they held with Indigenous groups after the bill was introduced. In other words, those were meetings held between January and May this year. But that was months after Bill C-21 had been introduced and only occurred after the public opposition to the government's amendments had arisen, colleagues.

As on so many other occasions, Indigenous peoples were only an afterthought. That really makes a mockery out of the claim that when it comes to Indigenous peoples, it is "nothing about us, without us."

On Bill C-21, officials also failed to consult with outside experts who are well-informed on firearms.

All of that makes Bill C-21 remarkably similar to another Liberal gun bill, Bill C-68 in the 1990s, which enacted a universal firearms registry. Like that earlier bill, Bill C-21 will achieve almost nothing when it comes to enhancing public safety. Yet it will prevent legal handgun owners from buying or selling their firearms, but it still allows them to keep those guns and use them. Where, exactly, is the public safety benefit in that?

The bill will also set up a red flag law that will permit Canadians to take other Canadians to court if they fear that those other Canadians have guns and might pose a risk to others. Colleagues, Canadians can already call the police to deal with those sorts of concerns, so where is the public safety benefit in that?

That is what makes Bill C-21 so similar to Bill C-68 of the 1990s. Bill C-68 was ultimately rejected and, in large measure, repealed because it could not be explained how creating a universal gun registry at an enormous cost would enhance public safety.

Remember, colleagues, that the Chrétien government originally claimed that creating a universal firearms registry would carry a net cost of $2 million, but those costs subsequently exploded to $2 billion. By the time the Harper government repealed the long-gun registry, the public safety benefits of the costly long-gun registry had become impossible to explain.

Like Bill C-68, the provisions of Bill C-21 are already proving difficult to explain and to justify, and the bill has not been enacted yet. Ultimately, the Canadian public lost confidence in what was being claimed would be the benefits of Bill C-68. The same is already happening with Bill C-21, and once again, we have a piece of Liberal legislation that risks undermining the very foundations of gun control in Canada.

What, then, is the government claiming that it will achieve with this bill?

When he spoke on the bill in June 2022, Minister Mendicino stated that this bill is ". . . how we will eradicate gun violence and protect all Canadians."

Reluctantly, I take the minister at his word that this is actually his objective and the objective of his government. In that sense, it is an emotive reaction to the scourge of gun crime. I'm sure that every senator in this chamber would agree that gun crime is a scourge on our society, but the minister says that his government's goal is to eradicate gun violence. The word "eradicate" is defined by the Merriam-Webster Dictionary as "to do away with as completely as if by pulling up by the roots." That is a very noble objective in theory, but the sad reality is that no piece of government legislation can hope to accomplish such a sweeping objective when it comes to any criminal activity; it is simply not possible.

We do not know if the minister literally believed what he said, but if that is actually his goal, then he simply doesn't know what he is doing, and we've raised that issue in the Senate a few times here in the last few weeks.

If we consider the other bills the government has enacted when it comes to criminal justice — ones like Bill C-5 and Bill C-75 — those bills have actually undermined the ability of law enforcement to fight gun crime.

Under Bill C-5, the government repealed a number of mandatory sentences for gun crime, including the following: using a firearm or imitation firearm in the commission of an offence; possession of a firearm or weapon knowing its possession is unauthorized; possession of a prohibited or restricted firearm with ammunition; possession of a weapon obtained by commission of offence; discharging a firearm with intent; robbery with a firearm; and extortion with a firearm.

The mandatory sentences for all of those offences were repealed. Many of those provisions had actually been put in place not by the previous government, but by previous Liberal governments.

In 1995, Justice Minister Allan Rock said the following about the need for mandatory penalties for gun crimes:

> The right approach to firearms control in Canada is to find an efficient way to fight criminal use of firearms while respecting legitimate uses and interests of law-abiding firearms owners.
>
> . . . we must strengthen controls at the borders and impose tougher sentences for smuggling and trafficking in illegal firearms.
>
> . . . the longest mandatory minimum penitentiary terms in the Criminal Code for those who use firearms for any one of ten serious crimes, including robbery; the prospect of a mandatory jail term for possessing stolen or smuggled firearms . . . .

The minister continues:

> Our efforts at the borders must be more effective. It makes a mockery of our domestic controls if we cannot staunch the flow of illegal arms coming into Canada.

• (2030)

That, colleagues, is what the Liberal Minister of Justice said in 1995.

To be sure, what Allan Rock did in creating the long-gun registry was foolish, but he was at least right when he spoke about the need to prevent firearms trafficking and the criminal use of firearms.

Is it not strange for today's Liberal government to declare that its objective is to completely eradicate gun violence, and then to turn around and deliberately eliminate mandatory sentences for those very same crimes?

As Allan Rock argued, the reality is that mandatory sentences can assist in reducing gun crimes. They are particularly useful in removing violent and repeat offenders from circulation on our streets and in preventing them from committing new violent crimes. Mandatory sentences provide some measure of assurance that gang members and other violent criminals won't be back to prey on people in vulnerable communities that are most often plagued by gun crime.

But keeping measures in place to stop that sort of crime has not been a strong consideration in this current government's policy-making. Instead, this government decided that a range of firearms offences should no longer attract any mandatory sentencing. How is that consistent with the government's pledge to eradicate gun violence?

And, of course, the government did not stop these contradictory measures with Bill C-5. Under Bill C-75, the government also introduced a new legislative "principle of restraint" for police and the courts to observe when it comes to granting bail. The government argued that these specific measures would ". . . ensure that release at the earliest opportunity is favoured over detention . . . ."

The impact of this policy has been nothing short of devastating, and I now want to discuss some of these impacts.

In British Columbia, a recent study looked at 425 bail hearings involving a suspect both accused of a violent crime and with a breach of bail conditions on their file. Of those 425 hearings, the Crown sought detention orders in only 222 cases, or 52% of the time. That meant that in nearly 50% of the cases, violent criminals with bail breaches on their files were back on the streets.

If we look at Ontario, this province has experienced a 57% increase in serious violence and weapons cases before the courts between 2018 and 2021. Who was in government?

Constable Greg Pierzchala of the Ontario Provincial Police was shot and killed last year. He was murdered by a repeat criminal, Randall McKenzie, and another man. McKenzie was out on bail on assault and weapons charges. He also had a warrant out for his arrest.

At the time that Bill C-75 was passed, the eradication of gun violence was supposed to be the goal of this government. But somehow that goal did not impact the provisions of Bill C-75. When Bill C-75 was passed, the government already knew that crimes committed by repeat offenders were skyrocketing. And Bill C-75 added fuel to that fire.

The Toronto Police Service reports that in the last two years, 17% of accused in Toronto charged with shooting-related homicides were already out on bail at the time of the alleged fatal shooting. Think about that, colleagues: Of the perpetrators of fatal shootings in Toronto, 17% were out on bail. Once again, how did the government's supposed goal of eradicating gun violence fit with this outcome?

Colleagues, we can only come to two possible conclusions when we consider facts like these: Either the eradication of gun violence is really only a slogan for this government, or this government is completely and totally incompetent. If we are honest, colleagues, it's probably a mixture of both.

This is a government and a minister who pay far too little attention to the details of policy. Like the Prime Minister who leads them, they somehow believe that slogans are sufficient and that slogans themselves will determine and set policy. We see this approach time and time again, and it is leading to disastrous policy outcomes. The government's policy approach in Bill C-21 is only the latest illustration of this incompetence.

In his second reading remarks on Bill C-21 a year ago, the minister referenced the experiences of numerous Canadians who have been impacted by gun violence. No words can ever comfort those whose loved ones have been murdered in senseless acts of violence, but if he actually wants to eradicate gun violence as he claims, then the problem is that he has absolutely no idea how to accomplish that objective. That is because this government blames society for the actions of criminals. It is a government that identifies legal gun owners as the primary problem when it comes to gun crime. And it is a government that somehow believes that shorter periods of incarceration, even for repeat violent offenders, will produce less crime.

Colleagues, this is an incompetent approach, and it has significantly contributed to increasing violent crime in the past eight years. According to Statistics Canada, in 2021, 788 people were murdered in Canada. Let's contrast that with 2013, when there were only 509 murders. Now, 509 murders are still way too many, but just eight years later, the number of murders increased by more than 50%. And in 2021, one quarter of those murders were gang-related.

Shootings, always using illegal firearms, represent three quarters of all gang-related homicides. In Winnipeg, there were a record 53 homicides in 2022. Firearms were used in more than 30% of Winnipeg's homicides, but knives were involved in about 28% of homicides.

Senator MacDonald: Ban knives too.

Senator Plett: I asked the minister about this when he was here in the Senate to answer questions. I asked how the government's repeal of eight mandatory minimum penalties for gun crime in Bill C-5 would help combat the rise in violent crime. The minister did what his government always does: He hid behind court decisions and claimed, by implication, that he had no choice.

Colleagues, that is a pathetic response from a minister and is cold comfort for the victims of rising violent crime.

Effectively, what the minister is saying is:

> We are sorry, but as a government we are completely helpless. We have no choice but to go after legal gun owners because the courts won't let us go after the violent criminals.

First of all, the minister's response is factually wrong. The courts have not struck down all mandatory minimum penalties. In fact, the Supreme Court has upheld the principle that Parliament may impose mandatory penalties and, in specific cases, has often given the government options to respond to its judgments.

The Supreme Court gave such an option to the government in *R v. Nur*, a decision of the Supreme Court in 2015 which struck down one aspect of a minimum penalty related to firearms possession.

• (2040)

The court struck the provision down, but it nevertheless provided room for the government to modify the existing law. The Harper government did just that in response to that particular ruling when it introduced Bill C-69. Unfortunately, that bill died on the Order Paper prior to the 2015 election and the current government chose not to proceed with it.

If the current government is too afraid to respond to Supreme Court rulings in order to work within those rulings to protect Canadians in the face of gun crime, it should say so. But it should stop hiding behind the courts and claiming that it has no choice but to do nothing. That is an abdication of responsibility and it ensures that many Canadian communities will continue to be plagued by gun crime.

Second, even where the court provides the government with few options in a particular case, we still have a principle of parliamentary supremacy in this country.

When Canadian streets are plagued by rising violent crime, there are other constitutional and legislative tools available for a government and Parliament to protect Canadians. If the current government doesn't have the courage to use those tools, then that government deserves to be replaced; it is as simple as that.

Parliament and the Government of Canada have an obligation to protect Canadians. When Parliament fundamentally disagrees with a Supreme Court ruling, it should be prepared to act. What we require is an elected Parliament that is willing to do just that. Hopefully, colleagues — and I am, indeed, positively hopeful — that we will have such a Parliament after the next election.

What we have now is a government that is doing exactly the opposite of what is required to protect Canadians. There is ample evidence to suggest that various government measures, including badly thought out criminal justice legislation, as well as Liberal policy on drug distribution, have contributed significantly to the major increase in violent crime in Canada.

The sad fact is that, since 2015, violent crime in Canada has increased by 32% while gang-related murders, many of them committed with firearms, have doubled. None of these trends are impacted at all by Bill C-21.

The government may argue that Bill C-21 is part of a larger effort but I see no evidence of a larger effort. The truth is that Bill C-21, like Bill C-68 before it, diverts and wastes the efforts and resources to go after legal firearm owners when the attention of police, instead, should be on real criminals.

The Parliamentary Budget Officer has estimated that the government's decision in 2020 to ban certain classes of previously legal firearms and to pay the necessary compensation will cost as much as $750 million. Others say the costs may be even higher.

This money, colleagues, should be used to support front-line officers. Instead, these funds are being completely and totally wasted. This, again, leads one to ask with whom the government actually consulted in order to produce this bill.

In his remarks on the bill a year ago, the minister claimed:

> Bill C-21 represents the culmination of the advice we have received from so many constituencies, including from survivors and many others . . . .

If Bill C-21 represents the culmination of advice that the government has received from so many constituencies, then there remains a remarkable degree of public opposition to this bill.

If we consider even what earlier supporters of the bill are saying, it does not seem that the government listened to any advice they provided. Their expectations were unrealistically raised by the government when the minister unrealistically claimed that he could somehow eradicate gun violence. Now these groups feel betrayed.

The group PolySeSouvient supports Bill C-21 but has declared that Prime Minister Justin Trudeau will no longer be welcome at future Polytechnique memorials.

Nathalie Provost, a survivor of the terrible shooting at the École Polytechnique, in speaking about the Prime Minister's attendance at future commemoration events, reportedly said, "We won't invite him and if he wants to come, we will not agree for him to be there."

I understand why they are angry. The government promised a bill that would do the impossible. Then, when expectations were dashed, people became angry. You can't promise the unachievable and then backtrack and not expect severe disappointment.

What about the total lack of government consultation with Indigenous peoples? Chief Jessica Lazare of the Mohawk Council of Kahnawake told members of Parliament that the absence of comprehensive consultation with Indigenous peoples is clearly evident given what she says is the "incoherence and inconsistency" of the bill itself.

She further said:

> We ask that you address the real underlying problems that cause gun violence, not further restrict Indigenous peoples from carrying out their lives in a sustainable ceremonial and generational way.

This, again, is the essence of the problem with Bill C-21. The government claims that this is a bill that is designed to address gun violence. The real target is law-abiding firearms owners, including Indigenous hunters.

Vice Chief Heather Bear of the Federation of Sovereign Indigenous Nations said that Bill C-21 and its proposed amendments infringe on Indigenous rights to hunt both on reserve lands and on traditional territories. This includes the provisions in the bill that target legal handgun owners.

Bill C-21 proposes to freeze the sale, purchase or transfer of legal handguns. This provision impacts more than 1 million legal firearms that have been used by law-abiding competitive shooters and collectors for a century and more.

Naturally, this measure will have no impact on criminal gangs who are largely interested in illegal firearms, which they can easily acquire from across the border. Instead, this so-called handgun freeze goes after those who hold restricted firearms licences for a variety of legal purposes.

As Vice Chief Bear stated, "Handguns are used in the far north. . . ." Why are they used? They are sometimes employed for safety reasons, where an animal such a bear may come upon a hunter very quickly, making a handgun easier to use at close quarters than a rifle. Having an available tool like a handgun might actually mean the difference between life and death; not only did the government not consider that when it drafted Bill C-21, it also did not, of course, consult with the people most affected.

It is scarcely surprising that, in December, First Nations leaders at the AFN General Assembly voted to oppose Bill C-21.

Cat Lake First Nation Chief Russell Wesley, who brought forward the resolution at the AFN Special Chiefs Assembly, referred to the bill as "just another demonstration of our First Nations constantly being attacked with respect to our rights."

When it comes to Indigenous consultation, the Department of Justice states:

> The Government of Canada has a constitutional duty to consult Indigenous peoples when it considers measures that might adversely impact their potential or established Aboriginal or treaty rights. This has been consistently confirmed by the Courts. The Government of Canada has consistently worked to uphold this duty and has shown its commitment to taking additional steps to do so.

• (2050)

What happened to that commitment? I believe that it is absolutely imperative that when our Senate committee reviews this bill, it must take the time to hear from all Indigenous witnesses who want to be heard.

If the government is not going to consult Indigenous peoples in the manner that it promised, then the Senate must do that job for them. We will do our utmost to ensure that this bill receives full hearing at the Senate committee, and that Canadians can and will be heard.

In that regard, I want to come back to the matter of the handgun freeze that is proposed in this bill. The minister said that this provision:

> . . . would introduce a national freeze on handguns for the first time. In very clear language, this means that on a go-forward basis no one would be able to buy, sell, transfer or import a handgun.

That is the purpose, according to the minister. But what will that provision actually accomplish when it comes to public safety? We know it will do nothing when it comes to illegal handguns, which are the weapon of choice for criminal gangs. The Deputy Chief of Police of the Toronto Police Service, as he then was, Myron Demkiw, recently testified in the House of Commons that approximately 86% of crime guns seized were ones that had been smuggled into Canada. A recent CBC story noted that 90% of gun crimes in Ontario were committed with smuggled guns.

Deputy Chief Demkiw was very clear about handguns on Toronto's streets, saying:

> They're not domestically sourced. They are internationally sourced. Our problem in Toronto is handguns from the United States.

When asked about the proposed handgun freeze and the government's other firearms buy-back program, he said:

> Investing in what you described is certainly not going to deal with the crime problem we're facing in Toronto as it relates to criminal handguns and the use of criminal handguns.

We must ask again: Who did the government listen to or consult with? There is no public safety benefit in legislating that legal handgun owners can keep their 1 million firearms, but they can't legally buy or sell them. Neither does restricting competitive pistol shooters make our streets safer.

The government claims that in many areas of Canada, the theft of legal firearms must be combatted, but freezing purchases and sales of legal firearms that are already tightly controlled does not address that problem. The major problem for a city like Toronto is organized firearms smuggling. On that, Bill C-21 does nothing at all.

In his remarks on the bill, the minister claimed that:

> Bill C-21 will take on, in a very intentional and direct way, organized crime. It does this by first and foremost raising maximum sentences for illegal gun smugglers and traffickers at the border, from 10 years to 15 years. What is the effect of that statement of intent? It is to send a very powerful and clear message to anyone who is in the business of illegal gun smuggling that they are at greater risk of facing stiffer sentences.

It's hardly surprising that the minister actually got the proposed new maximum wrong. The new maximum proposed in the bill is 14 years, not 15 years as the minister said. He doesn't know his own bill. He's a lawyer and a former prosecutor, but somehow he missed the fact that 14 years is a normal maximum sentence in the Criminal Code, not 15 years.

Be that as it may, what does this increase in the maximum possible sentence actually accomplish?

First of all, in relation to the current 10-year maximum for firearms smuggling, we need to be honest that even this sentence is rarely imposed in Canadian courts. I asked Library of Parliament researchers how often the 10-year maximum sentence had been imposed in the past 20 years. Library researchers failed to find a single example.

An Hon. Senator: Wow.

Senator Plett: When officials from the department briefed me during my critic briefing, they acknowledged that very few sentences for firearms smuggling are at the higher end of the sentencing range permitted under the law. There may be such cases, but they're so rare that they're very difficult to find even by officials.

In the face of that fact, the minister claims that raising the maximum to 14 years will send a strong signal to the courts. This seems highly doubtful when most custodial sentences are five years or less.

I recognize that some gun offences may at times attract stronger sentences. In his second reading remarks, Senator Yussuff claimed that "on average those who are convicted [of smuggling] serve eight years of their sentence." I believe what Senator Yussuff was likely trying to claim was that the average sentence was eight years, not that they actually served eight years in custody. In fact, serving eight years in prison is almost impossible if someone were to receive a maximum 10-year sentence. That is because statutory release of all inmates occurs at about the two-thirds mark of a sentence, so even on a maximum 10-year sentence, all inmates would be released even before the 7-year mark.

I also don't believe that there is any evidence that eight years is actually the average sentence for gun smuggling. I can only repeat what the Library of Parliament said. They could find no example of a maximum sentence being imposed on firearms smuggling, and officials acknowledged that there were very few sentences at the high end of the sentencing range. One would hope that this trend might change, but, in fact, the tendency is actually towards sentencing at the lower to middle range of the scale.

One illustration of how this works is the case of William Rainville who, in 2021, tried to smuggle 248 Polymer80 Glock-type pistols into Canada. These pistols were smuggled without serial numbers. The guns had an estimated street value of $1.6 million and they were destined for criminal use. He, colleagues, received a five-year sentence.

Some might argue that is a stiff sentence, but it's actually only in the middle range, and the fact is that William Rainville was out on day parole in 12 months of that five-year sentence.

Colleagues, think about that: 12 months served for smuggling 250 firearms into our country with the serial numbers filed off. These were guns that were clearly destined for criminal use and would likely have killed people, but he was out in 12 months.

Why only 12 months? Here we have to reference another bill passed under this government, Bill C-83. That bill introduced a principle into the Corrections and Conditional Release Act mandating that all offenders must be incarcerated at the least restrictive level of security consistent with public policy. That means that as long as offenders keep their noses clean while inside, they are often transferred to increasingly lower levels of security, speeding their way to early day parole and full parole. It means that, regardless of the seriousness of the offence, if an offender knows how to work the system, he can often be out very quickly.

The government was warned that this would happen when they passed Bill C-83. Those warnings included ones given by our very own colleague Senator Boisvenu, but those warnings were ignored.

Another individual, Tony N'Zoigba certainly knew how to work the system. He was arrested in February 2020 after crossing the St. Lawrence River in a motorboat in which he had a duffle bag containing nine guns. These guns were clearly intended for criminal use, since their path had been traced through a joint Canada-U.S. sting operation. His intent was to sell those guns to criminal gangs right here in the city of Ottawa.

For that, he faced 92 charges. What was his sentence? He received 18 months.

• (2100)

A few months later, he was out on day parole. And what was he up to on day parole? Allegedly, he was working on yet another deal to smuggle even more guns into Canada, so his day parole had to be suspended.

Colleagues, when it comes to cross-border firearms smuggling, criminals are highly organized and they take advantage of lax Canadian laws, weak Liberal judges and limited law enforcement at the border. I am afraid that neither the limited measures that the government has taken nor the proposed minor increase in a maximum sentence — that even today is rarely if ever used — will have any impact on the grave problem that Canada faces.

The minister has argued that the bill grants new investigatory powers by expanding the list of eligible firearms offences. This, he says, will allow police to obtain more wiretaps. His government also claims that they have invested over $1 billion to combat gun crime. But statistics of money spent are not the same as results. This is a government that is very willing to throw money at problems but never wants to ask detailed questions about whether their policies are actually working.

We also need to be honest that this money is spread over many years. It is spread across the country. It is spread over multiple initiatives. Much of it does not go to the support of front-line officers. Certainly, the $750 million or more that is being wasted to compensate legal gun owners for the 2020 gun ban enacted by the government does absolutely nothing to support our front-line policing.

The reality is that gun crime is going up, and much of that crime is fuelled by smuggled guns. With regard to that problem, the minister is actually doing very little. He claims that border officers are seizing record numbers of guns at border crossings. But how are such seizures actually impacting the crime on the streets?

My office posed an Order Paper question related to firearm seizures at border crossings. We asked how successful the Canada Border Services Agency, the CBSA, has actually been in intercepting illegal guns destined for street gangs. In response to that question, the Department of Public Safety responded that in 2019 the CBSA seized 713 firearms from all sources at the border. That sounds impressive, but the reality is that the CBSA also reported that only 72 of these firearms were identified as prima facie crime guns, that is to say, firearms that were believed destined for illegal use in Canada.

In 2020, the numbers were less impressive. While 470 firearms were seized by the CBSA at the border in 2020, a mere 8 of these were identified as likely crime guns, in other words, about 2% of all gun seizures.

Seizing guns from otherwise unsuspecting American travellers, unfamiliar with Canadian laws, who will only be in Canada for a few days or weeks, has no impact on crime in urban Canada. We need instead to stop gun smuggling by organized groups who are funnelling those guns to gangs on our streets.

For all the minister's talk about investments and money spent, the sad reality is this, colleagues: If we don't have sufficient numbers of officers on hand to investigate organized gun smuggling, then we will not seriously address violent crime on our streets. If we don't have aggressive and well-funded intelligence-led policing that targets gun smuggling, then we will not address violent crime on our streets. If we don't have sufficient numbers of police officers or border officers policing the border between ports of entry, then we will not seriously address violent crimes on our streets. If we don't have sufficient numbers of officers and Crown attorneys to pursue wiretap warrants and to support major investigations, then we will not seriously address violent crimes on our streets. Lastly, if we don't have serious sentences for gun smuggling and gun crime, sentences that will permanently remove violent criminals off our streets, then we simply will not address gun crime on our streets.

To be honest, Bill C-21 and all the rhetoric surrounding it provide none of those capabilities. This bill is focused almost exclusively on legal firearms owners. It views them as the problem. The approach is particularly evident in another provision of this bill. It relates to the so-called "red flag" provisions.

Minister Mendicino said:

> We are seeing gender-based violence in our workplaces, communities, homes or wherever online. There is a trend between gender-based violence and guns. Between 2013 and 2019, the incidents involving gender-based violence and guns went up more than 30%, and that trend has continued.

The minister is suggesting that the mere existence of legal guns is a problem, but there are millions of legal guns in Canada. Unless the minister is suggesting taking them all away from every hunter and sports shooter, then I don't know how he plans to address this. He certainly won't address this through any provisions of Bill C-21.

I do think that all Canadians agree that the increasing incidence of violence, sometimes rampage attacks, that we are seeing in our society is extremely disturbing. Such attacks may be driven by religious or other ideological extremist ideas. They may simply be driven by a collapse in an individual's mental health. Whatever the reason, we seem to be seeing more of them. They may be random stabbings or other assaults. They may involve someone using a car as a weapon, or they may involve firearms.

Our legal firearm controls are designed to help address that issue. That is why, in Canada, we have long recognized the need for reasonable firearm controls. There has been a broad political consensus in Canada when it comes to firearms licensing, mandatory safety training and ensuring the safe storage of firearms. There has also been a broad consensus around police background checks. Holders of firearms licences in Canada must renew their firearms licences every five years. Firearms owners are subject to continuous review. If issues of concern arise, licences can be suspended, and firearms seized. These are comprehensive legal provisions, but we must recognize that we will never have fully foolproof solutions.

In Bill C-21, the government is proposing to add a new set of provisions called "red flag" laws. The provision will allow anyone to go to court and ask a judge to seize the gun or suspend the licence of a person who owns a gun if they believe they pose a threat to anyone else or themselves. What does this provision really add in terms of enhanced public safety?

The Criminal Justice Section of the Canadian Bar Association, the CBA, notes that police officers already have the power to seek a warrant to seize firearms under specific circumstances. The law allows police to seize firearms without a warrant when obtaining one is impractical or when someone fails to show a licence or other authorization.

The seizure of a firearm means an automatic revocation of licences and authorizations. The individual then has an opportunity to be heard in court. In other words, any individual can already file a complaint or a concern with the police, who are then empowered to act.

As stated on the CBA website, the Criminal Justice Section of the CBA believes:

> . . . the current law contains sufficient powers to accomplish the goal of seizing weapons believed to have been used in a crime or removing them from the hands of persons who are believed to be a danger to themselves or to others.

It is difficult to understand what precisely layering "red flag" provisions on top of these already existing provisions will achieve. Is an individual more likely to call the police if they have a serious concern, or are they more likely to take the time to go to court? The answer seems rather obvious.

It will be very important for the Senate committee studying this legislation to hear from legal and other witnesses on this matter. These issues are complicated, and it will be necessary to understand how the current law functions, as well as what these proposed new provisions add when it comes to enhancing public safety.

• (2110)

In considering all of these issues, this bill appears to have no practical value. What is its actual purpose? I believe that purpose is not to eradicate gun violence, as the government claims, but to lay the foundation for future actions that can target legal firearms owners more comprehensively. In that regard, the government proposes to incorporate in this legislation an expanded definition of prohibited firearms. That definition would now include semi-automatic centre-fire firearms that were originally designed with a detachable magazine with a capacity of six cartridges or more. That will technically incorporate, perhaps, the 1 million-plus existing non-restricted firearms that I have already referenced.

The government claims that this definition would apply prospectively, meaning that it would only apply to firearms designed and manufactured on or after the definition comes into force. It would not impact the classification of the existing firearms in the Canadian market. But if that is the case, what is the public safety benefit of the amendment? New firearms that may be largely the same as old firearms, and that shoot the same ammunition, would be banned, but the 1 million-plus existing firearms would not be banned.

When I use the number "1 million-plus," I do so because nobody actually knows the exact number. What we do know is that banning new guns — that are exactly the same as the old guns — and then leaving the old guns in circulation makes absolutely no sense. The government claims that the purpose is to "close a regulatory gap where firearms that enter the Canadian market may be misclassified." But the capacity to do much more than that is there, and the government's ultimate intent is shown in the amendments that have, for now, been withdrawn. This means that no one should be fooled into thinking that firearms — which may have been held by Canadians for decades — are safe from arbitrary prohibition. In the firearms prohibitions that the government introduced by order-in-council in 2020, the government showed that it is more than willing to initiate completely arbitrary firearms prohibitions whenever the political considerations suggest that this would be a good idea.

Canadians are not made safer when governments arbitrarily take a political decision to ban a few classes of firearms simply based on their look, but leave other similar classes of firearms, often shooting exactly the same ammunition, in legal circulation. That, of course, makes no sense, but it is exactly what the government did in 2020.

Previously, the government argued that its decisions related to firearms prohibitions would always be based on facts and on professional input, but that promise has gone out the window, and the reclassification of firearms will now take place behind closed doors, subject to all manner of pressure from politicians.

What are the implications of all this for gun control in Canada? As occurred with Bill C-68 exactly 30 years ago, it is probable that support for gun control will take a major blow. Gun control of legal firearms is, by its very definition, focused on law-abiding citizens. For the most part, gun owners in Canada have always cooperated with gun control in Canada, and their cooperation is necessary in order to maintain viable and effective gun control. It is, after all, their firearms that are being regulated. But laws must be seen as legitimate and necessary if they are to retain the cooperation of those who are most impacted by those laws. Bill C-21 undermines that public confidence. This bill is already being perceived as a politically driven and gratuitous attack on gun owners. It is their personal property being targeted.

As a result of the government's actions, 1 million handguns held by law-abiding gun owners can no longer be legally bought or sold. This arbitrary decision comes with absolutely no financial compensation, making it particularly unjust.

Shooting disciplines and handgun clubs across the country are being impacted. When it comes to the various handgun shooting disciplines, the government has decided that only Olympic shooters will be exempt from buying and selling handguns. What sense does that possibly make? How can you sustain Olympic-level competitors in Canada without allowing any other shooters into the shooting sport? As I have said before, it's as if we were to say that the only hockey that will be allowed is the NHL, but we won't allow anybody in amateur hockey to play. Every legal gun owner knows that the real objective here is to kill all shooting sports in Canada.

We have also been told that a side impact of this is that police officers across the country, who are often only able to train at their local gun club, may suddenly have nowhere to keep up their shooting skills, as these clubs start to close in the years ahead. Did anyone in the government think about this public safety impact? How will our police officers keep up their shooting skills as clubs start to close?

It is hardly surprising that — when one looks at all of the implications — people are reacting very negatively to this bill. That is why this bill is already opposed by a broad cross-section of Canadians. Colleagues, it is also opposed by most provinces and territories. In fact, some provinces are enacting legislation that will thwart the very objectives of Bill C-21.

Some senators in this chamber will, no doubt, console themselves by believing that this is only what Conservative provincial governments are doing. But this is what Irfan Sabir, justice critic for the Alberta NDP, said about this legislation:

> There are legitimate criticisms of the federal firearms program, and absolutely they needed to withdraw and reconsider their amendments that would have captured many firearms, including those used by Albertans and Indigenous peoples for hunting.

Honourable senators, that is the view of the Alberta NDP.

The only point of correction I would make is that, unfortunately, the federal government has not walked away from its amendments to Bill C-21. Instead, it has merely tried to temporarily freeze those amendments with the full intent of bringing them back in future regulations. These regulations will be recommended by a ministerial committee composed entirely of individuals appointed by the Minister of Public Safety — a man whose credibility is already completely shattered by the bad bill that he has introduced. We should not be surprised that this minister is simultaneously presiding over other fiascos, such as his demonstrated incompetence over the transfer of killer Paul Bernardo to a medium-security institution.

Honourable senators, the reality is that this minister and his government have mishandled the entire criminal justice file from the very beginning. Its approach to combatting gun and gang violence in our communities is wrong, and it should simply start fresh.

What should it be doing instead? First, it should admit its mistakes on Bill C-5, Bill C-75 and Bill C-83. In regard to Bill C-75 and bail conditions, it has now done that half-heartedly, but the new measures that it has proposed are unlikely to have a major impact on stopping crime on our streets. All of the bad bills that the government has passed need to be completely revisited if we are going to make a dent in the rise of violent crime in Canada.

Second, in regard to firearms smuggling, tackling this problem should become the real top priority. We will never be able to fully stop crime guns from entering Canada from the United States, but we can, at least, try to make it very costly for criminal gangs to engage in cross-border smuggling. We need to make it monetarily costly for them — and we need to ensure that when someone is caught smuggling guns into our country, they are removed from our streets, either for a very long time or, if they are repeat offenders, permanently. Parliament, not the courts, is supreme when it comes to law-making in Canada, and we need a government that is ready to stand by that important principle.

Third, the government needs to work closely, and in a collaborative fashion, with vulnerable communities. We need a government that invests in them and in the youth with measures that actually work.

• (2120)

Most importantly, those communities, like all other Canadian communities, deserve an environment in which law and order can be taken for granted and where children and youth can grow up without fear. You can have all the programs you want, but if the streets around where those programs are being delivered are unsafe, then the impact is going to be very limited.

Fourth, we need a federal government that is willing to work collaboratively with provinces and not at cross-purposes from their objectives. In other words, we need a federal government that is more interested in real results than it is in bills like Bill C-21 that are based on slogans and on targeting law-abiding Canadians. I understand that provinces have different views on this matter. The federal government needs to be prepared to work with all of them, not to impose solutions from afar.

Lastly, colleagues — I'm sure you are happy to hear — we need to maintain a firearms licensing regime in Canada that is both effective but also reasonable. This is not the United States, and in Canada, we have a strong tradition of responsible but reasonable gun control.

For gun control to be effective, it must be seen as being legitimate. Gun control must retain the support of legal firearms owners. With this bill, the government risks losing that support. It took years to build back a measure of support for an existing gun control regime after the debacle of the long-gun registry created by another Liberal government 30 years ago. Now, this government has thrown that support away. That makes this bill extremely foolish and short-sighted.

Colleagues, all of these issues need to be thoroughly examined by the Senate committee that will review this legislation. I trust we will not close the door on the diverse number of Canadians

who want to be heard on this bad bill. I hope we will not do what the government did in the House, which was to introduce time allocation and ram the bill through the House committee process as well as third reading. That would be a slap in the face to many Canadians who deserve to be heard. It would also be a betrayal and complete abdication of the Senate's constitutional role.

I strongly oppose this bill, but if we are going to send it to committee, we also need to give the committee time to do its work effectively. I trust we all agree with that principle, but it would be far better if we would not waste the committee's time with this bad bill.

Bill C-21 will not make Canada safer. It does nothing to address crime on the streets. It is opposed by legal firearms owners. It is opposed by our Indigenous peoples. It has been opposed by provinces and territories. It risks destroying gun control in Canada.

Colleagues, I urge you to reject and defeat this at second reading. Thank you very much.

[*Translation*]

Hon. Renée Dupuis: Would Senator Plett take a question?

[*English*]

Senator Plett: I was hanging on to the podium for the last 30 minutes. I would respectfully decline questions.

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

Hon. Senators: Question.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Those in favour of the motion will please say, "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion will please say, "nay."

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: Is there an agreement on a bell?

Senator Seidman: Yes, there is. Fifteen minutes.

The Hon. the Speaker: The bells will therefore ring for 15 minutes. The vote will be at 9:39. Call in the senators.

• (2140)

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

YEAS
THE HONOURABLE SENATORS

Audette	Hartling
Bernard	Jaffer
Boehm	Klyne
Boniface	Kutcher
Burey	LaBoucane-Benson
Busson	Loffreda
Cardozo	MacAdam
Clement	Marwah
Cordy	Mégie
Cormier	Miville-Dechêne
Cotter	Moncion
Coyle	Omidvar
Dagenais	Osler
Dalphond	Pate
Dasko	Patterson (*Ontario*)
Deacon (*Nova Scotia*)	Petitclerc
Deacon (*Ontario*)	Petten
Dean	Quinn
Duncan	Ravalia
Dupuis	Ringuette
Forest	Saint-Germain
Gerba	Simons
Gignac	Smith
Gold	Sorensen
Greenwood	Woo
Harder	Yussuff—52

NAYS
THE HONOURABLE SENATORS

Ataullahjan	Martin
Batters	Mockler
Black	Oh
Boisvenu	Patterson (*Nunavut*)
Carignan	Plett
Housakos	Richards
MacDonald	Seidman
Manning	Wallin
Marshall	Wells—18

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

REFERRED TO COMMITTEE

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

(On motion of Senator Yussuff, bill referred to the Standing Senate Committee on National Security, Defence and Veterans Affairs.)

ADJOURNMENT

MOTION ADOPTED

Hon. Patti LaBoucane-Benson (Legislative Deputy to the Government Representative in the Senate): Honourable senators, with leave of the Senate and notwithstanding rule 5-5(j), I move:

> That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until tomorrow, Thursday, June 22, 2023, at noon.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

(Motion agreed to.)

JUDGES ACT

BILL TO AMEND—MESSAGE FROM COMMONS—CERTAIN SENATE AMENDMENTS CONCURRED IN AND DISAGREEMENT WITH CERTAIN SENATE AMENDMENTS

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that a message has been received from the House of Commons which reads as follows:

Wednesday, June 21, 2023

EXTRACT, —

That a message be sent to the Senate to acquaint Their Honours that, in relation to Bill C-9, An Act to amend the Judges Act, the House:

agrees with amendments 1(b)(i) and 1(c)(i) made by the Senate;

respectfully disagrees with amendments 1(g), 1(i), 1(j) and 1(k) because they undermine the mechanisms in the bill for controlling process costs and delays by introducing a second intermediate appellate level into the proposed new judicial conduct process that would duplicate the work of the first and, as a result, would introduce into the new process costs and delays comparable to those that have undermined public confidence in the current process;

respectfully disagrees with amendment 2 because it undermines the mechanisms in the bill for controlling process costs and delays by maintaining most of the unnecessary costs and delays that the bill was intended to excise from the process for obtaining court review of a Canadian Judicial Council report issued under the current process;

respectfully disagrees with amendments 1(a), 1(b)(ii), 1(f) and 1(h) because they would, taken together, have the effect of redefining the roles of lay persons, expressly defined as persons who have no legal background, in the proposed new judicial conduct process by obliging them to fulfill decision-making functions requiring legal training or that are best fulfilled by those with legal training;

respectfully disagrees with amendments 1(c)(ii) and 1(c)(iii), 1(d) and 1(e) because, taken together, they would redefine the balance struck by the bill between confidentiality and transparency considerations arising during the investigative stages of the process in a way that risks disclosing information of a personal or confidential nature, and that would require substantial new financial resources that are not otherwise necessary for the proper operation of the proposed new judicial conduct process; and

respectfully disagrees with amendments 1(b)(iii) and 1(l) because, taken together, they substantially rework the principal mechanisms contained in the bill for ensuring that the Canadian Judicial Council makes public information about the process, and these amendments do so in a way that risks disclosing information of a personal or confidential nature.

ATTEST

Eric Janse

Acting Clerk of the House of Commons

• (2150)

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

Hon. Marc Gold (Government Representative in the Senate) moved:

> That the message be considered now.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*Translation*]

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

The Senate proceeded to consideration of the message from the House of Commons.

Hon. Marc Gold (Government Representative in the Senate) moved:

> That, in relation to Bill C-9, An Act to amend the Judges Act, the Senate do not insist on its amendments with which the House of Commons disagrees; and
>
> That a message be sent to the House of Commons to acquaint that house accordingly.

He said: Honourable senators, I am pleased to rise at the stage of the message from the other place in response to the amendments proposed by the Senate to Bill C-9, which seeks to overhaul the process for reviewing complaints of misconduct against federally appointed judges.

First, I would like to thank the bill's sponsor, Senator Dalphond, as well as Senator Batters, who served as critic. I also want to thank all of the senators who participated in the study and the debates on this important initiative. Although we do not all agree on some details of the bill, it is clear that we share the objectives of the government and the federal judiciary.

I will keep my comments relatively short. I will try to explain the message from the other place and briefly share the government's position on the Senate amendments. Since Senator Dalphond is an expert on the matter and the sponsor of the bill, I will let him provide you with a more detailed analysis of some of the key aspects of the message.

Bill C-9 was meticulously crafted following extensive consultations with judicial stakeholders and the legal community, as well as members of the public. It enjoys the support of core judicial institutions such as the Canadian Judicial Council, which is at the heart of the disciplinary process that the bill seeks to reform.

The current version of Bill C-9, which now includes some of the amendments proposed by the Senate, accurately reflects these consultations.

In the message to the Senate, the other place accepts two of the amendments adopted by the Senate.

First, the members of Parliament supported our amendment that removed the words "as far as possible" from the text proposed in clause 12 of the bill for section 84 of the Judges Act.

The provision in question requires the Canadian Judicial Council to do its utmost to reflect the diversity of the Canadian population in drawing up the list of puisne judges and the list of laypersons from which the decision makers for the various stages of the proposed new process will be chosen. This amendment, proposed in committee by Senator Clement, will help reinforce the message in our legislation that, as parliamentarians and as Canadians, we value the great diversity of our country and want to see it reflected in our institutions, including the decision-making bodies of the new judicial disciplinary process.

The other place also welcomed another Senate amendment proposed at the Senate committee, also by Senator Clement, to add allegations of "sexual misconduct" to the list of the types of complaints that cannot be dismissed by a screening officer and must be reviewed by a panel member.

The other two types of complaints covered relate to the allegations of sexual harassment and allegations of discrimination on a prohibited ground of discrimination under the Canadian Human Rights Act. The spirit of this amendment is consistent with the general objectives of the bill and would not interfere with the operation of the new judicial disciplinary process.

[*English*]

These are two tangible and positive contributions from the Senate that, in the government's view, are consistent with the purpose of Bill C-9, and the government was happy to endorse them.

The remaining amendments made by this chamber were not endorsed by the government and were respectfully declined by the other place. The government genuinely appreciates the constructive spirit in which these amendments were proposed; however, taken together, the government has come to the view that the remaining amendments risk undermining the core purposes and objectives of Bill C-9, and they do this in three ways.

First, the remaining amendments would upset Bill C-9's delicate balancing of confidentiality and transparency imperatives during the initial investigative stages of the new judicial conduct process. Bill C-9 includes important transparency guarantees that reflect the public's right to open proceedings, as well as important confidentiality safeguards that protect the privacy rights of complainants, judges and potential third parties who may be implicated in complaints. This chamber's amendments would have upset this delicate balance by requiring disclosure of all decisions made at the earliest stages of the process, even where proceedings have yet to conclude. More significantly still, those Senate amendments lack safeguards to ensure that the council can protect the identity of complainants who fear reprisals from the subject of a complaint.

The same set of amendments require the collection and public disclosure of information for the purpose of requiring the Minister of Justice to turn his mind to whether he should recommend to the Canadian Judicial Council that new judicial education seminars be established based on this information. Colleagues, since the minister can speak to the council at any time about judicial education opportunities, such amendments are superfluous. Moreover, as amendments whose primary objective

is the establishment of new judicial education opportunities, the government is also of the view that they go beyond the scope of the bill.

The second shortcoming of amendments to this bill concerns the proposed involvement of laypersons, defined as persons with no legal background in legal decision making. Colleagues, the important contribution and added value of laypersons to processes such as this one are indisputable. That said, striking an appropriate balance between the benefits of lay participation and its inherent limits is essential. The involvement of laypersons is most appropriate and helpful in bolstering public confidence at the fact-finding stages of a complaints process, that is, the stage where facts are ascertained, findings of misconduct are made and appropriate sanctions are imposed. That is precisely where Bill C-9, as returned to us from the other place, proposes to involve lay persons.

• (2200)

This chamber's amendments jeopardized this carefully calibrated equilibrium by assigning lay persons to decision-making functions where legal training is either essential or a significant asset. Most troubling of all, this amendment put lay persons on appeal panels — this in a process where appeal panels are designed to function like appellate courts, with their work overwhelmingly focused on correcting errors of law. To be clear, lay persons involved in the new judicial conduct process will be highly qualified people; and while they have no experience as a lawyer or judge, their most essential qualification will be, and must remain, that they bring their experience and perspective to assist in fact-finding, and their ability to bring an outsider's perspective to the key fact-finding stages of the process.

Finally, and most seriously, Senate amendments threatened to reintroduce into the new judicial conduct process most of the costs and delays that Bill C-9 is specifically intended to address. Addressing the unacceptable costs and delays of the current process is this bill's single most important objective. The main reason for these costs and delays is simply that the current process is outdated.

Although the council's complaints process must be judge-led and, indeed, includes a majority of sitting judges at every decision-making stage, its decision-making bodies are technically not courts. They are administrative decision makers and should remain so in order for them to function with the degree of procedural flexibility that a complaints process typically requires. However, in Canada, court review of administrative decision makers is a constitutional imperative, and so, judge-led or not, those subject to the judicial conduct process have a right to have its decisions reviewed by a court.

In a nutshell, it is effectively this constitutional requirement for court oversight that allows a judge who disagrees with a Canadian Judicial Council, or CJC, recommendation for removal made to the Minister of Justice to seek judicial review of that recommendation. By operation of the Federal Courts Act, the judicial review must be brought in Federal Court. The Federal Court's decision can be appealed as of right to the Federal Court of Appeal; and, from there, leave to appeal can be sought from the Supreme Court of Canada.

At the same time, for reasons of judicial independence, the judge who is the subject of conduct proceedings has a right to counsel paid from the public purse. The combination of this right to counsel with lengthy judicial review proceedings that follow an already-lengthy public inquiry process has produced not just unreasonable delays in resolving serious cases of judicial misconduct but also unreasonable costs. These costs have, in some instances, quickly climbed into the millions of dollars. A process that allows for such costs and delays inevitably comes to be seen as falling short. Ultimately, these problems are principally responsible for eroding public confidence in the judicial conduct process, and this must be corrected.

Bill C-9's two-step answer to this dilemma is as elegant as it is straightforward.

First, make the decisions of the public hearing body in charge of hearing the evidence and making findings of misconduct — called "hearing panels" by Bill C-9 — appealable as of right not to a court, whose procedures are less flexible because they must apply to all appeals they hear, but to an administrative body — one still composed of judges but whose procedures can be tailored and optimized to ensure the most expeditious appeal process possible. Give this body, this appeal panel, all the powers of a provincial court of appeal and ensure that it does its work, in every way that matters, like an intermediate appellate court.

Second, to satisfy the requirement of court oversight, make this appeal panel's decisions reviewable directly by the Supreme Court of Canada with leave of the court, like the decisions of true intermediate appellate courts.

Taken together, this set of measures neatly solves the problem of unreasonable costs and delays in a way that fully meets the requirement of court oversight of administrative processes. A judge accused of misconduct effectively gets a trial held by a hearing panel; then an automatic right of appeal to an appeal panel that functions, in every way that matters, like an intermediate appellate court; and then the opportunity to appeal to the Supreme Court of Canada with leave of the court.

Colleagues, if this set of steps sounds familiar, that is because it mirrors what every Canadian gets in every area of the law: a trial, an appeal as of right and a right to apply for leave to appeal to the Supreme Court. The only difference is that the hearing and appeal provided for by Bill C-9 technically remain administrative in nature so that their procedures can be optimized to be as efficient as possible while meeting the requirements of procedural fairness applicable to administrative proceedings and guaranteed by the basic principles of our constitutional regime.

Unfortunately, in the view of the government, an amendment was brought forward to add a second intermediate appellate level that will duplicate the work of the first by making the decisions of appeal panels appealable as of right to the Federal Court of Appeal. Unlike any other Canadian in any other area of law, a judge subject to discipline proceedings would thus have a right to two appeals at the intermediate level — one to an appeal panel followed by one to the Federal Court of Appeal — before applying for leave to appeal to the Supreme Court.

Since the appeal panels provided for by Bill C-9 are meant to function like an appellate court, a second right of appeal to the Federal Court of Appeal would be entirely duplicative. More than that, based on the timelines for appeal at the Federal Court of Appeal, it would add, at best, approximately one year to a year and a half to the resolution of judicial misconduct cases, including those where removal from office is at issue. Finally, because Bill C-9 calls for the appointment of a quasi-prosecutor — also paid from the public purse — to argue the case against the judge, the taxpayer will be on the hook for the legal fees of all counsel involved in appeals to the Federal Court of Appeal.

In other words, these amendments would counterproductively reintroduce most of the costs and delays that Bill C-9 was designed to remove in order to restore public confidence in judicial conduct proceedings. For these reasons, the government and the other place have not accepted these changes.

[*Translation*]

Honourable senators, Bill C-9 is a good bill. It is also an essential bill for correcting significant gaps within the current judicial conduct process, gaps that significantly undermine public confidence.

As Chief Justice Richard Wagner of the Supreme Court of Canada indicated on June 13, during his update on the work of the court, the Canadian Judicial Council cannot change its process of its own volition; only Parliament can do that.

[*English*]

Bill C-9 is the third iteration of the legislation and is long-awaited.

As Chief Justice Wagner said:

[*Translation*]

> Bill C-9 proposes a transparent and efficient process for dealing with allegations of misconduct by federally appointed judges, a process that is fair to both judges and complainants.

[*English*]

Senators, the courts want Bill C-9 and the courts need Bill C-9. They have needed it for a long time. I urge senators to get the bill to them by supporting the message of the other place so that it may receive Royal Assent before the summer adjournment. Thank you very much.

Hon. Denise Batters: Honourable senators, I rise to speak to the message from the House of Commons on Bill C-9, an act that will update the process of judicial discipline of federally appointed judges. Bill C-9 would significantly change this process for the first time in more than 50 years. Under the new process, complaints against federally appointed judges would be considered only by hearing panels established by the Canadian Judicial Council rather than a series of appeals to the Federal Court and Federal Court of Appeal. Ultimately, a judge undergoing this process could, as a last resort, apply for leave to appeal to the Supreme Court of Canada.

• (2210)

Recently, Chief Justice Richard Wagner of the Supreme Court of Canada stated his desire that Bill C-9 would pass quickly given that the bill has been before Parliament in several iterations. But the delay on this reform of the judicial disciplinary system rests with the Trudeau government. The first bill, Bill S-5, died on the Order Paper when the Liberal government called an unnecessary election. The Liberal government then introduced the bill again in the Senate as Bill S-3 — incorrectly, as it involved the expenditure of money. So it was then withdrawn and reintroduced as Bill C-9.

In any case, the Senate Legal Committee studied Bill C-9 for more than double the amount of time that the Justice Committee in the House of Commons did. The Senate Legal Committee senators passed six reasoned, well-formulated amendments based on the evidence we heard from expert witnesses at our committee. The Senate Chamber then passed the bill containing our committee amendments to the House of Commons. Casting aside both the Senate's common sense and the overwhelming committee evidence supporting the amendments, Minister Lametti accepted only two minor amendments from the Senate and rejected all the rest.

It feels a bit like déjà vu, honourable senators. Once again, our Senate has invested considerable effort in studying important issues, and once again, the Trudeau government has effectively told the Senate to pipe down and fall in line. Do they want sober second thought or not? The Trudeau government is treating the Senate as a glorified rubber stamp. In fact, the Trudeau government's whole dismissive attitude toward the Senate has been on display throughout this bill's progression through Parliament.

As the critic of Bill C-9, I was surprised to learn through a media report that the Minister of Justice intended to reject some of the Senate's amendments on this bill. The comments in this media story weren't even from the minister himself, but from his press secretary. Of course, this was long before Minister Lametti tabled his response to the Senate amendments with the House of Commons. His press secretary gave no specific indication as to which amendments would be rejected or why.

Honourable senators, this is not how messages are supposed to be transmitted between the chambers. But it is in keeping with how Minister Lametti has dealt with the Senate on this bill.

During our Senate Legal Committee hearings on Bill C-9, Senator Dalphond seemed to indicate that government amendments would be coming on this bill, but then he walked it back at the next meeting. An Independent Senators Group member on the committee moved a motion calling for Minister Lametti to appear at our committee a second time to explain problems with the bill that had become evident after weeks of study, and the Legal Committee passed that motion. But Minister Lametti refused. That is virtually unheard of in the last 10 years I've been on the Senate Legal Committee.

So, we went to clause by clause, and some major amendments passed, which were fully supported by substantial witnesses and committee testimony. Since the judicial disciplinary provisions of the Judges Act haven't been amended in 50 years, we wanted to make sure we did it right. Therefore, as senators, we exercised our sober second thought. That's the Senate of Canada. That's Parliament.

During the debate on the Senate's message, Minister Lametti said he was ". . . disappointed to see the results of their second thoughts." It's unfortunate that the Minister didn't exercise a little "sober second thought" of his own before he said later that night in the House of Commons:

> . . . I have a healthy relationship with the Senate. I sometimes joke that I am there more often than some of its own members, but I will not say that in the other place.

Honourable senators, this Trudeau government's disdain for the Senate is no laughing matter.

Even the manner in which Justice Minister Lametti referred to the Senate amendments was dismissive. Normally, the minister acknowledges that the amendments he accepts from the Senate are good and important. But his comments on those amendments in the House of Commons last week were lukewarm. Minister Lametti's remarks weren't exactly a ringing endorsement, even though those two amendments made his bill better.

I thought the minister was joking again when he stated this during his speech:

> Bill C-9, as adopted unanimously in the chamber, is a balanced, carefully considered and meticulously crafted bill that was born of extensive consultations with judicial and legal stakeholders, as well as members of the general public.

"Meticulously crafted"? First, the two amendments Minister Lametti did accept were, in fact, correcting drafting errors that the government should have corrected itself with its own amendments, but refused. Those two Senate amendments could have been avoided altogether if the Trudeau government had done its job properly.

And about the government's "extensive consultations" on this bill, the public consultation on this issue was done in 2016 — seven years ago — and consisted of an online survey with only 74 responses and reviewing some letters written to the justice minister on the issue. That's hardly extensive. Most of the provincial governments the Trudeau government consulted with on this issue in 2016 have since been replaced by governments of a different affiliation.

We heard over the course of our study about a number of groups who were not directly consulted by the government on this process, including the Canadian Muslim Lawyers Association, The Advocates' Society, the Roundtable of Diversity Associations and the Canadian Association for Legal Ethics. No doubt there are others.

Senate Legal Committee heard from many of these expert witnesses during our study of Bill C-9. They provided us with much valuable information and even proposed amendments to improve the bill. I proposed two significant amendments, which were passed by the Legal Committee and then subsequently passed by the Senate Chamber. One was to include laypersons in every stage of the disciplinary process, and the other was to reinstate the Federal Court of Appeal in this process before a judge can apply for leave to the Supreme Court of Canada, where this permission is granted very rarely — only in about 7% or 8% of cases. Both amendments were rejected by the Trudeau government.

Minister Lametti stated that he rejected some of the Senate's amendments because they:

> . . . run counter to the bill's central objective of restoring public confidence in the judicial conduct process. As a result, these amendments, quite simply, would defeat the purpose of this bill. Bill C-9 is critical to ensuring nothing less than continued public confidence in the independence of our judiciary and, by extension, in our system of justice.

But the minister is entirely wrong on this point. The two amendments I passed will actually increase the confidence of the public in the judiciary and the justice system as a whole. Take, for example, my amendment to increase the participation of laypersons at every stage of the new judicial conduct process. Minister Lametti himself admitted at Senate Legal Committee that feedback from public consultations revealed strong support for greater public participation by laypersons. Having public representation at every stage of the process brings a different lens to the judicial misconduct process and its public impact. It would strengthen public oversight and bolster confidence in the justice system.

Contrary to the belief of some, lawyers don't actually know everything, and, colleagues, I say that as a lawyer. But Minister Lametti's and the Trudeau government's dismissal of my laypersons amendment smacks of elitism and an out-of-touch government. In his response to the Senate message, Minister Lametti defined laypersons as "people who do not have the training required to address matters of law."

He said:

> . . . the Senate proposed to add laypersons where they should not bring their perspectives. This would undermine the effectiveness and fairness of the new process in the bill . . . .

The message is clear: This Trudeau government and this justice minister think that only lawyers' opinions count. The fact is that laypersons bring a valuable and unique perspective. There are enough legal professionals on each of the panels in this process to be able to sift through finer points of law. The addition of a layperson to each will not upset that balance, as the minister puts it. It will only enhance the public's confidence in the system to have laypersons present at every stage of the process. And the public must have confidence, since judges judge the public.

Many professional organizations involve laypersons in their disciplinary processes. The Ontario Judicial Council testified before our committee that they have lay people on all levels of their disciplinary panels. The Law Society of Saskatchewan has lay people on their disciplinary panels for lawyers. At committee, Senator Clement recounted an example from her past work with the Workplace Safety and Insurance Appeals Tribunal, which includes the participation of laypersons.

Several Senate Legal Committee witnesses testified about the need for this inclusion, among them professor Richard Devlin of the Canadian Association for Legal Ethics, who has published two books on judicial discipline. He said that "insufficient lay representation in the process" compromises "the principles of impartiality, independence and representation."

Including laypersons at every stage of the judicial conduct process will bolster public confidence in the legal system, not diminish it. My amendment won handily at the Legal Committee by a vote of 8 to 4, with one abstention and with the support of a clear majority of groups in the Senate.

My second amendment — inserting the Federal Court of Appeal at the end of the judicial misconduct process, before applying for leave to appeal to the Supreme Court of Canada — would provide another major avenue through which points of law could be considered. For this reason, these two amendments pair very well together, and my amendment to include the Federal Court of Appeal would further augment public confidence in the judicial misconduct process. It is a mistake for Minister Lametti to equate disciplinary panels with an actual court. Including a court in the disciplinary system can provide precedential value of decisions — which is something that hearings do not.

• (2220)

Again, that would strengthen oversight of the process and provide public confidence in the system, while addressing the need for fairness for a judge facing dire consequences to appeal.

This amendment was suggested by The Advocates' Society, which represents more than 6,000 lawyers, judges and advocates. It was supported by the largest lawyers' association in Canada — the 37,000-member-strong Canadian Bar Association — whose president testified before our Senate Legal Committee, which is something that we rarely see. The Canadian Superior Court Judges Association — a body of 1,200-plus judges — also indicated its support for this. These associations and organizations recognize that including the Federal Court of Appeal would bolster confidence in the process, both for the public and for judges. The minister can't summarily dismiss that kind of legal gravitas.

The Federal Court of Appeal would also provide valuable external judicial oversight. As Sheree Conlon, from The Advocates' Society, told our Legal Committee:

> The Advocates' Society is concerned that Bill C-9 creates a legislative scheme in which the Canadian Judicial Council is the investigator, the decision maker and the appellate authority with respect to allegations of judicial misconduct.

The inclusion of the Federal Court of Appeal would restore external judicial oversight to the process, and preserve judicial independence.

Minister Lametti has tried to claim that including the Federal Court of Appeal would undermine the efficiency of the judicial conduct system that Bill C-9 aims to streamline. But even if the Federal Court of Appeal is inserted at the end of the process, the first-level Federal Court stage that is currently in place would still be eliminated. That would significantly cut down on costs and delays. The government has already addressed the issue of judges continuing to accrue money toward their pensions while dragging out this process; that loophole was closed under previous legislation.

Thus, all of the government's arguments for rejecting these amendments just don't add up. My amendments will increase public confidence in the judicial misconduct process and the justice system; provide external oversight while assuring fairness to judges; and still allow for considerable streamlining of the current process by eliminating an entire level of court from the process.

Honourable senators, the Senate has brought — and must continue to bring — sober second thought on Bill C-9. How many more times will this Trudeau government reject our Senate amendments? Time after time, we conduct intensive studies and pre-studies at committee, calling upon expert witnesses who have taken the time to prepare important testimony on government bills. We prepare thoughtful amendments, supported by a majority of senators across groups. And all that hard work is for naught when the government rejects the important amendments that we passed.

Enough is enough.

Although I am proudly Conservative, as you know, I did not propose these amendments with partisan motivations. Our job, as senators, is to make legislation better. Since this judicial disciplinary process hasn't been updated in more than 50 years, we — as senators — have an obligation to make it the best it can be. That is why I proposed my amendments: to have laypersons participate at every level of the judicial disciplinary process, and to include the Federal Court of Appeal in the system. These amendments, backed by expert witnesses and considerable testimony, will improve public confidence in Canada's judicial and legal systems.

I hope you will join me in insisting upon my crucial amendments. This is the Senate's opportunity to stand firm and make this legislation better for Canadians.

MOTION IN AMENDMENT NEGATIVED

Hon. Denise Batters: Therefore, honourable senators, in amendment, I move:

That the motion be amended:

1. by replacing the words "the Senate do not insist on its amendments" by the following:

"the Senate:

1. insist on its amendments 1(a), 1(b)(ii), 1(f), 1(g), 1(h), 1(i), 1(j), 1(k) and 2, with which the House of Commons disagrees; and

2. do not insist on its other amendments"; and

2. by replacing the last paragraph by the following:

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

That, once the reasons for the insistence have been agreed to by the Senate, a message be sent to the House of Commons to acquaint that house accordingly.".

Some Hon. Senators: Hear, hear.

[*Translation*]

Hon. Pierre J. Dalphond: I know it's late and we are wrapping up. I know these last-minute tactics are sometimes predictable. I'm not totally surprised.

I don't have a prepared speech. I will be rather brief.

[*English*]

The whole proposal rests upon a fallacy. It says the following: We need lay people everywhere, and it gives examples of that. It refers to the Ontario Judicial Council and the Workplace Safety and Insurance Board. Let's take both of the cases that have been referenced.

The Ontario Judicial Council has the power to administer the complaint process regarding provincially appointed judges in Ontario. They will receive a complaint, review the case and decide if it deserves a sanction, or if it needs to go to a public hearing. If there is a public hearing, there might be a proposal to remove the judge.

Once that process is completed, the judge can go before the Ontario Superior Court of Justice in a judicial review, as Senator Gold has referred to — since that administrative tribunal has completed its process, you can go before the superior court. That will be sent before the Ontario Divisional Court composed of three judges. They will sit in judicial review, and it will be decided if the decision should be reversed or confirmed — it is not really confirmed, but it should be. If it is unreasonable, or so, made on an assumption which is wrong in law that it should be quashed and returned to the body, the body will decide anew.

Senator Batters is proposing to us to add lay people at the Ontario Divisional Court of the Ontario Superior Court of Justice because only judges — "no, no, no; we need lay people to decide because this is the way people will have trust in the system." Well, she is a lawyer, and she said that maybe lawyers make mistakes from time to time. That is a very interesting proposal, and perhaps a confirmation of her assertion about mistakes.

Let's take the case of the workplace safety boards in Ontario or in Quebec. It's true that they are composed of a lawyer assisted by a representative of the employer, as well as a representative of the employee or the union — in Ontario, Quebec and in most provinces. That body is made of lay people and experts with legal training. Their decisions can be reversed, confirmed or annulled by a court of law. You go either to the Quebec Superior Court on the judicial review, or, in Ontario, you will go before the Ontario Superior Court of Justice that will send it to the Ontario Divisional Court where three judges will hear the case and decide if the board has made a wrong appreciation of facts or interpretation of the law.

Senator Batters is proposing that the Ontario Divisional Court should include one layperson because we need lay people everywhere, and that creates trust in the system. Quite frankly, I believe that she is confusing the role of fact finding and appreciating behaviours, conducts and contexts, which is different from judicial control.

What we're trying to achieve in this bill — about the judicial complaint process — is to say that, yes, if you are a judge, and there might be a complaint made against you, that complaint will go before the Canadian Judicial Council. First, a screening officer will look at it. More than 50% of the complaints will be dismissed at that stage because it is related to a provincial judge; it has nothing to do with the judge — for example, it's regarding a police officer or lawyer; or it has something to do with a ground of appeal, and not something of a disciplinary nature.

If the complaint is processed and sent to the review committee, the review committee, in private, or in camera — in order to protect confidentiality and personal information about the judge, and according to the international principles I have referred to in my previous speech at third reading — will consider the file, and decide if it should go further or be dismissed. If it goes further, it may be sent to a public hearing committee. That public hearing committee will hear the evidence, decide and take a decision. That is the process which is being proposed. Lay people will be on the review committee to decide if it's a matter which is serious enough to justify removal from office. If the committee concludes — including lay people — to go to the public hearing, the public hearing will be held including a layperson. The decision will be that the judge be removed or that the complaint be dismissed.

• (2230)

If the complaint is dismissed, the judge will be happy enough to be at the end of the process. If the complaint is considered well-founded and the judge should be removed from office, the

judge under the system which is being proposed here would have the right of appeal before an appeal tribunal made of five judges — three chief justices and two puisne judges. The three chief justices are selected by the Canadian Judicial Council, which is made up of chief justices. The two puisne judges will be selected by the council from the list provided by the Canadian Superior Courts Judges Association, the puisne judges.

So we have a committee of five judges that will decide if the hearing panel has made a serious error in the facts or an error of law. That is exactly what the divisional court will do in Ontario; that's exactly what the appeal court will do in Ontario; this is what the appeal court will do in Quebec; this is what the Federal Court of Appeal will do. But that process made of five judges will replace the Federal Court and the Federal Court of Appeal, that being three years of litigation. That will be replaced by that panel made of five judges. So we're taking away a review before one judge and a review by three judges, and replacing it with a review by five judges.

But Senator Batters doesn't agree with this. She said, no, it should not be five judges; it should be three judges — two chief justices, one puisne judge, one layperson and one lawyer. Let's do that exercise, and when it's finished let's go to the Federal Court of Appeal before three judges to review the case once more.

This is a waste of taxpayers' money. This is time-consuming, and this is going around the principle here, which is to streamline the process. From the hearing process, you go to the specialized court of appeal made of five judges, and then you can go on leave to the Supreme Court of Canada. This is against the whole principle of what we have tried to achieve here over the last four years.

I admire her tenacity and her ability to bring back these amendments from time to time, but I think time has come to vote down this amendment and proceed to the final stage of this message. Thank you.

Senator Batters: Would Senator Dalphond take a question?

Senator Dalphond: I think everything was said, Your Honour. I won't take questions.

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

Hon. Senators: Question.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Those in favour of the motion will please say, "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion will say, "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: I think the nays have it. I see two honourable senators rising.

And two honourable senators having risen:

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

Senator LaBoucane-Benson: Yes, we do. Fifteen minutes.

The Hon. the Speaker: The bells will therefore ring for 15 minutes, and the vote will be at 10:49. Call in the senators.

• (2250)

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Batters, seconded by the Honourable Senator Boisvenu:

That the motion be amended:

1. by replacing the words "the Senate do not insist on its amendments" by the following:

"the Senate:

1. insist on its amendments 1(a), 1(b)(ii), 1(f), 1(g), 1(h), 1(i), 1(j), 1(k) and 2, with which the House of Commons disagrees; and

2. do not insist on its other amendments"; and

2. by replacing the last paragraph by the following:

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

That, once the reasons for the insistence have been agreed to by the Senate, a message be sent to the House of Commons to acquaint that house accordingly.".

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

YEAS
THE HONOURABLE SENATORS

Ataullahjan	Martin
Batters	Oh
Black	Patterson (*Ontario*)
Boisvenu	Plett
Carignan	Quinn
Dagenais	Richards
Housakos	Seidman
MacDonald	Wallin
Manning	Wells—19
Marshall	

NAYS
THE HONOURABLE SENATORS

Bernard	Hartling
Boehm	Klyne
Boniface	Kutcher
Busson	LaBoucane-Benson
Cardozo	Loffreda
Clement	MacAdam
Cordy	Marwah
Cormier	Mégie
Cotter	Miville-Dechêne
Coyle	Moncion
Dalphond	Omidvar
Dasko	Osler
Deacon (*Nova Scotia*)	Petitclerc
Deacon (*Ontario*)	Ravalia
Dean	Ringuette
Duncan	Saint-Germain
Dupuis	Simons
Forest	Smith
Gerba	Sorensen
Gignac	Tannas
Gold	Woo
Greenwood	Yussuff—45
Harder	

ABSTENTIONS
THE HONOURABLE SENATORS

Pate	Petten—3
Patterson (*Nunavut*)	

BILL TO AMEND—MESSAGE FROM COMMONS—MOTION FOR NON-INSISTENCE UPON SENATE AMENDMENTS ADOPTED

On the Order:

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

That, in relation to Bill C-9, An Act to amend the Judges Act, the Senate do not insist on its amendments with which the House of Commons disagrees; and

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

Hon. Pierre J. Dalphond: Honourable senators, I rise to deliver a last, and short, speech on Bill C-9.

In my previous speeches, I explained that the purpose of the bill is to modernize the complaints and discipline process for federally appointed judges in order to maintain public confidence in the judiciary. The bill is designed to streamline the disciplinary process, to ensure participation of lay people at its critical factual steps, to bring more transparency and to reduce costs to taxpayers while maintaining the highest degree of fairness to the judge subject to a complaint.

Today we must deal with the message received from the other place after MPs' consideration of the amendments proposed, on division, by the Senate.

In my third reading speech, I invited the government and the other place to accept two of these amendments and to consider, with a rather critical lens, the others for the reasons I had outlined.

As the government in the other place has come to the same conclusion, I could just say I fully agree with the message. However, as I articulated in April, responding to a question from Senator Cardozo during the debate on the message from the other place on Bill C-11, to agree or disagree with the message is not determinative of how we should vote in considering the Senate's complementary constitutional role with respect to the legislative process and the other place.

Rather, I proposed a five-point test that senators may find helpful to consider on the question of when the Senate should insist on an amendment after being rejected by the elected chamber. The test is based on the principle of deference towards the elected house of Parliament.

To refer to Senator Shugart in his impressive maiden speech yesterday, the test is designed to ensure that we demonstrate restraint in our relationship with the other place.

I move now to the five points of my test. One: If the rejection of an amendment is accepted, will it result in legislation that clearly or most likely violates the Constitution or the Charter of Rights and Freedoms? In my third reading speech, I explained why the dismissed amendments were not compliant with the judicial independence of the Canadian Judicial Council in its administration of the complaint process required by our Constitution.

• (2300)

Two: Is the purpose of the bill an election campaign issue for the government, or is it an extremely controversial issue for which voters did not give a mandate to the government? As I said in my previous speech, the content of the bill has been proposed three times over the last four years and is the result of a wide consensus. As said by the Conservative critic in the other place last Thursday, it is a relatively non-controversial bill.

Three: Does the evidence provided to both houses unequivocally show that the rejection of the amendment is fundamentally flawed and that the message received is thus plainly unreasonable? With regard to Bill C-9, the message rests on sound constitutional principles and reflects a large consensus amongst stakeholders.

Four: Does the rejection of the amendment show that the majority of MPs is abusing one or more minorities, showing contempt for language rights or demonstrating favouritism for one region at the expense of another? Such is clearly not the case here.

Five: Does the other place's response reject an amendment designed to prevent irreparable damage to the national interest? Evidently, again, such is not the case here.

Since the answer to all five of the questions is negative, I feel no hesitation in supporting Senator Gold's motion to concur with the message.

I now turn to my final point — the comments and the undertakings made by the Chief Justice of Canada earlier this month when meeting with the press and those made by the representative of the Canadian Judicial Council before the Legal and Constitutional Affairs Committee in May.

Commenting on the bill, the Right Honourable Richard Wagner, who presides over the Canadian Judicial Council, said on June 13:

> Since I became Chief Justice in 2018, I realized that there was something to be corrected at the Judicial Conduct Committee. The judicial conduct process was...opaque. It was too long, too costly and...it was not possible...for the public to have trust.... I was happy to see that government has decided to legislate on that issue, to be more transparent, less costly.

[*Translation*]

In short, in order to maintain the public's confidence, the process administered by the council must be more transparent and judges must remain accountable for their conduct, as the council recognizes on its website and in its annual reports.

With due respect for the council's judicial independence, I invite it to promptly follow up on the commitments that its representatives made before the Standing Senate Committee on Legal and Constitutional Affairs with regard to transparency in the various aspects of the complaints process, including disaggregated data on the following: First, the number of so-called complaint documents received by the Canadian Judicial Council; second, the characteristics of the individuals who filed those complaints, such as sex, membership in an identifiable group, lack of legal representation during the incident giving rise to the complaint, the nature of proceedings or mediation, and so on. To that end, the complaint form should contain a section where people can self-declare their characteristics if they so wish. Third, the council must provide data on the number of requests for reconsideration and the characteristics of those individuals, if available.

Fourth, the council must provide data on the number of complaints that were subject to a preliminary dismissal by a screening officer, specifying the number for each of the grounds indicated in section 90 of the Judges Act, as amended by Bill C-9, the characteristics of the complainants and the number of complaints that were abandoned or withdrawn. Fifth, the council must provide data on the number of complaints that were referred to a reviewing member, the nature of those complaints, the result of that review and, in the case of a dismissal, the reason for that finding. Sixth, the council must provide data on the number of complaints that were referred to a review panel, the nature of those complaints, the result of that review, including any measures imposed, and the reasons in support of the decision.

Seventh, the council must provide data on the number of complaints that were then referred to a reduced hearing panel, the nature of those complaints, the decision of the reduced hearing panel and the reasons in support of that decision. Eighth, the council must provide data on the number of complaints that were referred to a full hearing panel, the nature of those complaints, the panel's decision and the reasons in support of the decision. Ninth, the council must provide data on the number of cases that were subject of proceedings before an appeal panel, the nature of those complaints, the decision of the appeal panel and the reasons in support of the decision.

I also call on the Canadian Judicial Council to publicly release a summary of each complaint that has been reviewed by the review committee. On this point, the CJC can draw on the practice of the Ontario Judicial Council and its own practice prior to 2015.

In conclusion, I urge you to accept the message from the other place and thus ensure the implementation of a new process for handling complaints concerning the conduct of federally appointed judges that will be more efficient, more transparent and less costly.

Thank you. *Meegwetch*. *Tshinashkumitin*.

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

(Motion agreed to, on division.)

[*English*]

IMMIGRATION AND REFUGEE PROTECTION ACT IMMIGRATION AND REFUGEE PROTECTION REGULATIONS

BILL TO AMEND—MESSAGE FROM COMMONS—AMENDMENTS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-8, An Act to amend the Immigration and Refugee Protection Act, to make consequential amendments to other Acts and to amend the Immigration and Refugee Protection Regulations, and

acquainting the Senate that they had passed this bill with the following amendments, to which they desire the concurrence of the Senate:

AMENDMENTS made by the House of Commons to Bill S-8, An Act to amend the Immigration and Refugee Protection Act, to make consequential amendments to other Acts and to amend the Immigration and Refugee Protection Regulations.

1. *Clause 5, page 2*: replace lines 33 and 34 with the following:

"**5 (1) Paragraph 35(1)(c) of the Act is repealed.**

(1.1) Subsection 35(1) of the Act is amended by adding "or" at the end of paragraph (b) and by repealing paragraphs (d) and (e).".

2. *Clause 6, page 3*: replace line 3 with the following:

"sanctions on a person, entity or *foreign state*, within the meaning of section 2 of the *Special Economic Measures Act*, against which".

3. *New clause 23, page 31*: add the following after line 40:

"**Review of Act**

23 (1)

As soon as possible after the third anniversary of the day on which this Act receives royal assent, the provisions enacted or amended by this Act are to be referred to the committee of the Senate, of the House of Commons or of both Houses of Parliament that may be designated or established for the purpose of reviewing those provisions.

(2) The committee to which the provisions are referred is to review them and submit a report to the House or Houses of Parliament of which it is a committee, including a statement setting out any changes to the provisions that the committee recommends.".

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

Hon. Marc Gold (Government Representative in the Senate) moved:

That the amendments be considered now.

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

Hon. Senators: Agreed.

(Motion agreed to.)

BILL TO AMEND—MESSAGE FROM COMMONS—AMENDMENTS FROM COMMONS CONCURRED IN

Hon. Marc Gold (Government Representative in the Senate) moved:

That, in relation to Bill S-8, An Act to amend the Immigration and Refugee Protection Act, to make consequential amendments to other Acts and to amend the Immigration and Refugee Protection Regulations, the Senate agree to the amendments made by the House of Commons; and

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

• (2310)

Hon. Peter Harder: Honourable senators, my objective is to have the shortest speech of the day.

Some Hon. Senators: Hear, hear.

Senator Harder: If that's what it takes to get applause, I'm happy.

The message we are dealing with is with respect to a bill we dealt with in this chamber a little over a year ago. Senators will, of course, remember the eloquent remarks Senator MacDonald and I made. At the time, we said this bill was urgent for Parliament to pass to fill up the gaps that had developed in our sanctions regime with respect to admissibility. The House of Commons took that urgency to heart and a year and a bit later has dealt with it.

It has made two amendments, both of which the Speaker has referred to, but the first one essentially is to ensure that the bill we passed last December with respect to the trafficking in human organs doesn't create new loopholes. That has been taken into account in the first half, and the other is to provide for a three-year review.

I hope that we have the unanimous consent, as we had a year ago on this bill and as the House of Commons had, even though it has taken a bit longer. With that brief explanation, I hope you can accept this message and we can adopt this, as it is an urgent matter.

Hon. Michael L. MacDonald: Honourable senators, I rise late tonight to speak to Bill S-8, An Act to amend the Immigration and Refugee Protection Act, to make consequential amendments to other Acts and to amend the Immigration and Refugee Protection Regulations.

Bill S-8 amends the Immigration and Refugee Protection Act, or IRPA, for the stated purpose of better linking government sanctions with authorities related to immigration enforcement and access to Canada by foreign nationals who may be from sanctioned regimes.

The bill aligns IRPA with the Special Economic Measures Act, or SEMA, to ensure all foreign nationals subject to sanctions under the SEMA will also be inadmissible to Canada. This means that foreign nationals subject to sanctions for any reason under the SEMA will also be inadmissible to Canada.

I will address one aspect of this bill in my remarks tonight and ask why it has taken this bill more than a year to move through the parliamentary process, despite the fact that it has had unanimous support.

The bill was introduced in the Senate over a year ago. It was supported by the Conservative Party in both the Senate and the House. It was not opposed by any other party in the House. It seems to have had no opposition from any senator. In short, colleagues, this bill has never had any opposition at all from anyone.

When he spoke to the bill last year, Senator Harder said, "Legislative measures are required on an urgent basis to align the IRPA sanctions inadmissibility regime with that of SEMA." Senator Harder said that the bill should be passed into law as quickly as possible.

To be fair to Senator Harder, the bill actually did pass through the Senate in less than 30 days. That included debate at all stages in this chamber and also allowed us to hear testimony from witnesses at our Foreign Affairs Committee.

But for the past year, Bill S-8 has sat in the House. The Minister of Public Safety, who is the sponsor of this bill, spoke to the bill in the other place last year. He said the following:

> Legislative amendments are required on an urgent basis to align the IRPA sanctions inadmissibility regime clearly with that of SEMA. . . .
>
> Now more than ever, we must move to align the Immigration and Refugee Protection Act sanctions regime with the regime under the Special Economic Measures Act.
>
> The senators have agreed to adopt the motion and, to quote Senator Omidvar, have marked this bill as "super urgent". I urge members to review Bill S-8 with the same sense of urgency. . . .
>
> This legislation and these amendments would provide a clear and strong message that the Government of Canada's comprehensive sanctions framework has meaningful and direct consequences, not only from an economic perspective, but from an immigration and access to Canada perspective as well. Doing so would allow us to stand up for human rights both here and abroad.

Colleagues, those words were spoken six months after the Senate had passed Bill S-8. And here we are now, another six months later, and we are still dealing with this bill.

So we have heard words like "urgent" and even "super urgent" in the initial remarks on this bill. But what do they mean?

I am honestly not sure that they mean much when we have a government bill, a bill that the government declares is a priority, a bill that has unanimous support, and yet it takes more than a year to move the bill through the legislative process. In light of what we know about this particular minister, I am honestly not sure that any words he says mean anything at all.

The minister claimed that Bill S-8 was needed to send:

> . . . a clear and strong message that the Government of Canada's comprehensive sanctions framework has meaningful and direct consequences . . . . Doing so would allow us to stand up for human rights both here and abroad.

And then, after uttering those words, he let the bill languish. I can only repeat what I just said: The bill had unanimous support.

I am sure that when Senator Harder said a year ago that the bill was urgent, he believed that and he was sincere in that assertion. And yet here we are a year later.

The measures enacted in this bill certainly seem to be important in that they relate to inadmissibility issues, not only with respect to sanctioned Russian nationals who may be implicated in the invasion of Ukraine but also in relation to sanctioned nationals from countries like Myanmar, South Sudan, Syria, Venezuela, Zimbabwe, North Korea and Iran.

Bill S-8 is described by the government as urgent in order to close a gap in the law, that is to ensure that sanctioned individuals are clearly inadmissible to Canada.

But as witnesses before our Foreign Affairs Committee told us over a year ago, fewer than 1% of more than 2,000 sanctioned individuals have ever even applied to enter Canada, and all of them did so from abroad. None appear to have actually entered Canada, even under existing laws.

So what does that leave us with? I regret to say that, as is the case with so much of what the government does, we are seeing the predominance of style over substance.

As I said one year ago when I last spoke on this bill in the chamber, I will support the bill. The Conservative caucus supports the bill. Every senator in this chamber, I believe, will support the bill. Every party in the House of Commons supported the bill.

However, this bill should not have languished for a year, and its unnecessary delay is another example of the amateurish legislative management of this government.

So let's now move this to a vote and do what should have been done a year ago and finally pass this bill.

Thank you, honourable senators.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*Translation*]

DEPARTMENT OF FOREIGN AFFAIRS, TRADE AND DEVELOPMENT ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-282, An Act to amend the Department of Foreign Affairs, Trade and Development Act (supply management).

(Bill read first time.)

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

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

[*English*]

BUSINESS OF THE SENATE

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, with leave of the Senate, I move, seconded by the Honourable Senators Saint-Germain, Tannas and Cordy:

> That, notwithstanding the order adopted yesterday, today's sitting continue to the end of Commons Public Bills – Third Reading, or midnight, whichever comes first.

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

Hon. Senators: Agreed.

• (2320)

THE SENATE

STATUTES AND REGULATIONS—PROPOSALS TO REVISE ANOMALIES AND REPEAL CERTAIN PROVISIONS—MOTION TO REFER DOCUMENT TO LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE ADOPTED

Hon. Patti LaBoucane-Benson (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of June 20, 2023, moved:

> That the document entitled *Proposals to correct certain anomalies, inconsistencies, outdated terminology and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes and Regulations of Canada and to repeal certain provisions that have expired, lapsed or otherwise ceased to have effect*, tabled in the Senate on June 20, 2023, be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

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

Hon. Senators: Agreed.

(Motion agreed to.)

NATIONAL FRAMEWORK ON CANCERS LINKED TO FIREFIGHTING BILL

THIRD READING

Hon. Hassan Yussuff moved third reading of Bill C-224, An Act to establish a national framework for the prevention and treatment of cancers linked to firefighting.

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

Hon. Senators: Agreed.

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

Some Hon. Senators: Hear, hear!

IMMIGRATION AND REFUGEE PROTECTION ACT

BILL TO AMEND—THIRD READING

Hon. Victor Oh moved third reading of Bill C-242, An Act to amend the Immigration and Refugee Protection Act (temporary resident visas for parents and grandparents).

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

Hon. Senators: Agreed.

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

Some Hon. Senators: Hear, hear!

BUSINESS OF THE SENATE

Hon. Brent Cotter: Honourable senators, a number of you might be aware that a witness at one of our committee hearings earlier today suffered a serious health incident. I wanted to inform senators of two things.

First, the witness is on the mend and appears to be in the process of making a full recovery, which is encouraging for all of us to hear.

Second, the staff of the Senate responded professionally, honourably and urgently to the situation to assist the witness. I want to give special recognition and thanks to Senators Osler and Ravalia who came immediately to the aid of the witness when they were contacted and assisted in his situation. Thank you for that.

Hon. Senators: Hear, hear!

The Hon. the Speaker: Thank you for that message, senator.

(*At 11:24 p.m., pursuant to the order adopted by the Senate earlier this day, the Senate adjourned until 12 p.m., tomorrow*.)

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