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Monday, December 11, 2023

The Honourable RAYMONDE GAGNÉ,
Speaker

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THE SENATE

Monday, December 11, 2023

The Senate met at 6 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

ALAN ROY

CONGRATULATIONS ON LIEUTENANT GOVERNOR'S AWARD FOR EXCELLENCE IN PUBLIC ADMINISTRATION

Hon. John M. McNair: Honourable senators, I rise today to advise that earlier today in Fredericton, New Brunswick, the Honourable Brenda Murphy and the Institute of Public Administration of Canada recognized the recipient of the 2023 Lieutenant-Governor's Award for Excellence in Public Administration in the province.

The Lieutenant-Governor's Award for Excellence was established in 2001 to recognize exceptional public servants who have made significant and lasting contributions to the public service. It is the highest award given in the province of New Brunswick for excellence in public administration.

I am thrilled to advise you that this year's recipient of the Award for Excellence in Public Administration is Alan Roy.

Alan has served in many roles throughout his career, most recently as the Chief Executive Officer of Service New Brunswick since 2016. His senior management team highlighted in the nomination application multiple examples of Alan's exceptional traits, such as always putting people first, strong leadership and crisis management skills, the ability to make personal connections throughout Service New Brunswick, a demonstrated belief in giving back to his organization and to his community and strong leadership throughout the COVID-19 pandemic when Service New Brunswick had to remain open for all New Brunswickers.

With respect to Alan's leadership style, a direct quote from his nomination says it best:

Throughout his long and distinguished career in the public service Alan has led with quiet humility. He is the first to take accountability in a crisis and quick to credit his team for any achievements or successes.

Alan's 40-plus year career has provided him with a solid perspective on public service and an ability to relate to Service New Brunswick employees at all levels of the organization. Having served in many different roles in his career, he understands that employees are the true subject matter experts of their own jobs and equips them to be leaders.

Honourable senators, please join me in both congratulating and recognizing Alan Roy for his outstanding record of 40-plus years of public service to New Brunswickers. I cannot think of anyone more deserving to receive this award.

Thank you.

CANADA-KOREA RELATIONS

Hon. Yonah Martin (Deputy Leader of the Opposition): Canada and the Republic of Korea share a remarkable history of cooperation built on the foundations of mutual respect, shared values and a commitment to fostering prosperity and peace. On November 30, this special relationship was highlighted in the National Assembly of the Republic of Korea where South Korean legislators adopted a special resolution celebrating the sixtieth anniversary of diplomatic relations between our two countries.

Canada has long been a partner in the success that is today's South Korea. From the herculean efforts of individual Canadians such as Dr. Frank Schofield — who stood with Koreans in their independence movement from Japanese colonialism in 1919 — and Dr. Oliver Avison — who spent over four decades spreading Western medical knowledge in Korea — to the sacrifices made by more than 26,000 Canadian heroes of the Korean War and the more than 7,000 who served in peacekeeping duties after the signing of the armistice.

One of the cornerstones of our bilateral relationship is economic collaboration. Both Canada and Korea are staunch advocates of free and fair trade, and our upgraded bilateral relations to a Comprehensive Strategic Partnership in September 2022 stands as a testament to our commitment to creating a more open and interconnected global economy. This agreement has paved the way for increased trade and investment, benefiting businesses and consumers on both sides of the Pacific.

Our collaboration in the technological and innovative sectors is another shining example of the strength of our partnership. Through joint research initiatives, academic exchanges and collaboration between industries, Canada and South Korea are driving innovation and contributing to the advancement of technology on the world stage. This not only fosters economic growth but also strengthens the ties between our people.

Cultural exchanges played a crucial role in bringing our nations even closer together. The appreciation for each other's rich cultural heritage has led to numerous cultural events, exchanges and partnerships. From film festivals to art exhibitions, these initiatives deepen our understanding of one another, fostering a sense of friendship and camaraderie. This shared commitment will be further explored from 2024 to 2025 as the ROK-Canada Year of Cultural Exchanges.

As we reflect on the achievements of our sixtieth anniversary of bilateral relations, it is crucial to acknowledge the role that people-to-people ties have played in strengthening our bond. The vibrant national Korean-Canadian community across Canada and the warm welcome extended to Canadians in South Korea exemplify the enduring friendship between our nations.

On behalf of the Canada-Korea Interparliamentary Friendship Group and as co-chair in the Senate, I express sincere thanks to the members of Korea's National Assembly for the adoption of the special resolution to conclude the special milestone year.

[*Translation*]

INTERNATIONAL HUMAN RIGHTS DAY

Hon. Tony Loffreda: Honourable senators, December 10 is International Human Rights Day. This year, we are celebrating the 75th anniversary of the Universal Declaration of Human Rights.

[*English*]

It was in 1948 that the United Nations adopted the Universal Declaration of Human Rights, which set a comprehensive list of basic human rights to ensure the dignity, equality and worth of all members of the human family.

Article 1 reminds us:

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

However, I wish to draw your attention to Article 25:

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services

With the holiday season fast approaching, we are reminded daily that not everyone is living in adequate conditions. Too often, we take for granted basic human rights like food and clothing. Let's help those we can.

Canada, as an industrialized and highly developed country and member of the G7, can — and must — do better to address poverty, inequality and affordability. Despite these challenges, Canada is certainly in a privileged position compared to many other nations, which is why organizations like the World Bank are more important than ever. This global institution, founded on the basis of helping end poverty in the poorest countries and boosting prosperity for all of humankind, seeks to help create sustainable economic growth, invest in people and build resilience to shocks and threats that can roll back decades of progress.

As the chair of the Canadian chapter of the Parliamentary Network on the World Bank and IMF, I am committed to working with our fellow parliamentarians and our colleagues from around the world in advancing poverty-reduction measures

at the World Bank and the International Monetary Fund, or IMF, so that everyone can enjoy the rights and freedoms set forth in the declaration.

Honourable senators, this year's Human Rights Day theme is Freedom, Equality and Justice for All. May these three words guide us in our work as parliamentarians today and every day. May they inspire us as we will soon return to our regions for the holidays to give back and fight for these words to become a reality for all Canadians.

• (1810)

Thank you, *meegwetch*.

UNICEF REPORT CARD ON CHILD POVERTY

Hon. Rosemary Moodie: Honourable senators, I'd like to draw your attention to the eighteenth UNICEF Innocenti Report Card on child poverty, released on December 6. I want to congratulate UNICEF Canada and partners for their ongoing partnership and advocacy.

Colleagues, this is an important report, and it does give us some good news. In terms of child poverty reduction, up to 2021, Canada's child poverty rates had fallen substantially in recent years. In fact, only 6 of 39 high-income countries have done better than Canada in the past few years. Nevertheless, this report tells us that Canada's work to protect children from the scarring impacts of poverty is far from done.

When we compare our child poverty rate to other OECD countries, Canada is not doing quite so well. Despite our progress, we currently rank nineteenth among 39 OECD and EU countries. That means, colleagues, that if we use the EU standard for measuring children's monetary deprivation, almost 18%, or more than a million children, are growing up in poverty. And for children in lone-parent families, the poverty rate is higher: up to 40%. Compare that, colleagues, to the best-performing countries, which achieved child poverty rates of less than 10% and set the bar for what is achievable.

We also learned from the report that Canada ranks twenty-fifth out of 38 countries in social protection investment for children and that child poverty is beginning to rise again. It rose in 2021. Noting that the cost of living and that food bank usage have both risen significantly, and taking into account recent housing data, it seems likely that in 2023 the trend will have gotten worse.

Ending child poverty in a wealthy nation like Canada is entirely feasible. Child poverty is a choice governments make. Improving the adequacy of the Canada Child Benefit and providing more inclusive and better-paid parental leave are examples of two policies that would help us lower the rising rate of food insecurity and achieve better health and developmental outcomes for all children. This would also fulfill the commitment made more than 30 years ago to end child poverty.

We are not short on ideas, colleagues, but we must be committed to the vision of a Canada where every child has the supports needed to achieve their full potential.

Thank you, *meegwetch*.

ISRAEL-HAMAS CONFLICT

Hon. Marilou McPhedran: Honourable senators, I thank my Conservative colleagues for this time.

On the day we commemorate the Montreal massacre of young Québécois engineering students, I received a letter from Efrat Rayten Marom, head of Israel's Knesset Delegation to Women Political Leaders, of which I am a member. She wrote:

On Saturday, October 7, Hamas committed a massacre against Israel. During these series of attacks, Hamas terrorists kidnapped 240 people, 138 of them are still held in captivity: an infant, a young child, 20 women, 117 men, and 10 senior citizens . . .

The accumulating testimonies from those that have returned from Hamas captivity paint a horrifying picture and make clear that the hostages are being held in harsh conditions.

Eyewitnesses who survived the massacre of October 7, and first responders on the scenes, described atrocious crimes against women perpetrated by Hamas terrorists, including savage rape, brutal sexual abuse, and genital mutilation.

These accounts raise serious concerns regarding the situation of women who are still held by the same terrorists in captivity.

Knesset Member Marom went on to write:

. . . any woman who remains silent, any international organization, any group that deals with human rights and does not do everything in its power to bring about the immediate release of the hostages, is criminally negligent of its duty.

Finally, UN Women, which had spoken out about the very real plight of Palestinian women and girls, stated:

We believe a full investigation is essential, so that perpetrators at all sides can be held accountable and justice can be served. . . .

For the first time in his term, UN Secretary-General Guterres has invoked Article 99 of the UN Charter, because the war in Gaza is threatening international peace and security.

I wish I could be home this Thursday evening for the memorial to Winnipeg-born Vivian Silver. The tireless women's rights advocate, who, as a founder of Women Wage Peace, dedicated her life to ending Israeli-Palestinian conflict and for women to be involved in any peace process. She was a co-CEO of the Negev Institute for Strategies of Peace and Development, an Arab-Jewish organization, and a volunteer with Road to Recovery, driving Palestinians to Israeli hospitals.

Her son, Yonatan, has said:

. . . I hope that at least her death will be a part of some new movement, some change in our reality.

Colleagues, Human Rights Watch advises that since October 7, one child in Gaza has been killed every 10 minutes on average. Reuters reports that more than 17,000 have been killed in Gaza so far.

This reality must shift. When will Canada call for a ceasefire?

ROUTINE PROCEEDINGS

GOVERNOR GENERAL

AMENDED COMMISSION APPOINTING RICHARD WAGNER
AS DEPUTY—DOCUMENT TABLED

Hon. Patti LaBoucane-Benson (Legislative Deputy to the Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, a copy of an amended commission appointing Richard Wagner Deputy of the Governor General.

COMMISSION APPOINTING KENNETH MACKILLOP AS DEPUTY—
DOCUMENT TABLED

Hon. Patti LaBoucane-Benson (Legislative Deputy to the Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, a copy of the commission appointing Kenneth MacKillop Deputy of the Governor General.

JUSTICE

CHARTER STATEMENT IN RELATION TO BILL S-15—
DOCUMENT TABLED

Hon. Patti LaBoucane-Benson (Legislative Deputy to the Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, a Charter Statement prepared by the Minister of Justice in relation to Bill S-15, An Act to amend the Criminal Code and the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act, pursuant to the *Department of Justice Act*, R.S.C. 1985, c. J-2, sbs. 4.2(1).

**DEPARTMENT OF EMPLOYMENT AND SOCIAL
DEVELOPMENT ACT
EMPLOYMENT INSURANCE ACT**

BILL TO AMEND—EIGHTEENTH REPORT OF SOCIAL AFFAIRS,
SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED

Hon. Ratna Omidvar, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Monday, December 11, 2023

The Standing Senate Committee on Social Affairs,
Science and Technology has the honour to present its

EIGHTEENTH REPORT

Your committee, to which was referred Bill S-244, An Act to amend the Department of Employment and Social Development Act and the Employment Insurance Act (Employment Insurance Council), has, in obedience to the order of reference of June 13, 2023, examined the said bill and now reports the same with the following amendment:

1. *Clause 4, page 4:* Add the following after line 37:

“(6.1) The Council must hold at least three meetings every year.”

Respectfully submitted,

RATNA OMIDVAR

Chair

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

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

**STUDY ON ISSUES RELATING TO HUMAN RIGHTS
GENERALLY**

SEVENTH REPORT OF HUMAN RIGHTS COMMITTEE DEPOSITED
WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. Salma Atallahjan: Honourable senators, I have the honour to inform the Senate that pursuant to the orders adopted by the Senate on March 3, 2022, and October 26, 2023, the Standing Senate Committee on Human Rights deposited with the Clerk of the Senate on December 11, 2023, its seventh report (Interim) entitled *Anti-Black Racism, Sexism and Systemic Discrimination in the Canadian Human Rights Commission* and I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

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

• (1820)

THE SENATE

NOTICE OF MOTION TO RESOLVE INTO COMMITTEE OF THE
WHOLE TO CONSIDER SUBJECT MATTER OF BILL C-56

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

That, notwithstanding any provision of the Rules, previous order or usual practice:

1. the Senate resolve itself into a Committee of the Whole at 2 p.m. on Wednesday, December 13, 2023, to consider the subject matter of Bill C-56, An Act to amend the Excise Tax Act and the Competition Act;
2. the Committee of the Whole on the subject matter of Bill C-56 receive the Honourable Chrystia Freeland, P.C., M.P., Deputy Prime Minister and Minister of Finance, and the Honourable François-Philippe Champagne, P.C., M.P., Minister of Innovation, Science and Industry, each accompanied by one official, for a period of no more than 65 minutes, after which the committee rise;
3. the witnesses' introductory remarks last a maximum total of five minutes; and
4. if a senator does not use the entire period of 10 minutes for debate provided under rule 12-32(3)(d), including the responses of the witnesses, that senator may yield the balance of time to another senator.

[Translation]

APPROPRIATION BILL NO. 4, 2023-24

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-60, An Act for granting to His Majesty certain sums of money for the federal public administration for the fiscal year ending March 31, 2024.

(Bill read first time.)

[English]

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

Hon. Marc Gold (Government Representative in the Senate): Honourable senators, with leave of the Senate and notwithstanding rule 5-6(1)(f), I move that the bill be read the second time at the next sitting of the Senate.

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

Hon. Senators: Agreed.

(On motion of Senator Gold, bill placed on the Orders of the Day for second reading at the next sitting of the Senate.)

QUESTION PERIOD

ENVIRONMENT AND CLIMATE CHANGE

CARBON TAX

Hon. Donald Neil Plett (Leader of the Opposition): Leader, last week the Assembly of First Nations elected Cindy Woodhouse to be their new leader. She has been the regional chief for Manitoba for the last three years, and I send her my very best wishes as she takes up her new responsibilities.

In her first press conference as national chief, she was asked if she supports a judicial review of the carbon tax, which is being sought by the Chiefs of Ontario. You may remember that I raised this with you during Question Period last week, leader. Her response was “absolutely.” She also said, “From what I’m hearing, it’s going to hurt our people . . .”

Leader, what is your response to the national chief’s words? They are her words, leader — not mine.

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. First, I join you, as I’m sure all members do, in congratulating her on her election. I know the Government of Canada looks forward to working with her in a fruitful way.

The truth is that the price on pollution — as it actually operates in Canada — provides assistance to Canadians far more than it hurts them. I understand there is a campaign of misinformation that continues to be promulgated on this debate regardless of how many third party experts say otherwise. We can’t stop that; it’s a free country.

The fact is that the judicial review process will run its course, and the courts will adjudicate in due course, but the government remains committed to a price on pollution, as it is a central policy lever. It’s the most cost-effective, efficient and beneficial measure to combat climate change.

Senator Plett: It’s amazing how the only people who believe what you’re saying are your incompetent government and Prime Minister.

Leader, the new national chief isn’t the only new leader who has spoken out against the carbon tax in recent days. The new Premier of the Northwest Territories — and I guess he also doesn’t know what he’s talking about, according to you — said on the weekend that he’s hoping for a complete exemption for the territory. Premier R.J. Simpson also said, “The costs are already high — higher costs are not the solution up here.”

Leader, once again, these are not my words — they’re the words of the premier. What is your response to him?

Senator Gold: Thank you for your question. First of all, I never said — and I would never say — that the chief, the premier or any Canadian doesn’t know what they’re talking about. I’m calling out the opposition for a program of disinformation and misinformation. Analysts within this country understand how the price on pollution works, and the government remains committed to helping mitigate the impact on Canadians, as the government has done and will continue to do.

CLIMATE CHANGE

Hon. Yonah Martin (Deputy Leader of the Opposition): Government leader, Stephen Buffalo is a member of the Samson Cree Nation, which is south of Edmonton, and the President and CEO of the Indian Resource Council of Canada. He recently commented on the impact of the Trudeau government’s energy cap on Indigenous engagement, employment and equity investment in our oil and gas sector:

Indigenous people demonstrated their entrepreneurial skills and their ability to invest in both community development and long-term wealth creation keeping in mind both our present and future generations. The government seems willing to overturn our carefully won opportunities and prosperity, without the courtesy of full conversation . . .

Leader what is your response to Mr. Buffalo’s words — not my words, but his?

Hon. Marc Gold (Government Representative in the Senate): Thank you for the question. The government’s plan to engage Canadians, stakeholders, Indigenous rights holders and the provinces and territories on climate change is an ongoing one. This government has a comprehensive plan that has many features, whether it’s the most recently introduced cap on emissions, the price on pollution or the rebates and incentives provided to Canadians to help them transition.

Again, it is normal — in a democracy — for there to be differences of opinion as to what may be the best policy approach to combat this existential crisis. It is a crisis that affects our well-being, our prosperity and that of our subsequent generations.

It remains the case that this government has a coherent plan, and it is the only plan on the table — at least in this chamber. The opposition does not have a plan, and it has not seen fit to even provide the beginning of a plan.

Senator Martin: The Prime Minister has repeatedly said that no relationship is more important to his government than the one with Indigenous peoples. However, leader, it is my understanding that Mr. Buffalo and other leaders have repeatedly asked for a meeting with Minister Freeland to discuss the carbon tax, but she won’t meet with them. Could you make inquiries and tell us if this is true, and, if so, why has Minister Freeland refused this meeting?

Senator Gold: There is ongoing engagement between rights holders and the Government of Canada at many levels, and I'm delighted at the importance that you're attaching to Indigenous issues. I gather that you are independent of the party in the other place who voted against so many measures to benefit Indigenous communities. I would like this chamber to be a little bit more sober and a little more free of double-talk.

[Translation]

GREENHOUSE GAS EMISSIONS

Hon. Julie Miville-Dechêne: Senator Gold, the government just announced a cap on greenhouse gas emissions by 2030. However, our oil and gas production is expected to increase during that period.

How do you explain this inconsistency? It is the illusion of carbon capture, which is being touted as a miracle solution, so that the industry can continue with the status quo.

• (1830)

The International Energy Agency recently wrote that oil and gas companies need to start “letting go of the illusion” that carbon capture is a realistic solution. Those doubts were best summed up by John Moffet, an assistant deputy minister at the Department of the Environment.

I think the bigger issue that we hear about is that it's a very costly way to continue to produce oil and gas . . . at some point the world needs to stop using oil and gas. . . . It's not really a technical question; it's sort of a moral hazard question: “Should we do this and, thereby, enable continued use of oil and gas?”

Senator Gold, why spend billions of dollars in public funds to continue producing fossil fuels when we should be phasing them out as quickly as possible?

Hon. Marc Gold (Government Representative in the Senate): I thank the honourable senator for her question.

I feel a bit like Goldilocks. Things are either way too hot or way too cold. In short, the government is committed to continuing to take a science-based, cautious approach to climate action and to ensuring a more sustainable future.

The global economy uses and will continue to use oil and gas, which is why the government is moving ahead with its commitment to introduce a cap on pollution, with an ambitious and achievable plan for emissions from the oil and gas sector.

This is the first time that an oil-producing country has put such a program in place. The pollution cap will ensure that Canada's oil and gas sector does its part to reduce emissions and strengthen its competitiveness in this rapidly decarbonizing sector of the global economy.

Senator Miville-Dechêne: When experts look at carbon capture technology, it is only in a very specific context, namely, to capture emissions from industries for which there is currently

no other alternative, such as the steel and cement industries. No one thinks that carbon capture is a realistic option for greenhouse gas emissions from the oil and gas industry.

Why is Canada insisting on investing billions of public dollars in a technology that is leading us to a dead-end from a climate change and economic perspective?

Senator Gold: Thank you, but with all due respect, I do not agree with the premise of your question.

Every sector of the Canadian economy is being asked to help in the fight against climate change and in building a prosperous future. In order to meet that important goal, we need to invest in technology and innovation. With its provincial and territorial partners in the industry, Canada will do its part to find ways to reduce emissions and save the planet.

[English]

INNOVATION, SCIENCE AND ECONOMIC DEVELOPMENT

CREDIT CARD FEES FOR SMALL BUSINESSES

Hon. Tony Loffreda: My question is for the Government Representative in the Senate. In Budget 2023, the government committed to working with Visa and Mastercard to lower credit card interchange fees for small businesses on what we commonly refer to as swipe fees. Last week, Minister Valdez confirmed that a deal was made and explained that small business owners will be able to save \$1 billion over the next five years because of this agreement. The Canadian Federation of Independent Business has been pushing for this measure for over a decade, but feels the agreement does not go far enough.

Senator Gold, small businesses need relief now, so why are these changes being delayed until the fall of 2024? Furthermore, how many businesses will be eligible for these changes, and what is the business size threshold to qualify?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question and for underlining this important initiative. Small businesses will qualify with each credit card network individually. Specifically, small businesses with an annual Visa sales volume below \$300,000 will qualify for lower interchange fees from Visa, and those with annual Mastercard sales volume below \$175,000 will qualify for the lower fees from Mastercard. My understanding, senator, is that over 90% of all credit card-accepting small businesses in Canada will benefit from reduced credit card fees of up to 27%, and that will help them save up to \$1 billion over five years.

Senator Loffreda: Thank you for the answer.

The agreement the government has reached with Visa and Mastercard also includes free access to online fraud and cybersecurity resources, as many businesses have been increasing their presence online, and they may not all have the necessary capital, technology and expertise to address major cyber breaches. Can you share some of the details of this portion of the agreement? What have Visa and Mastercard agreed to in terms of fraud protection? Is there a limit to their support?

Senator Gold: I understand that Visa and Mastercard will be providing small businesses that qualify with free access to online fraud and cybersecurity resources, and that's in addition to existing supports such as the Canada Digital Adoption Program, which helps such enterprises boost their e-commerce presence and digitize how they run their businesses behind the scenes.

[Translation]

HEALTH

CANADIAN DENTAL CARE PLAN

Hon. Claude Carignan: My question is for the Leader of the Government in the Senate.

Leader, the Liberal government announced a Canada-wide dental care program this morning. The program was apparently announced before proper discussions were held with the provinces or specific agreements were reached with the governments. This is obviously raising the ire of the provinces, especially Quebec, which already has a program that covers dental care.

Quebec minister Jean-François Roberge said the following:

Here is yet another example of the federal government's obvious inability to keep from encroaching on areas of Quebec jurisdiction . . .

That was minister Jean-François Roberge's complaint.

Leader, do I understand correctly that your government is going ahead with the implementation of the new dental insurance program before signing an agreement with Quebec or the other provinces?

Hon. Marc Gold (Government Representative in the Senate): As you are very well aware, esteemed colleague, this program was announced a long time ago, and the first step has already been completed.

As for today's announcement, it is quite clear that this program will start by providing assistance to the most vulnerable, in other words, to seniors and to young people under the age of 18, in cases where they have no insurance through their employer or their province.

That means it's a supplement provided by the federal government to ensure that nine million Canadians currently without access to dental care can get the care and services they need.

Senator Carignan: I am going to repeat my question, because when I heard the answer, I do not think you understood it.

Have you made an announcement and implemented a program that encroaches on a provincial jurisdiction without having reached an agreement with Quebec or the provinces?

Is there going to be another dust-up over who gets to put their stamp — a fleur-de-lis or a maple leaf — on the cheque?

Senator Gold: No, I fully understood the question and here is my answer: The government is moving forward with a well-publicized program to help those Canadians who do not have access to dental care through their employer, if they are working, or their province, as in Quebec.

This is not a question of encroaching on a provincial jurisdiction. This is an example of government using these means to help Canadians.

[English]

INNOVATION, SCIENCE AND ECONOMIC DEVELOPMENT

SUSTAINABLE DEVELOPMENT TECHNOLOGY CANADA

Hon. Donald Neil Plett (Leader of the Opposition): Leader, here we go again. Yet another former board member of Sustainable Development Technology Canada has admitted to providing tax dollars to a company in which he has a direct interest. No misinformation or disinformation, Senator Gold — he admitted it. In this case, it was two separate payments in 2020 and 2021 totalling over \$393,000, leader. It's getting real hard to keep track of all the corruption uncovered at this green slush fund. This is the third Liberal-appointed member who has admitted to funnelling taxpayer dollars to companies they have a stake in. Leader, it looks like the Trudeau government gave zero oversight to this slush fund. How else do you explain such blatant corruption — as misinformation?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. The minister has announced measures to address this situation. There is a review by an independent third party law firm that will provide supports to the minister. It is unacceptable that any such program should not be done with the highest standards. The government is putting into place measures that will ensure we get to the bottom of the situation and that this does not happen again.

• (1840)

Senator Plett: The Trudeau government either provided zero oversight or knew what was happening with the slush fund and was fine with it. It's one or the other, Senator Gold. The Interim Conflict of Interest and Ethics Commissioner has confirmed that he will be investigating this latest board member whose companies received almost \$400,000. How many more investigations will be opened before Canadians learn the whole truth about this slush fund? How much more corruption will be uncovered, leader?

Senator Gold: You are making allegations of corruption which are not established. The ethics commissioner will be investigating. That is totally appropriate and within his purview. The government looks forward to the results of his investigation.

GLOBAL AFFAIRS

ISRAEL-HAMAS CONFLICT

Hon. Kim Pate: My question is for Senator Gold. First, I want to express my condolences to you and all who have lost loved ones in the past months.

Today is the global strike for Gaza. Yesterday was the International Day for Human Rights. Abuses committed by Hamas and other armed groups, including on October 7, are war crimes and belong before the International Criminal Court. However egregious, though, they do not extinguish Palestinian humanity nor excuse Israel's extensive and long-standing violations of numerous international laws.

United Nations Secretary-General António Guterres calls Gaza "a graveyard for children" and points out that there is "... something clearly wrong in the way military operations are being done." As we heard from witnesses today at the Human Rights Committee, more than 30 Israeli and over 7,000 Palestinian children have died to date. What concrete action is Canada taking to push for a ceasefire?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. Indeed, Hamas's terrorist attacks were deplorable. They were war crimes. In particular, the sexual and gender-based violence against women, including rape, is beyond the pale.

The Government of Canada is deeply concerned by the end of the humanitarian pause, the resumption of violence and the human toll of this conflict, particularly on families, women and children. Progress was made in releasing some hostages and expanding aid into Gaza, but much more was and is needed.

The human lives that are caught up in this war are too precious to be simply reduced to numbers or to the aid that Canada is giving. Canada continues to support the rights of Palestinians to live in peace and security, as it does the right of Israel to live in peace and security — all in accordance with international law.

Senator Pate: Yes, and I thank you. We all acknowledge the situation in Gaza is growing more dire by the hour. UN experts, as well as a group of 800 genocide and international law scholars, have written and warned that if it is not already, it is now approaching genocide. When can we expect Canada to join the urgent calls of international human rights leaders for a ceasefire?

Senator Gold: It is not the position of the Government of Canada that the actions that Israel is taking are genocide. It also is not the position of Canada to call for a ceasefire.

Canada has been at the forefront — with the United States and its democratic allies — in calling for humanitarian pauses and, as I said, deplors that they have ended and will continue to push forward so that proper assistance can be given to the residents of Gaza; they deserve it.

NATURAL RESOURCES

TRANS MOUNTAIN PIPELINE

Hon. Yonah Martin (Deputy Leader of the Opposition): Government leader, the Trudeau government failed to give Kinder Morgan the certainty they were seeking to build the Trans Mountain Expansion. In fact, the Prime Minister provided the opposite of certainty. Just two months after approving the project, he said of Alberta's oil sands, "We need to phase them out. . . ."

When the Trudeau government bought Trans Mountain with \$4.5 billion from taxpayers, they promised there would be no fiscal hit from this purchase. The current cost estimate for building Trans Mountain is now just under \$31 billion. Leader, how much will Trans Mountain cost taxpayers by the time it's in service?

Hon. Marc Gold (Government Representative in the Senate): The government's decision many years ago to step in to ensure that the pipeline was built was a recognition of the complex situation that we face in this country — namely, with provinces and, indeed, citizens relying upon certain sectors of our economy, fossil fuel-producing sectors, as well as to ensure we can take steps to reduce the environmental impact of burning fossil fuels and the disasters that can occur, as we saw so tragically in Lac-Mégantic, when we transport fossil fuels and gas in less than ideal ways.

The government does not intend to be a long-term owner of the Trans Mountain pipeline, as you know. We have talked about this over the years. There are parties interested and the Government of Canada will continue to pursue that avenue.

Senator Martin: I don't think you answered my question as to how much taxpayers should expect to pay by the beginning of services.

The Trans Mountain Expansion Project is currently scheduled to be completed by the end of March, just a few months from now. Given that the regulator recently denied a variance on a section of the pipeline, will the Trudeau government meet its deadline or will there be yet another delay?

Senator Gold: The government is committed to moving forward with it as best it can. This project, like all such projects, encounters various challenges along the way, whether it's with stakeholders, regulatory issues and so on, and the government will continue to work with dispatch to reach the deadline that has been established.

GLOBAL AFFAIRS

ISRAEL-HAMAS CONFLICT

CANADA-CHINA RELATIONS

Hon. Donald Neil Plett (Leader of the Opposition): Mr. Bob Pickard, a Canadian who held a senior role in the Asian Infrastructure Investment Bank, appeared before a House of Commons committee this afternoon. He told the committee that, “The president’s office in this bank is dominated by senior Communist Party members.” He said that, “There is undue CCP influence in the everyday operations of the bank.” On Canada, he said:

. . . our membership in this organization was not giving this country a single thing of tangible value that we could proudly explain to the people here in our country . . .

Leader, isn’t this bank another perfect example of why Prime Minister Trudeau is just not worth the cost? It cost hundreds of millions of dollars for nothing of tangible value. Canada should have withdrawn long ago. Will you do so today, leader?

Hon. Marc Gold (Government Representative in the Senate): No, I will not withdraw Canada from the Asian Infrastructure Investment Bank today. As I mentioned on an earlier occasion in response to your question, there is no question that our relationship with China has changed over the course of the years. Things have come to light in terms of the actions of China in the world and in Canada that are quite different from the assumptions that were made by previous governments and, indeed, even this government when it first came into office.

As I believe the government has stated on previous occasions, a rethink is happening regarding all aspects of our complex relationships with China. That will continue to be the case in the days and months to come.

Senator Plett: Speaking of things that are not worth the cost, the Prime Minister’s made-up rapporteur stepped down in June after submitting a final report to the Prime Minister that has been kept secret. By now, the Trudeau government should know the total amount of taxpayers’ dollars it wasted while trying to hide what the Prime Minister knew about Beijing’s interference.

How much was spent in relation to the rapporteur, leader, and how is this spending broken down?

Senator Gold: I do not have the answer for that. I am so tempted to remind the Canadians who may be listening of the waste of taxpayers’ money and the human cost for the dilatory tactics that were taking place more recently but, of course, I shan’t do that.

I will simply say that there is an investigation going on now with Justice Hogue. The government looks forward to its continual progress.

Hon. Marilou McPhedran: As per my statement, my question relates to what is going on in Gaza.

For too long, the sexualized, gender-based crimes against Israelis, mostly women, have not been condemned by UN Women. Last Monday, however, they spoke about the need for a full investigation so that perpetrators on all sides can be held accountable and justice can be served. Reports from Israel this week confirm that fighting in Gaza is the most intense it has been since the start of the Israeli ground offensive. Human Rights Watch notes that “Since October 7, one child in Gaza has been killed every 10 minutes on average.” We know that UN Secretary-General Guterres has invoked Article 99 of the UN Charter and that the death toll of Palestinians, mostly women and children, is climbing past 18,000.

• (1850)

Out of concern for human civilization, when will Canada call for a ceasefire?

Hon. Marc Gold (Government Representative in the Senate): Again, thank you for your question. The toll of this war is tragic. Every human life is precious. Whatever your tradition, religious or otherwise, nobody deserves to be the victim of a war, much less the deliberate and brutal violence that you began your question by noting.

Canada is working with its democratic allies, notably the United States and the European Union, to do what it can to provide humanitarian aid to Gaza, to work with, in this case, Israel, to ensure that Israel is doing everything that it can do to minimize the inevitable collateral — that’s a terrible word — inevitable damage that prosecuting a war in an area like that is, and it will continue to do so because that’s deeply part of what the Canadian position will always be.

Senator McPhedran: Senator Gold, we appreciate your answers. We know that you receive directions as to what you can say in response. But is Canada considering alternatives to what is being called pauses? Can there not be some greater action taken on the part of Canada to actually bring an end to this devastation and go to the point of supporting negotiations for peace?

Senator Gold: I represent the government. So when I stand here, I do represent the government position, which is different from taking directions. Let us be clear about that.

Canada has always supported peace in the Middle East. It has supported the two-state solution from day one, quite frankly. When the State of Israel was founded, there was a two-state solution on the table that was rejected by all surrounding neighbours. Canada will continue to support that approach even though right now, at least as far as Hamas is going, there is no interlocutor for peace.

[Translation]

[English]

PUBLIC SERVICES AND PROCUREMENT

STATISTICS ON TELEWORK

Hon. Claude Carignan: Leader, my question has to do with the federal government's projections regarding its work spaces because of telework. In September 2022 and October 2023, I received answers to my written questions from Public Services and Procurement Canada. I was told that the government does not compile data on its employees' telework. However, on May 29, before a House of Commons committee, Deputy Minister Paul Thompson said that the government plans to reduce the number of office spaces it currently has by up to 50% over the next decade because of an increase in telework.

Leader, does your government know what is going on in its departments, yes or no? How can you explain these inconsistencies? How can you expect to decrease the number of office spaces by 50% without having any statistics on telework?

Hon. Marc Gold (Government Representative in the Senate): Everyone knows that there have been changes associated with telework, not just within the government but in our society and our economy in general. Those changes began well before the pandemic, but they picked up during that crisis.

The government acted in a prudent manner by recognizing this cultural shift, particularly among young people whose main criterion before taking a job with the federal government or in the private sector is to be able to work from home at least 50% of the time. I am speaking from experience here.

Senator Carignan: Leader, again, I know that is the trend. Every employer except the Government of Canada knows how many people in their company work from home. I was given the same response to two written questions; the deputy minister said something else before a House of Commons standing committee. Who did he lie to, the members or me?

Senator Gold: Esteemed colleague, perhaps to you the world is binary, in that there are only truths or lies, but that is not real life. In real life, there may be a difference of opinion or different data.

Excuse me, I will finish my answer. You received two responses; I am pleased that you received answers to your questions.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, we have now reached the end of Question Period. Pursuant to the order adopted by the Senate on December 7, 2023, and pursuant to the rule 9-6, the bells will now ring for 15 minutes to call in the senators for the taking of the deferred vote at 7:11 p.m. on the motion in amendment of the Honourable Senator Woo, seconded by the Honourable Senator Cotter.

Call in the senators.

• (1910)

GREENHOUSE GAS POLLUTION PRICING ACT

BILL TO AMEND—THIRD READING—MOTION IN AMENDMENT ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Wells, seconded by the Honourable Senator Batters, for the third reading of Bill C-234, An Act to amend the Greenhouse Gas Pollution Pricing Act, as amended.

And on the motion in amendment of the Honourable Senator Woo, seconded by the Honourable Senator Cotter:

That Bill C-234, as amended, be not now read a third time, but that it be further amended, in clause 2 (as amended by the decision of the Senate on December 5, 2023):

(a) on page 2, by replacing line 23 with the following:

“into force on the day that is the third anniversary”;

(b) on page 3, by replacing line 6 with the following:

“third anniversary of the day on which this Act”.

The Hon. the Speaker: Honourable senators, the question is as follows: It was moved by the Honourable Senator Woo, seconded by the Honourable Senator Cotter:

That Bill C-234, as amended, be not now read a third time, but that it be further amended, in clause 2 (as amended by the decision of the Senate on December 5, 2023):

(a) on page 2, by replacing line 23 with the following:

“into force on the day that is the third anniversary”;

(b) on page 3, by replacing line 6 with the following:

“third anniversary of the day on which this Act”.

Motion in amendment of the Honourable Senator Woo agreed to on the following division:

Housakos
Marshall
Martin
McCallum

Sorensen
Tannas
Wallin
Wells—40

YEAS
THE HONOURABLE SENATORS

Aucoin	Harder
Audette	Hartling
Bellemare	Kingston
Bernard	Kutcher
Boehm	LaBoucane-Benson
Boniface	Lankin
Boyer	Loffreda
Cardozo	Massicotte
Clement	McNair
Cordy	Mégie
Cormier	Miville-Dechêne
Coyle	Moncion
Cuzner	Moodie
Dalphond	Omidvar
Dasko	Pate
Dean	Petitclerc
Dupuis	Petten
Forest	Ringuette
Galvez	Saint-Germain
Gerba	White
Gignac	Woo
Gold	Yussuff—44

NAYS
THE HONOURABLE SENATORS

Anderson	McPhedran
Arnot	Mockler
Ataullahjan	Oh
Batters	Osler
Black	Patterson (<i>Nunavut</i>)
Boisvenu	Patterson (<i>Ontario</i>)
Burey	Plett
Busson	Poirier
Carignan	Prosper
Cotter	Quinn
Dagenais	Ravalia
Deacon (<i>Nova Scotia</i>)	Richards
Deacon (<i>Ontario</i>)	Ross
Downe	Seidman
Duncan	Simons
Francis	Smith

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

• (1920)

[*Translation*]

ORDERS OF THE DAY

AFFORDABLE HOUSING AND GROCERIES BILL

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-56, An Act to amend the Excise Tax Act and the Competition Act.

(Bill read first time.)

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

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

[*English*]

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: Motion No. 146, followed by all remaining items in the order that they appear on the Order Paper.

THE SENATE

MOTION TO AFFECT SITTINGS DURING WEEK OF DECEMBER 11, 2023 AND AUTHORIZE COMMITTEES TO MEETING DURING SITTING ON WEDNESDAY, DECEMBER 13, 2023 ADOPTED

Hon. Patti LaBoucane-Benson (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of December 7, 2023, moved:

That, notwithstanding the order adopted by the Senate on September 21, 2022, the sitting of Wednesday, December 13, 2023, continue beyond 4 p.m., if Government Business is not completed, and continue until the earlier of:

- (a) the end of Government Business;
- (b) the adoption of a motion to adjourn the Senate; or
- (c) midnight;

That, on Wednesday, December 13, 2023, Senate committees be authorized to meet for the purposes of considering government legislation, even though the Senate may then be sitting, with rule 12-18(1) being suspended in relation thereto; and

That, on Monday, December 11, 2023, and Friday, December 15, 2023, once the Orders of the Day have been called, the Senate only deal with Government Business.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*Translation*]

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

THIRD READING—DEBATE

On the Order:

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

Hon. Claude Carignan: Colleagues, I rise today to speak to Bill C-21, An Act to amend certain Acts and to make consequential amendments regarding firearms. As previously mentioned, there is very little in the bill in its current form that addresses the reality of gun crimes as they happen in Canada today. The title that the government used last year to describe Bill C-21 in its press materials was “A comprehensive strategy to address gun violence and strengthen gun laws in Canada.”

Colleagues, that is how the government refers to Bill C-21. However, when we examine this document, we see that there is virtually nothing in its measures to crack down on gun crime.

With Bill C-21, the government claims that by increasing the maximum sentence for firearms trafficking from 10 to 14 years, it is trying to address the light sentences often handed down by our courts. However, the data show that the courts are not even imposing the current maximum penalty of 10 years. In fact, virtually no firearms trafficking cases have been subject to the most severe sentencing options. In testimony last year before the House of Commons committee regarding this bill, André Gélinas, a retired detective sergeant from the Montreal police service, said, and I quote:

The bill also proposes raising the maximum penalty for people found guilty of firearms trafficking from 10 to 14 years. At first glance, this appears to be a good move, but no defendants have ever been sentenced to the current 10-year maximum sentence for this offence. The measure will have no real effect. It is another example of an ineffective measure.

When Mr. Gélinas appeared before the Standing Senate Committee on National Security, Defence and Veterans Affairs, he once again talked about how frustrated police officers are about this. Those frustrations are shared by victims of crime and other law enforcement officers — not just retired police officers, but also the police chiefs and deputy police chiefs who appeared before us.

For example, the deputy chief constable of the Vancouver Police Department, Fiona Wilson, said the following in committee, and I quote:

With the exception of domestic violence and police shootings, where police are the victims, we’re generally not seeing lawful gun owners being responsible for the shootings in the city of Vancouver. Without exceptions, those are firearms that are not lawfully possessed in the first instance.

On the subject of gun violence in Vancouver over the past year, Deputy Chief Constable Wilson said the following, and I quote:

To date in Vancouver, we have had 22 shots-fired incidents in 2023 resulting in three homicides and 16 people wounded. Fifteen of the 21 incidents have confirmed or suspected links to gangs.

Deputy Chief Bill Fordy from the Canadian Association of Chiefs of Police appeared before our committee and stated the following:

. . . it is important for our citizens to remember that in Canada ownership of a firearm is not a right, it is a privilege. Legislation must strike an appropriate balance between the rights of the accused and those of victims, survivors, communities, police officers and public safety to help mitigate the impact of the worst outcomes of firearms.

Then, Deputy Chief Bill Fordy recommended the following during his testimony:

. . . provide sentencing judges with the discretionary ability to increase parole ineligibility to two thirds of a custodial sentence when the court finds that an offender has discharged a firearm in a congregate setting in committing the offence, and that this discretionary ability on sentencing be extended to those who are found to be parties to such offences.

Therefore, honourable senators, the penalty imposed for discharging a firearm in a public location must have teeth. It must produce results. This is what many police officers are asking for.

Every time we propose measures to strengthen the law and incorporate mandatory minimum sentences for serious crimes, the government comes out with its usual argument, questioning the constitutionality of such measures. For example, Senator Cardozo mentioned something along those lines before the committee when he said that mandatory minimum sentences would require the use of the notwithstanding clause. However, this general statement is simply inaccurate. In *R. v. Lloyd*, the Supreme Court of Canada stated the following, and I quote:

. . . Parliament is not obliged to create exemptions to mandatory minimums as a matter of constitutional law. . . . Whether Parliament should enact judicial safety valves to mandatory minimum sentences and if so, what form they should take, are questions of policy that are within the exclusive domain of Parliament.

Furthermore, the Supreme Court confirmed that position in subsequent rulings. Earlier this year, the court upheld the constitutionality of the four-year mandatory minimum sentence for a robbery committed with a non-restricted firearm. In fact, in *R. v. Hilbach*, the court concluded the following, and I quote from the majority opinion:

The mandatory minimum—

— which is four years for using a non-restricted firearm during a robbery —

— does not shock the conscience or is not so excessive as to outrage standards of decency. While the punishment is severe, the high threshold for gross disproportionality is not met.

Unfortunately, because of Bill C-5, which received Royal Assent on November 17, 2022, the government repealed this mandatory four-year sentence for the use of a non-restricted firearm during a robbery. Two months later, however, the Supreme Court confirmed the constitutionality of this sentence. Why did the government not try to reintroduce this sentence to the Criminal Code, if it truly intended to better protect Canadians against gun crime? We might wonder whether the government read *R. v. Hilbach*. The court found that this inherently dangerous offence induces terror in the victims and is committed only by offenders who make the conscious decision to use a firearm to rob or endanger the safety of others.

• (1930)

The government is defying all reason and jurisprudence by being unwilling to impose tough penalties for serious gun crimes, even though jurisprudence provides it with plenty of leeway.

This leads me to propose an amendment today that was first put to us in committee by the Canadian Association of Chiefs of Police. This amendment would create an additional provision in the law so that a death that results from the discharge of a firearm in a congregate setting would be subject to automatic consideration for first-degree murder under subsection 231(4) of the Criminal Code.

Not only is the criminal use of firearms increasingly common in urban areas, but firearms are also sometimes discharged in public places without anyone realizing the impact on innocent bystanders.

On Monday, November 27, while the National Security, Defence and Veterans Affairs Committee was hearing from witnesses on Bill C-21, there was a shooting in a public parking lot in Gatineau, in broad daylight. In a video captured by a surveillance camera, we can see a person in a parking lot stretching out their arm as though they have a gun in their hand and pointing it at a moving vehicle. That scene is immediately followed by what sounds like two successive gunshots. A few metres away, we can see children walking on the sidewalk. According to the police, the incident occurred at 4:45 p.m. near Eddy Street. Two men were wounded in that shooting. In other words, a shooting occurred five minutes from here while we were studying the amendments to Bill C-21 in order to impose harsher sentences for shots fired in public places.

We have also seen many shootings in Toronto and Montreal where innocent bystanders were wounded or killed when gang members recklessly opened fire on their rivals.

In my opinion, the government must take strong action to combat these criminals' sense of impunity, as Chief Inspector David Bertrand from the Montreal police force said in his testimony before the Senate committee during the study of Bill C-5:

What we want to work on is the perception that mandatory sentences are being maintained. We want to work on the criminal's sense of impunity at two levels. The sense of impunity is the certainty of being caught when committing a crime and the certainty of suffering the consequences.

Such reckless acts with firearms, especially when they cause death, should carry the harshest penalties, but often don't.

Also, take the case of Christopher Husbands, who opened fire in the food court at the Eaton Centre in Toronto in 2012. Originally, he was convicted only of second-degree murder for a shooting spree that left two people dead and several others injured. Originally, he was sentenced to life without parole for 30 years. However, on appeal, he was granted a retrial and was convicted at the second trial of manslaughter only. Although Christopher Husbands received a life sentence again, this time for manslaughter, the early parole eligibility period, which is mandatory for manslaughter convictions, meant that he became

eligible for early parole in 2021, nine years after he committed this heinous crime. For the victims' families, this is simply abhorrent.

I therefore wish to propose an amendment, as recommended by the Canadian Association of Chiefs of Police, which would ensure that any death resulting from a shooting in a public place would be considered first-degree murder. I think this amendment reflects the reality that there are people who discharge their firearms in a completely reckless and careless manner.

MOTION IN AMENDMENT—VOTE DEFERRED

Hon. Claude Carignan: Therefore, honourable senators, in amendment, I move:

That Bill C-21 be not now read a third time, but that it be amended on page 28 by adding the following after line 20:

“13.01 Section 231 of the Act is amended by adding the following after subsection (6.2):

(6.3) Irrespective of whether a murder is planned and deliberate on the part of a person, murder is first degree murder when the death is caused by that person's discharge of a firearm at or into a *public place* as defined in section 150.”

The Hon. the Speaker pro tempore: Senator Carignan, will you answer questions? You have two minutes.

Senator Carignan: I apologize, Your Honour, but my voice has been stretched to the limit and I prefer to preserve it.

[*English*]

Hon. Frances Lankin: I'm entering on debate because I appreciate the voice condition you have. I did have questions, and maybe somebody else who has worked with you on this might be able to, in speaking to this bill, respond to them.

Of course, we have just heard this amendment, and I'm just reading it here. I need to put it into context with the rest of the bill. I want to ask about the full impact of this amendment. I know from talking to some of your caucus colleagues in response to my questions about some concerns about the bill that there were concerns about whether minimum sentences, for example, should be introduced into this and a range of other things.

This is slightly different. This is about what category of charge would be appropriate given the circumstances of the commission of the crime that you are talking about. It's a very despicable set of conditions that you have described, so I understand why you are trying to address that.

What I don't know is, at the current time within the Criminal Code, what discretion there is for the prosecutors or the attorneys on behalf of Justice to give thought and discretion to what the conditions were and all the sorts of things we think about when we think about discretion of judges in terms of sentencing. As people speak to this, that's one of the concerns that I would be interested in. I would want to know that people who were

involved in committee throughout this whole process have taken a look at it and have understood. I don't know if it was introduced in committee or if this is brand new.

My concern is that prosecutors have a certain discretion, along with the police, about what charge is laid in certain cases. I don't know if this limits them, and I don't know if it has been looked at what the problems or consequences of that would be. It sounds reasonable, but I need to know that and, therefore, what that means with respect to any current provision of minimum sentencing that might apply to this category of offence.

I am hoping that others who have worked with you or talked with you and who are in opposition to this bill would speak to that when they speak to your amendment. I'm sorry that your voice is not allowing you to answer that directly.

Hon. Hassan Yussuff: Honourable senators, let me start by thanking Senator Carignan for his remarks and work on the committee on Bill C-21.

First, I would like to say that I don't support the amendment, and I would ask colleagues to reject it, but maybe I could help answer some of the questions that Senator Lankin just raised in regards to the amendment.

Section 231 of the Criminal Code, which this amendment looks to alter, deals with the classification of murder. This section of the code deals with sentencing rules referring to first-degree murder and second-degree murder. It defines first-degree murder as being “planned and deliberate,” and second-degree murder as being the inverse — murder that is neither planned nor deliberate.

It is important, honourable colleagues, to note that anyone who commits murder, regardless of the degree of guilt of an indictable offence, will be sentenced to the same sentence of life imprisonment.

• (1940)

The difference in sentencing between first-degree and second-degree murder is simply the degree of judicial discretion. Persons convicted of first-degree murder are sentenced to life and are ineligible for parole for a minimum of 25 years. A person convicted of second-degree murder is ineligible for parole for a period anywhere between 10 and 25 years, set by the sentencing judge, a judge who has heard all the related testimony in a specific case and can make a learned judgment on where to set an offender's parole ineligibility based on the facts of the case.

This amendment looks to amend the sentencing rules governing murder and would provide that any murder that occurs in a public place be treated as a first-degree murder, regardless of whether the murder was planned and deliberate. It will, in effect, take away the discretion of the trial judge, who has the best sense of the facts and the clearest sense of the appropriate punishment.

Honourable senators, it is important to remember that those who commit murder, regardless of the degree, are sentenced to life. It should be noted that this amendment looks to create a new subclause to section 231 of the Criminal Code, one not envisioned by its drafters.

This amendment will result in some murders committed with a firearm being treated more seriously than others. For instance, second-degree murder that is committed in a home involving a firearm would be treated less seriously than second-degree murder that is committed in a public place with a firearm.

Additionally, colleagues, section 231 of the Criminal Code already provides numerous examples of when a murder must be considered a first-degree murder, regardless of it being intended or planned. Those exceptions that will always cause a murder to be treated as a first-degree murder are, for example, a contract murder, murder of a peace officer, hijacking, sexual assault or kidnapping, criminal harassment, terrorism activity, intimidation, and if the murder is caused for the benefit or at the direction, or in association with a criminal organization.

These exceptions to the test as to whether a murder is planned or deliberate are targeted to ensure that those people who commit the most heinous of offences face the harshest sentence in the Canadian criminal justice system. The amendment that we have before us today is too broad and ignores the exceptions that are already included in the Criminal Code. It looks to take away discretion, once again, from judges.

I would want to know why such an amendment is needed and what the legal implications would be. Additionally, Bill C-21 also includes numerous other provisions that will strengthen existing Criminal Code provisions and provide police with new wiretapping authorization. This change will enable police to investigate firearms crime more effectively, including its links to organized crime. These changes are common-sense and respond to calls for reform from provincial partners.

Importantly, Bill C-21 would also increase the maximum penalty for five different firearms offences to 14 years, including offences that target firearms trafficking and smuggling. This is an important change; although, it has been one that certain senators have criticized.

In fact, however, the Supreme Court of Canada has recognized that when Parliament chooses to increase maximum penalties for existing offences, it is to be taken as a signal to the courts that such offences should be taken more seriously, including by increasing the sentencing range for persons convicted of these offences. Bill C-21 sends an unequivocal message that firearms trafficking and smuggling can be of the utmost seriousness and should be treated accordingly by the courts. Those who have criticized these changes, and those who believe in a so-called tough-on-crime response, would have the public believe that the only way to forcibly respond to serious offending is through the enactment of mandatory minimum penalties. This is false, and it's a perspective I strongly disagree with.

In saying this, I should not be taken as saying that mandatory minimum penalties are always inappropriate or that there is no place for such sentencing tools like that in our criminal law. They can play a role in certain cases and can send a strong denunciatory message.

I believe the government understands that, as the sentencing reforms included in Bill C-5 — which this chamber passed not so long ago — ensured that mandatory minimum penalties remain in place, including for firearms-related offences that involve organized crime, for example. At the same time, the government's recent sentencing reforms recognize that there is more than one way to address serious crime. Bill C-21 and its proposed increase of maximum penalties is evidence of that.

In my view, those who advocate for mandatory minimum penalties as the only response to serious crimes overly simplifies matters and gives a false sense of security. Being tough on crime means being smart on crime, and mandatory minimum penalties that apply to these offences that can be committed in various ways involving circumstances of varying seriousness are not smart on crime, and they are certainly not tough on crime if they lead to litigation that results in them being struck down.

Lengthy litigation delays justice for victims and can cause them to lose confidence in the criminal justice system.

Senators, in conclusion, we owe it to victims and, indeed, to all Canadians to be mindful of this when we consider criminal justice policy. I say again that this amendment that we have before us today is too broad, ignores the exceptions that are already included in the Criminal Code and looks to, once again, take away from the discretion of judges in our legal system.

I urge you, honourable senators to reject the amendment and pass Bill C-21.

Thank you.

Hon. Brent Cotter: Honourable senators, I hadn't intended to intervene in the debate, and I have immense respect for Senator Carignan's thoughtfulness in relation to matters related to the criminal law, but I do want to raise two observations.

One, if the nature of this is to try to increase the mandatory minimum for certain quite serious crimes, it seems a bit unusual to do it by ratcheting up the nature of the offence, particularly when one does that with respect to first-degree murder.

Second, more generally — and maybe in a slightly protective way related to the role and responsibilities of the Legal and Constitutional Affairs Committee — we constantly face challenges at that committee in — I don't want to use the word "tinkering" with the Criminal Code — but in making individualized adjustments. It's a big enough challenge as it is to be comfortable that we are addressing those questions in an organized, logical and coherent way.

With respect to first-degree murder, the regime for, essentially, borrowing the concept of planned and deliberate, setting that aside and holding first-degree murder together for other types of offences, particularly based on the victim, is a very fragile and carefully thought-together framework. I don't even call it a "regime," but a "framework." With the greatest of respect, this is a problematic way of making amendments to and expanding the scope of first-degree murder without reflecting on that larger category.

As I think you will know, the Legal and Constitutional Affairs Committee was not mandated to work on this bill, and this is a matter, I think, that if it deserves consideration, it should be done independently and with richer degree of thought.

Thank you very much.

Some Hon. Senators: Hear, hear.

The Hon. the Speaker pro tempore: Senator Cotter, will you take a question?

Senator Cotter: Of course.

Hon. Paula Simons: Thank you, Senator Cotter.

I was reminded, as Senator Carignan was speaking, and as I read the amendment of the *R. v. Martineau* decision in 1990 — which I remember, because I, many years later, covered a case in which a judge, forgetting that *Martineau* had struck a section out of the Criminal Code, attempted to convict somebody of second-degree murder with robbery being the predicate felony.

I'm wondering — since you are a constitutional law professor and I am not — if you could tell me whether you think that the court's reasoning in *Martineau* would, perhaps, render this amendment unconstitutional, because *Martineau* found that a person charged with murder must have formed the intent to commit that crime. In this instance, this amendment, even if you didn't have the intent to commit first-degree murder, you would potentially be captured. I wonder if you think the argumentation in *Martineau* would flow to be mirrored in this.

• (1950)

Senator Cotter: Speaking for myself, I would need to think about that question more deeply. This is what happens in the Criminal Code right now: What is normally thought of as a requirement for somebody's life taken on the basis of a planned and deliberate performance by the accused person is circumvented in the language of the Criminal Code for a specific set of offences, and it's nearly always focused on particular victims. Whether this one would fit comfortably within that regime or would be challenged — my guess is it's the kind of thing that would be challenged — raises uncertainty about it. There is a good argument that if you want to think about this as a category of first-degree murder, you need to think about the whole of those provisions that deal with first-degree murder, and that circumvent the planned and deliberate requirement.

With the greatest respect, I don't think that's been explored well enough. I think it hasn't been explored in this chamber well enough for us to move forward.

People commit terrible acts, and first-degree murder is one of the mechanisms by which we hold them most severely accountable — that's perfect and legitimate, but we have to be satisfied that we put that in place for the right types of offences. It's premature to say that this is one.

Some Hon. Senators: Hear, hear.

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

Hon. Senators: Question.

The Hon. the Speaker pro tempore: In amendment, it is moved by the Honourable Senator Carignan that — shall I dispense?

An Hon. Senator: Dispense.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

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

An Hon. Senator: Defer the vote to the next sitting of the Senate.

The Hon. the Speaker pro tempore: Pursuant to rule 9-10, the vote is deferred to 5:30 p.m. on the next day the Senate sits, with the bells to ring at 5:15 p.m.

(At 7:54 p.m., the Senate was continued until tomorrow at 2 p.m.)

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