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(HANSARD)

Tuesday, April 2, 2019

The Honourable GEORGE J. FUREY,
Speaker

This issue contains the latest listing of Senators, Officers of the Senate and the Ministry.

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THE SENATE

Tuesday, April 2, 2019

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

Prayers.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, I received a notice from the Honourable Senator Smith who requests, pursuant to rule 4-3(1), that the time provided for the consideration of Senators' Statements be extended today for the purpose of paying tribute to the Honourable Erminie J. Cohen, whose death occurred on February 15, 2019.

I remind senators that pursuant to our rules, each senator will be allowed only three minutes, they may speak only once and the time for Tributes should not exceed 15 minutes.

SENATORS' STATEMENTS

THE LATE HONOURABLE ERMINIE J. COHEN, C.M., O.N.B.

TRIBUTES

Hon. Larry W. Smith (Leader of the Opposition): Honourable senators, I rise today to pay tribute to our former colleague, the Honourable Erminie Cohen, who passed away in February. It is very difficult to summarize all of her many accomplishments and endeavours into just a short statement. Senator Cohen's impact on her beloved province of New Brunswick cannot be overstated. She was an energetic and vibrant spirit who worked tirelessly on issues of social justice. She used her voice to advocate for those who often do not have a voice in our society — those who suffer from domestic violence and discrimination, Canadians living in poverty and our children. For these reasons, and many more, she will be greatly missed.

Before her service in the Senate, Erminie Cohen was a member of the national and provincial advisory boards for the Status of Women. She was a founding member of the Saint John Women for Action, and Hestia House, a shelter for abused women and children. She was also the first woman in her community to serve as president of a synagogue, and the first woman elected Atlantic Vice-President of the Progressive Conservative Party.

In 1993, Erminie Cohen was appointed to the Senate of Canada upon the recommendation of former Prime Minister Brian Mulroney. During the eight years that followed, she was a dedicated member of many of our committees, particularly Social Affairs, Science and Technology. In 1997, Senator Cohen authored *Sounding the Alarm: Poverty in Canada*, a well-received report which I understand was used as a teaching text in some Canadian universities at the time.

Senator Cohen was the recipient of the Order of Canada, the Order of New Brunswick, and the Queen's Silver, Gold and Diamond Jubilee medals. She was also honoured by such organizations as the Jewish National Fund of Canada, the University of New Brunswick and the Salvation Army.

[*Translation*]

Despite her many honours, Senator Cohen never forgot the people she was devoted to. She treated all who crossed her path with compassion as she strove to understand their lives and offer them her help.

[*English*]

After her retirement from the Senate, Senator Cohen continued to give her time and effort to improve the lives of her fellow citizens. For example, in 2002, she helped establish the New Brunswick Adoption Foundation, the first such foundation of its kind in Canada. As well, in 2007, she was named the chair of the previous Conservative government's Expert Panel on Older Workers, which released a report the following year on supporting older workers in the new economy.

In her final words to the Senate upon her retirement, Senator Cohen spoke of her love for her family, particularly her children, Cathy, Shelley and Lee. She said:

> I am grateful to them for all their encouragement and understanding and would like them to know, for the record, that any pride that they may feel in my accomplishments is matched by my pride for all of theirs.

On behalf of the Conservative Senate caucus and indeed all honourable senators, I extend deepest condolences to her children and grandson, family and friends at the loss of a truly great Canadian. May her memory be a blessing.

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, I am saddened today to rise in tribute to a good friend, the Honourable Senator Erminie Cohen, who passed away in February at the age of 92 years. I regret that we were never colleagues here in this chamber, representing our home province of New Brunswick together. But as things sometimes happen, I arrived here after her retirement, filling the seat that she vacated when she retired from the Senate.

• (1410)

Her professional life before her Senate career was, as you've heard from Senator Smith, a litany of achievements. She, along with her late husband, Ed, operated a women's clothing store in Saint John for more than 50 years.

In social advocacy, she was tenacious. She sat on the first New Brunswick Advisory Council on the Status of Women, as well as on the Canadian advisory council. She founded the Saint John Women of Action and a shelter to assist victims of domestic violence.

In 1993 she was called to this place. She was intensely proud to be here. In her maiden speech in the Senate, just one week after she had been appointed to the Senate, she said, "I wish to tell you that I consider my appointment to the Senate a true honour. I treat it with great pride. I make a commitment to work hard for the Senate and to work with each and every one of you."

And she did. While she considered herself a Red Tory, she found friends and allies on all sides of this chamber. She served on a great number of committees, including the Special Joint Committee on Child Custody and Access. She worked extensively to fight against poverty and family violence. She sponsored legislation that would have prohibited discrimination based on a person's social condition. She brought a human face to all her work in committees and here in the Senate.

When she retired, the Honourable John Lynch-Staunton, who was leader of the Conservatives in the Senate at that time, called Erminie Cohen "the conscience of the Senate." Erminie remained true to her own conscience throughout her life, serving others and ensuring that the voices of the least fortunate were heard.

On behalf of the independent Senate Liberals, I would like to offer our deepest condolences to Erminie Cohen's beloved children, Cathy, Lee, a lawyer in Halifax, and Shelley, to their families, and all her loved ones and friends. She was quite simply a remarkable lady and we are all poorer for her passing.

Hon. Nancy J. Hartling: Honourable senators, today I rise to pay tribute to the late Erminie Cohen, from Saint John, New Brunswick, in my home province. She served in our Senate from 1993 to 2001, appointed by Prime Minister Brian Mulroney. She passed away in February 2019 at the age of 92. On behalf of my Independent Senators Group colleagues, I send my deepest and heartfelt sympathy to her family.

Honourable senators, Senator Cohen is someone I deeply admire. As a lifelong advocate for women and social justice, she is one of my "sheroes" — not heroes, "sheroes" — and mentors. I first met Senator Cohen here in Ottawa during the Women's World March 2000 in October. Thirty thousand women marched on Parliament Hill to end gender-based violence and poverty.

As the New Brunswick co-chair of the Women's World March 2000, I was so pleased when Senator Cohen sought me out and asked to march and talk with the New Brunswick delegation. Thus began our relationship spanning the next two decades.

Her commitment and enthusiasm to social justice is impressive, including her many accomplishments while a member of the New Brunswick Advisory Council on the Status of Women and a founding member of the board of Hestia House for victims of family violence. Her leadership, passion and vision involving many issues such as poverty, legal, family violence and adoption brought about major social changes.

Many of her passions I share, and I look to the work she accomplished as foundational and groundbreaking. Currently, poverty, gender-based violence and inequities are still a large part of the Canadian landscape. Thank you, dear Erminie, for blazing the trail.

While she worked on these key issues she was also a business partner with her husband, a mother, grandmother and member of her faith community. She remained active on many fronts into her nineties. Her passion often motivated others in her community.

She was honoured for her contributions through receiving both the Order of Canada, 2010, and the Order of New Brunswick, 2017. In addition, she received other prestigious awards for her contributions. The last time I saw Erminie was in 2017, in Fredericton, when she received the Order of New Brunswick. Her smile, her passion and her enthusiasm for social justice will always remain in my memory as I honour this great Canadian woman.

On behalf of the Independent Senators Group, I wish to honour former Senator Erminie Cohen for being a catalyst in making her home province of New Brunswick, and indeed Canada, a fairer and more just place for the most vulnerable among us.

Rest in peace, dear Erminie.

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

QUESTION OF PRIVILEGE

NOTICE

Hon. David Tkachuk: Honourable senators, today I gave notice to the Clerk of the Senate, Mr. Richard Denis, that I would be raising a question of privilege. As my letter stated, the nature of the breach concerns the violation of the February 19, 2019, in camera proceedings of the Transport Committee by making public the discussion that took place at that meeting.

I'm now giving notice that later today I'll elaborate on the substance of that breach of privilege, and if a question of privilege is found I am ready to move the appropriate motion.

The Hon. the Speaker: Honourable senators, a question of privilege will be considered either at the end of Orders of the Day or at 8 p.m., whichever arrives first.

WORLD AUTISM AWARENESS DAY

Hon. Wanda Elaine Thomas Bernard: Honourable senators, I rise today to recognize World Autism Awareness Day. This morning I had the pleasure to attend the fifth annual Canadian Autism Leadership Summit. This summit is important for us policy-makers to hear details of provincial diversity, national initiatives and community-based services as we work together on advancing a national autism spectrum disorder strategy.

I wish to extend my gratitude to Canadian Autism Spectrum Disorders Alliance and our colleagues, Senators Munson and Housakos, as well as all ASD leaders from across Canada, including several self-advocates, families and service providers who came together to address ASD issues.

It is so important that we use our voices, our privilege as parliamentarians and our commitment to help Canadians living with autism, their parents, families and advocates work together for change.

At this morning's opening session entitled "Nothing About Us Without Us," the presentations highlighted the value of truly listening to lived experiences to build authentic alliances with self-advocates as we implement a national strategy. We heard about the move from autism awareness to autism acceptance. I would also like to add the need for action; so, autism awareness to autism acceptance, followed by action. It's time to leave tokenism behind.

We also must not forget to address intersectionality issues. I would like to call attention to the intersection of race, racism and disability that impacts children from racialized communities who live with autism. Individuals with several marginalized identities will have different life experiences. One area of concern to me is children of African descent, who are either not diagnosed early enough, are often misdiagnosed, or their families remain stuck in a phase of denial. As we move forward together, I invite you to consider the ways in which those children and adults with autism who are racialized are differently impacted and how we can work together to dismantle those systemic barriers.

• (1420)

A blatant example of the intersection of racism and disability is during police street checks. Last week, Halifax Regional Police reported that young Black men aged 15 to 25 are nine times more likely to be stopped; added to the complexity of living with autism, such interactions can easily escalate.

Honourable colleagues, we must remember to include the valuable lived experiences in our policy development and action the requests of ASD self-advocates — Nothing about us without us.

[*Translation*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Ms. Marie-France Maheu. She is the guest of the Honourable Senator Forest.

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

Hon. Senators: Hear, hear!

[*English*]

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. Nick Katalifos and his daughter Ms. Anna Katalifos. They are the guests of the Honourable Senator Housakos.

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

Hon. Senators: Hear, hear!

WORLD AUTISM AWARENESS DAY

Hon. Leo Housakos: Honourable senators, every year for the past several years on this date, April 2, I rise in this chamber in recognition of World Autism Awareness Day. And every year the message, unfortunately, doesn't change. That is — we need to do more for families struggling with autism. That's key. It's not just the individual on the spectrum who struggles as a result of lack of funding and programs, it is the entire family. And the costs aren't merely financial.

The quality of Canadian expertise in autism care is not in question. It is with great pride that we can acknowledge a wide variety of organizations in our great nation that are working diligently to improve what is a complex situation.

However, as we identified in the Senate's 2007 report, *Pay Now or Pay Later*, the startling reality is that we, as a government, continue to underfund the resources needed to help an ever-increasing number of Canadian families.

A good start came under former Prime Minister Stephen Harper, when the federal government allocated $11 million over four years to support training programs for autistic adults with the hope of assisting them into the workforce. But we need to do much more.

Last year Senators Munson, Bernard, Harder and I were able to meet with the Minister of Health, Ms. Petitpas Taylor, to have a fulsome discussion about what was needed from the federal government.

I'm happy to say Minister Petitpas Taylor followed through on her promises to us that day. She visited the Giant Steps Resource and Training Centre and the Transforming Autism Care Consortium in Montreal, to see first-hand the amazing work they're doing. She secured funding in the budgets of 2018 and 2019 for autism programs. As a result, Giant Steps, Transforming Autism Care Consortium and other programs and facilities like them across Canada are able to apply for funding through the Public Health Agency of Canada ASD Strategic Fund.

I'd like to thank the minister and the government leader for making that possible.

The fund is designed to support innovative community-based projects that will provide Canadians living with autism, as well as their families and caregivers, tangible opportunities to gain knowledge, resources and skills that can help them address the challenges of living with autism.

But there is still so much more work to be done, colleagues. We must continue to work together as parliamentarians, regardless of our political stripe, to support Canadians living on the autism spectrum.

We must not waver or allow gaps to occur in what we are doing as a federal government. Whether focusing on research and early intervention, family support services or job training, the time has come to develop a government-led national strategy to deal with this ongoing crisis. I will rise in this chamber again next year on this date and every year until that becomes a reality. Thank you, colleagues.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Ms. Deepa Mehta and Mr. David Hamilton. They are the guests of the Honourable Senator Omidvar.

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

Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. David Stanley. He is the guest of the Honourable Senator Campbell.

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

Hon. Senators: Hear, hear!

WORLD AUTISM AWARENESS DAY

Hon. Jim Munson: Honourable senators, I'm also privileged to stand and recognize today as World Autism Awareness Day. April 2 is a day that is very important to the autism community and is certainly important to me.

I can't imagine that 12 years ago at our Standing Senate Committee on Social Affairs, Science and Technology we released the report *Pay Now or Pay Later: Autism Families in Crisis*. And here we are where access and services for autism are still uneven across this country. Can you imagine, honourable senators, that there are half a million autistic Canadians? Later has arrived. The latest changes to autism services by the Ontario government are just the most recent adversity facing families in this country on the autism front. Program modifications, funding cuts, changes in the education system, government and new budgets all cause anxiety and disruption to families of children with ASD. They pay the price for this.

Governments have put programs together. There has been Ready, Willing and Able by this government right now. We've had the Harper government do a number of things, as Senator Housakos said. We've had tax credits, disability tax credits and so on. But it's certainly not enough because families are still suffering.

This is not who we are as a nation. Why are we struggling to define policies and provide services in an equitable way to all Canadians with ASD? Why can't we guarantee for most people with ASD a future lived to their true potential: because our leaders don't know how to listen, because our leaders are not curious enough, because our leaders don't look at what others are doing, because our leaders don't know what robust consultation looks like, because our leaders are working in silos, because our leaders are uncomfortable in working together in a nonpartisan way.

This is an unacceptable approach by our policy-makers. Large, sweeping changes hurt families and persons with autism. The story in Ontario is not just Ontario's story; it's a story across the country of trying to deal with this issue. I congratulate the Ford government for putting enhancements in and announcing today that they will have consultations, but that should have happened a long time ago before announcing anything.

Provinces and territories need clear direction. They need a blueprint and they need a collaborative and leadership approach with any federal government — this federal government. Sit down, think outside the box. I'm tired of standing up here each and every day talking about families who are moving to get best services, families breaking up and mortgaging their homes to get the extra services. There's a blueprint out by the Canadian Autism Spectrum Disorders Alliance. We're going to talk about it this evening in a room upstairs. I hope you can all join us to have that conversation, because the time is now. We really need to have this blueprint. Sorry if I lost my voice, but I'm passionate about this, and I'll get it back, but I will never lose my voice for the families dealing with autism. Thank you very much.

Hon. Peter M. Boehm: Honourable senators, I rise as well today to recognize World Autism Awareness Day. As we know, autism spectrum disorder is a severe lifelong condition that dramatically impacts the lives of those diagnosed. It also creates emotional and financial stress on their families, caregivers and communities.

[*Translation*]

Every individual with autism spectrum disorder is unique and presents a variety of complex symptoms. As the name suggests, it is a spectrum disorder, which means that symptoms are present to varying degrees and therefore require individualized assessment to determine the appropriate support services.

[*English*]

Responding to autism needs is not a political or partisan issue.

What I wish to say, as a father of a son with autism, who has sought services when we lived abroad, who has struggled with various governments in this province of Ontario to receive services, is that it is not easy. It puts immense strain on families.

• (1430)

The current initiatives taken by the Government of Ontario highlight the need to consult with those directly impacted, with regional service providers and advocacy organizations to improve governmental programs that are based on individual need.

Affecting 1 out of 66 Canadian youth, ASD is currently the most common neurodevelopmental disorder with which children and youth in Canada are diagnosed. This does not take into account all those affected indirectly by ASD such as family members, community service providers, teachers and schools, to name a few.

The need for a national strategy to improve the lives of persons diagnosed with autism has clearly been established in Canada. Children dealing with ASD deserve to have the same rights and opportunities as any other child and more so as they become adults, as our son has become.

I applaud the advocacy undertaken by Senators Munson, Bernard, Housakos and others.

Senator Munson, you were great on the radio this morning. That's probably where you first lost your voice.

Honourable senators, it is the duty of parliamentarians to advocate for the rights of all Canadians. The Senate in particular is meant to advocate for minority voices. It is more critical now than ever to affirm our support for the autism community in Canada and around the world. Thank you.

[*Translation*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Pascale Navarro. She is the guest of the Honourable Senator Miville-Dechêne.

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

Hon. Senators: Hear, hear!

[*English*]

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. Mike Summers, Mr. Jared Sweetapple and Mr. Nick Cashin. They are the guests of the Honourable Senator Wells.

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

Hon. Senators: Hear, hear!

NEWFOUNDLAND AND LABRADOR

SEVENTIETH ANNIVERSARY OF JOINING CONFEDERATION

Hon. Norman E. Doyle: Honourable senators, it gives me great pleasure to bring to your attention that, yesterday, Monday, April 1, was the seventieth anniversary of Newfoundland and Labrador joining the Confederation of Canada.

Newfoundland and Labrador is part of Canada today, but the business of joining Canada was at one point very much in doubt. In the late 1800s, a Newfoundland government campaigned on the platform of Confederation with Canada and subsequently went down to defeat.

During the Great Depression of the 1930s, the Dominion of Newfoundland came very close to defaulting on its debts. The British government came to the rescue but it meant suspending the operations of our legislature and submitting to a harsh austerity program under a British-appointed Commission of Government. At the end of World War II, Britain began to dismantle its empire and also began casting about for a solution to its "Newfoundland problem."

The solution, of course, was Canada. Having lost Labrador to Newfoundland in the British Privy Council decision of 1927, Canada was anxious to have Labrador back in the Canadian fold, even if it meant taking Newfoundland with it. However, the obstacle to the solution was the people of Newfoundland. As Britain's oldest colony, there was a deep attachment to the mother country and an equally strong suspicion of the so-called "Canadian wolf."

Enter Joey Smallwood, a broadcaster and political organizer who began beating the drum on Confederation with Canada. Many have said that Smallwood had secret help from the British and the Canadians but, even so, the task before him was daunting. However, Smallwood proved to be a tireless and effective campaigner. His message about modern Canadian society found a receptive audience in the many rural fishing outports where people lived under less-than-ideal conditions.

The Commission of Government held two referenda on the issue in Newfoundland in the late 1940s, with the second vote going 51 per cent in favour of union with Canada. As I said earlier, it was a very close campaign.

If we held a referendum today, I'm sure an overwhelming majority of the people of the province would opt to remain in Confederation. However, not all has gone well. For example, joining Confederation meant turning our fishery over to Canadian government jurisdiction. Given the up-and-down nature of the fishery, it might have been said that this was a good move. But still, the northern cod stock, one of the world's great food resources, was all but wiped out under Canadian jurisdiction and still hasn't recovered over the last 25 years despite conservation measures by Newfoundland and Canada to bring it back.

In spite of our problems, especially the equalization problem, I think it is still the opinion of the majority that Confederation has been good for Newfoundland and Labrador. Yes, we have had our ups and downs and squabbles, as we would in any family, but now we are part of the Canadian family – and I do believe we are here to stay.

[*Translation*]

ROUTINE PROCEEDINGS

CANADIAN HUMAN RIGHTS COMMISSION

2018 REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Human Rights Commission for the year 2018, pursuant to the *Canadian Human Rights Act*, R.S.C. 1985, c. H-6, sbs. 61(4), and the *Employment Equity Act*, S.C. 1995, c. 44, s. 32.

[*English*]

THE SENATE

NOTICE OF MOTION PERTAINING TO CERTAIN BILLS

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

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

1. if a bill is still on the Orders of the Day for second reading at 5:15 p.m. on the day that, pursuant to this order, second reading of the bill must conclude, the Speaker interrupt any proceedings then before the Senate at 5:15 p.m. in order to put all questions necessary to dispose of the bill at second reading, without further debate, amendment or adjournment;

2. if, pursuant to this order, there is a date by which a committee must report a bill:

   (*a*) on that day the committee be permitted, notwithstanding usual practices, to present its report on the bill with the Clerk of the Senate once the Senate has passed the heading "Presenting or Tabling Reports of Committees" or if the Senate does not sit on that day, with the report being published in the Journals for that day or the next day thereafter that the Senate does sit, as the case may be, and being deemed to have been presented in the Senate, with the following provisions then applying:

      (i) if the committee reported the bill with amendment, or with a recommendation pursuant to rule 12-23(5), the report be placed on the Orders of the Day for consideration at the next sitting of the Senate, or

      (ii) if the committee reported the bill without amendment, the bill be placed on the Orders of the Day for third reading at the next sitting of the Senate; and

   (*b*) if the committee has not reported the bill by the end of that day:

      (i) the committee be deemed to have reported the bill without amendment, whether the Senate sat that day or not, and

      (ii) the bill be placed on the Orders of the Day for third reading at the next sitting of the Senate;

3. if, pursuant to this order, there is a date by which third reading of a bill must conclude, and, at 5:15 p.m. on that day, the order for consideration of a committee's report on the bill or for third reading of the bill is still on the Orders of the Day, the Speaker interrupt any proceedings then before the Senate at 5:15 p.m. in order to put all questions necessary to dispose of the bill at third reading, without further debate, amendment or adjournment, with the following provisions then having effect if required:

   (*a*) if the report of a committee on the bill is on the Orders of the Day, but has not yet been moved for adoption, a motion for the adoption of the report be deemed to have been moved and seconded, with the provisions of sub-point (*b*) applying thereafter;

   (*b*) if the report of a committee on the bill is still before the Senate, a motion for third reading be deemed to have been moved and seconded, if applicable, once the report has been decided on; and

   (*c*) if the bill is on the Orders of the Day for third reading, but third reading has not yet been moved, a motion for third reading be deemed to have been moved and seconded;

4. for the purposes of points 1 and 3 of this order:

   (*a*) if the Senate does not sit on the date by which either second or third reading must conclude under the terms of this order, the terms of this order govern proceedings at the next sitting of the Senate as if that day were the date by which either second or third reading must conclude;

   (*b*) if a vote is underway at the time an item is to be dealt with under the terms of this order, the terms of the order only take effect immediately after the vote and any consequential business;

   (*c*) if there are multiple items to be dealt with under the terms of this order at a single sitting, they be dealt with according to the order in which they are listed in this order;

   (*d*) if a standing vote on an item governed by the terms of this order had been deferred so that it would normally occur after 5:15 p.m. on the date provided for in this order, the vote be instead dealt with at 5:15 p.m. on that day, so that the standing vote occur as if it were governed by the terms of the following sub-point;

   (*e*) if a standing vote is requested after the Speaker is required to interrupt proceedings under the terms of this order, the vote not be deferred and the bells to call in the senators ring only once and for 15 minutes, without the further ringing of the bells in relation to any subsequent standing votes requested during that sitting on items governed by this order; and

   (*f*) if a previously deferred standing vote, except one covered by sub-point (*d*), would conflict with any time provided for under this order, the previously deferred vote be further deferred until the

conclusion of proceedings under this order, provided that if the bells have already rung for the taking of a standing vote under the terms of this order, they not ring again for the previously deferred standing vote;

5. for the purposes of points 1, 2 and 3 of this order, if the date by which second or third reading must conclude or the committee must report falls on or before the adoption of this order, the terms of this order govern proceedings at the next sitting of the Senate after this order is adopted, as if that day were the relevant date;

6. at any sitting during which the terms of this order govern any proceedings, no motion to adjourn the Senate be received, and the provisions of the Rules and any previous order relating to the time of automatic adjournment and the suspension of the sitting at 6 p.m. be suspended, until all questions necessary to dispose of any item governed by the terms of this order have been dealt with pursuant to this order;

7. the provisions of this order apply to the following bills:

(*a*) Bill C-48, An Act respecting the regulation of vessels that transport crude oil or persistent oil to or from ports or marine installations located along British Columbia's north coast (with the date by which the committee to which the bill is referred must report being May 9, 2019, and the date by which third reading must conclude being June 6, 2019);

(*b*) Bill C-55, An Act to amend the Oceans Act and the Canada Petroleum Resources Act (with the date by which the committee to which the bill is referred must report being April 5, 2019, and the date by which third reading must conclude being April 11, 2019);

(*c*) Bill C-58, An Act to amend the Access to Information Act and the Privacy Act and to make consequential amendments to other Acts (with the date by which the committee to which the bill is referred must report being April 5, 2019, and the date by which third reading must conclude being April 11, 2019);

(*d*) Bill C-59, An Act respecting national security matters (with the date by which the committee to which the bill is referred must report being May 16, 2019, and the date by which third reading must conclude being May 30, 2019);

(*e*) Bill C-68, An Act to amend the Fisheries Act and other Acts in consequence (with the date by which the committee to which the bill is referred must report being May 7, 2019, and the date by which third reading must conclude being May 30, 2019);

(*f*) Bill C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts (with the date by which the committee to which the bill is referred must report being May 9, 2019, and the date by which third reading must conclude being May 30, 2019);

(*g*) Bill C-71, An Act to amend certain Acts and Regulations in relation to firearms (with the date by which the committee to which the bill is referred must report being April 10, 2019, and the date by which third reading must conclude being May 9, 2019);

(*h*) Bill C-75, An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts (with the date by which second reading must conclude being April 4, 2019, the date by which the committee to which the bill may be or is referred must report being May 10, 2019, and the date by which third reading must conclude being May 16, 2019);

(*i*) Bill C-78, An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act and the Garnishment, Attachment and Pension Diversion Act and to make consequential amendments to another Act (with the date by which second reading must conclude being April 11, 2019, the date by which the committee to which the bill may be or is referred must report being May 14, 2019, and the date by which third reading must conclude being May 16, 2019);

(*j*) Bill C-81, An Act to ensure a barrier-free Canada (with the date by which the committee to which the bill is referred must report being May 7, 2019, and the date by which third reading must conclude being May 16, 2019); and

(*k*) Bill C-85, An Act to amend the Canada-Israel Free Trade Agreement Implementation Act and to make related amendments to other Acts (with the date by which second reading must conclude being April 4, 2019, the date by which the committee to which the bill may be or is referred must report being April 30, 2019, and the date by which third reading must conclude being May 9, 2019); and

8. for greater certainty, nothing in this order prevent a committee reporting before, or proceedings at any stage concluding before, the dates provided for in this order.

• (1440)

[*Translation*]

BILLS OF EXCHANGE ACT
INTERPRETATION ACT
CANADA LABOUR CODE

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-369, An Act to amend the Bills of Exchange Act, the Interpretation Act and the Canada Labour Code (National Day for Truth and Reconciliation).

(Bill read first time.)

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

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

[*English*]

FISHERIES AND OCEANS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

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

> That the Standing Senate Committee on Fisheries and Oceans have the power to meet, in order to continue its study of Bill C-68, An Act to amend the Fisheries Act and other Acts in consequence, on Tuesday, April 9, 2019, at 5 p.m., even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

[*Translation*]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

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

> That the Standing Senate Committee on Energy, the Environment and Natural Resources have the power to meet, in order to continue its study of Bill C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts, on Tuesday, April 30, 2019 and Tuesday, May 7, 2019, at 5 p.m., even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

[*English*]

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Serge Joyal: Honourable senators, with leave of the Senate and notwithstanding rule 5-5(a), I move:

> That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to meet on Wednesday, April 3, 2019, at 3:15 p.m., even though the Senate may then be sitting, and that the application of rule 12-18(1) be suspended in relation thereto.

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.)

• (1450)

THE SENATE

NOTICE OF MOTION TO STRIKE SPECIAL COMMITTEE ON PROSECUTORIAL INDEPENDENCE

Hon. André Pratte: Honourable senators, I give notice that, two days hence, I will move:

> That a Special Committee on Prosecutorial Independence be appointed to examine and report on the independence of the Public Prosecution Service of Canada and of the Attorney General of Canada;
>
> That the committee be composed of six senators from the Independent Senators Group, three Conservative senators and one Independent Liberal senator, to be nominated by the Committee of Selection, and that four members constitute a quorum;
>
> That the committee examine and report on the separation of the functions of the Minister of Justice and those of the Attorney General of Canada, and on other initiatives that promote the integrity of the administration of justice;

That the committee also examine and report on remediation agreements as provided by PART XXII.1 of the *Criminal Code*, in particular, the appropriate interpretation of the national economic interest mentioned in subsection 715.32(3) of the *Criminal Code*;

That the committee have the power to send for persons, papers and records; to examine witnesses; and to publish such papers and evidence from day to day as may be ordered by the committee;

That, notwithstanding rule 12-18(1), the committee be authorized to meet even though the Senate may then be sitting;

That, notwithstanding rule 12-18(2)(b)(i), the committee have the power to meet from Monday to Friday, even though the Senate may then be adjourned for a period exceeding one week; and

That the committee be empowered to report from time to time and submit its final report no later than June 1, 2019, and retain all powers necessary to publicize its findings until 30 days after the tabling of the final report.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, pursuant to the motion adopted Thursday, March 21, 2019, Question Period will take place at 3:30 p.m.

AGRICULTURE AND FORESTRY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Diane F. Griffin: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Agriculture and Forestry have the power to meet on Tuesday, April 9, 2019, at 6:00 p.m., even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

[*Translation*]

ORDERS OF THE DAY

CRIMINAL CODE
YOUTH CRIMINAL JUSTICE ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Sinclair, seconded by the Honourable Senator Campbell, for the second reading of Bill C-75, An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts.

Hon. Pierre-Hugues Boisvenu: Honourable senators, I rise today to speak as the official opposition critic of Bill C-75, An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts.

This bill was presented to Canadians as a historic reform, one meant to reduce delays in the justice system. As we take a closer look at this nearly 200-page omnibus bill, and as we discuss it with defence lawyers, Crown prosecutors and victims, we're hearing a lot more criticism than positive comments. When we talk about it with people who work in the courts, we mainly hear negative feedback.

As the father of a victim of crime, I want to say how disappointed I am with the way this bill has been fast-tracked by the government leader in the Senate, Senator Harder. As the critic of the bill, I have the right to a briefing from the Department of Justice. It is not a privilege, it is a right. However, I had to request the briefing myself, and I didn't get it until yesterday, a mere 24 hours before I could read the bill, because nobody on the government side thought to suggest it to my office.

I asked the officials I saw yesterday some questions, but I obviously didn't receive any answers given the short timeframe. As an advocate for victims of crime and their families, you will understand that I take this bill very seriously. This bill is going to have an impact on human lives. I'm thinking in particular of the victims of crime, sexual assault, terrorism and, above all, the victims of domestic abuse. I'm thinking of the family members of people who are murdered, kidnapped or have gone missing, who I supported after the death of my daughter and who I will continue to support.

First, the bill is supposed to reduce delays in the justice system. The last time I asked the bill's critic, Senator Sinclair, a question, I wanted to know how many vacancies there were on federally appointed court benches. He wasn't able to give me an answer at the time, but it would've been far from reassuring. On February 1, 2016, there were 27 vacant seats; on July 1, 2016, 41 vacant seats; on August 5, 2016, 44 vacant seats; on June 1, 2017, 53 vacant seats; on May 1, 2018 61 vacant seats; on

December 3, 2018, 55 vacant seats; and on March 4, 2019, 61 vacant seats. Instead of improving, as was promised by the Liberal government, the situation continued to deteriorate. In short, this so-called reform was drafted when federal judges were working under constant and intense pressure due to the dwindling number of judges.

Second, the bill is meant to modernize and simplify the bail system. Proposed amendments to the bail system will incorporate a principle of restraint for police and courts in order to favour release as soon as possible. There are times when police are outraged when criminals are able to return to the comfort of their own homes after being arrested for serious crimes. I'm very worried for public safety if this bill passes.

Unfortunately, this fine promise could end up making life even more difficult for victims. This bill would allow more accused persons to be released while awaiting trial. This makes the legal process even more tragic, painful and traumatic for victims of domestic violence, victims of sexual assault or for the parents of a child who was sexually abused. Put yourselves in the shoes of these victims for just one minute. Think about how it would discourage victims from reporting if they knew that their attackers could be released after being arrested. Reporting rates for these crimes are already among the lowest. The government is trying to shorten wait times by limiting the number of criminal prosecutions, and I find this outrageous. It completely ignores the victims' experience.

As such, under Bill C-75, victims will have even less of a voice and criminals will have more rights than victims do. Reporting rates will decline, especially in marginalized, Indigenous and lower-income communities because it will become even easier to get bail in communities where everyone knows each other, including the victim and the offender.

Thirdly, it is argued that this bill represents a step forward in dealing with domestic violence. The proposed addition of paragraph 515(6)(b.1) would reverse the burden of proof for anyone accused of an act of domestic violence and has been previously convicted of another act of domestic violence. At first glance, that is encouraging. However, upon closer look at this paragraph, it means that a victim will only benefit from reverse onus, transferred to the accused, in the case of recidivism and only for very specific acts of domestic violence. Once again, the government is protecting abusers rather than the victims of domestic violence.

• (1500)

Senators, Nancy Roy, President of the AFPAD, was with Bruno Serre, the father of Brigitte, who was murdered in 2016, when she said that "the victims of domestic violence do not get a second chance."

If there must be a first conviction for domestic violence to reverse the burden of proof, if we have to wait until a criminal has beaten, assaulted or confined a woman to be able to reverse the burden of proof when the second offence is committed, then I think we are on the wrong track. The victims of domestic violence know that the behaviour of their spouse or partner could escalate and that the second offence could be fatal.

This bill will also restrict the availability of preliminary inquiries to only those offences carrying the maximum penalty of life imprisonment. At first glance, it seems that such a measure would reduce delays. However, serious concerns have been raised by those who practise law, those who have to deal with not just the theoretical but also the practical implications.

In a March 2017 letter to federal Justice Minister Jody Wilson-Raybould, before she was demoted, the Canadian Bar Association described the cause and effect relationship between preliminary inquiries and court delays as "speculative at best." I would like to read part of that letter. It says, and I quote:

> The Canadian Bar Association Criminal Justice Section's (CBA Section) perspective on preliminary inquiries is based on our daily experience in courts across Canada as both prosecutors and defence counsel. Rather than being a source of court delays, preliminary inquiries save time and resources in superior courts. Before acting, we urge you to complete your careful and comprehensive review of the many challenges facing Canada's criminal justice system, taking advantage of current research and hearing from all justice system participants.

[*English*]

I would also add that only 3 per cent of matters proceed to preliminary hearings. Have victims been consulted on this? No. It remains a mystery.

From a Crown perspective, preliminary inquiries also allow the Crown to test the strength of its case and, oftentimes, mend unforeseen holes or difficulties in the evidence, resulting in a stronger prosecution at trial.

[*Translation*]

Fifth, Bill C-75 would reclassify more than 150 criminal offences. More specifically, more than 110 indictable offences will be hybridized. Some of the indictable offences that would become hybrid offences include defrauding the government, breach of trust and conspiracy.

By reducing the penalties for fraud and other white collar crimes, this bill would discourage the whistle-blowers from denouncing fraud. Take, for example, those who courageously denounced crimes in Quebec's construction industry. I remind senators of the infamous Michael Applebaum, the former mayor of Montreal found guilty of eight charges, including fraud against the government and breach of trust. Bill C-75 will make it possible for white collar criminals to get reduced penalties through summary trials and sentences of two years less a day.

Why reduce sentences for criminals like Michael Applebaum who steal from taxpayers and undermine the credibility of our institutions? There was also the notorious Bernard Trépanier, whom you probably know as "Mr. Three Per Cent." He was to be tried in two criminal cases related to the Quebec construction industry, one for his alleged involvement in the Faubourg Contrecœur scandal and the other for charges of fraud and corruption involving a municipal contracts kickback scheme.

Now the government is suggesting such criminals should receive more lenient sentences. That makes no sense at all.

Under Bill C-75, the subsection 139(2) crime of obstructing justice will become punishable on summary conviction and liable to imprisonment for less than two years. According to subsection 139(3), that covers dissuading a person by threats, bribes and so on. How does it make sense to be more lenient when it comes to crimes that undermine the justice system? Right now, a conviction for obstructing justice is liable to imprisonment for up to 10 years, and with good reason. Victims are being threatened or bribed so they won't testify. How is this change going to help victims and protect witnesses?

Cinar founder Ronald Weinberg was convicted of nine of the 16 charges he was facing, including fraud, forgery, uttering forged documents and filing a false prospectus. The false prospectus offence listed in subsection 400(1) is also among the offences reduced by a possible summary conviction. Do victims of white-collar fraud support these kinds of changes? I highly doubt it.

The forced marriage offence can have serious repercussions on victims. Imagine the young women and girls who are settling in our country. Where did this bizarre idea come from, this idea to reduce sentencing from a possible maximum of five years to two years less a day or a fine? I would refer you to section 293.1, forced marriage, and section 293.2, marriage under age of 16 years. To this day there are still Quebecers who are being threatened by their families, mistreated and sometimes forced into marriage in the name of honour. By reducing sentences to less than two years for forced marriage, this bill could send victims the wrong message. The abusive partner could be out of prison in no time at all. It's practically an invitation to not denounce the offender, once again.

Criminals involved in human trafficking and those who abuse young girls in the world of child prostitution will benefit from these new amendments. For example, the criminal use of false passports is often associated with the smuggling of illegal immigrants, human trafficking and international terrorism. The victims of these crimes are often traumatized for life. Why reduce the sentences for these crimes to less than two years and one day? The crime of material benefit, trafficking, is currently liable to imprisonment for a term of not more than 10 years. Why reduce the sentence for such a prevalent crime in the sordid world of the exploitation of young girls to less than two years and one day? Where is the logic in that? Where is the humanity in these amendments?

Bill C-75 proposes to change serious offences, such as the kidnapping of a child under 16 and kidnapping of a child under 14, into hybrid offences punishable by two years less a day. Put yourselves in the place of a parent going through something like this. How can we justify that this type of criminal may end up in a provincial jail and be paroled after serving one sixth of his sentence? Bill C-75 proposes reducing delays for federal courts by dumping the problems and criminals on provincial courts and prisons. Provincial jails are already overcrowded and, furthermore, they do not have the resources to deal with this type of criminality. This bill is simply setting criminals up to reoffend.

I was very upset when I saw that the offence of interfering with a dead body — yes, you heard me right, interfering with a dead body — was going to become a hybrid offence. This is a crime that can be associated with manslaughter. When I visited with the families of murder victims, I heard more than my share of this kind of horror story. How can the government explain its decision to make this offence punishable by a sentence of two years less a day or a fine, when the maximum is currently five years?

According to lawyer Kyla Lee, the provisions of Bill C-75 modifying the law in relation to bail hearings are "unnecessary, overbroad, and severely limit the rights of an accused person." She went on to say that "[t]he proposed amendments in Bill C-75 are both unconstitutional and unnecessary." The upshot is that defence lawyers will file lawsuits and legal challenges that will eventually wind up in the Supreme Court with declarations of unconstitutionality.

• (1510)

Sixth, Bill C-75 will drastically alter the jury selection process. The bill proposes to abolish peremptory challenges. Defence lawyer Laurelly Dale, who acted as counsel in *R. v. Kokopenace* in 2015, wrote in *Lawyer's Daily* that this case showed that the problem lies in the selection process, and therefore in the lists. Let me quote what she wrote:

> We ended up with a jury comprised of non-Aboriginals, not due to the peremptory challenges but because of the jury selection process. I agree, change should be made to our jury selection to ensure that it is truly a jury of our peers.

If Bill C-75 is meant to improve representation, it should focus on increasing collaboration with the provinces, which are primarily responsible for this component of the jury selection process. This also means that there is not much Parliament can do to address the issue of representation. It is therefore advisable to maintain a healthy skepticism towards federal legislation that seeks to change well-established legal processes in the name of "representation."

Seventh, the bill will expand judicial case management powers.

It is important to emphasize that key stakeholders, such as the Criminal Lawyers' Association, were not consulted about Bill C-75. I am still waiting to find out which victims were consulted. This bill is also supposed to improve the approach to administration of justice offences, including for youth, but, upon closer inspection, it turns out to be a step backward.

That concludes my presentation on Bill C-75, which I believe the government drafted hastily, ostensibly to reduce delays, create a more inclusive process for victims and better protect women from conjugal violence. I believe this bill will do the opposite. What worries me most is the conjugal violence element. The notion that reverse onus should depend on how many victims the accused has is unacceptable in this country. I don't understand it. When we asked the Department of Justice official about this, we got a political answer. If any amendment is to be made to this bill, it should be this one: every time a woman

is assaulted, the abuser must prove that he is no longer dangerous. To do otherwise is to condemn women to death. Thank you very much.

Hon. Senators: Hear, hear!

[*English*]

Hon. Donald Neil Plett: Honourable senators, I would like to say a few words on Bill C-75. My comments will be centred a little bit around agreements that were made on Bill C-75, but they will nevertheless be in the context of this particular bill.

This morning, honourable colleagues, Senator Smith came to my office and asked what kind of an agreement I had with Senator Harder on Bill C-75 and Bill C-85. I said that the agreement was that we would make sure these bills would be spoken to this week, and we would then let them go to committee. Senator Smith told me that Senator Harder's impression of our agreement was different than that; that these bills would both be spoken to today and they would go to committee.

So we decided we would go and see Senator Harder. About a quarter to 12:00, we went into Senator Harder's office and had a discussion. Senator Harder assured me that I had absolutely promised that this would be done today and both bills would be spoken to. I said, "Well, I'm sorry. That's not my understanding. My understanding was this week."

He said to me that if I did not do it this week — if it wouldn't be done today, he would be bringing forward a programming motion. We had a discussion. I may be a bit of a hard nut sometimes, miserable and not easy to get along with, but I said, "Well, one thing I pride myself on is being a man of my word, and if I commit myself to something, I will follow through with that."

Senator Harder, you are of the opinion and believe that I said today that I would speak to my colleagues and see if we cannot get them to speak today. Now, as evidenced by the speech we just heard, Senator Boisvenu agreed to that. Senator Frum also agreed to speak to Bill C-85. I said to Senator Harder, "I will further report to you when we come back into the chamber." He said, "That's not good enough. I want to know ahead of time." I said, "Okay. Will you be in your office?" He replied, "You can text me and let me know." I said that was okay. "But I want to assure you, Senator Harder, I believe I'm a man of my word and I will try."

At 12:15, from our caucus meeting, I texted Senator Harder. My text was:

> We will speak to both 75 and 85 today.

Senator Harder texted me back within the same minute. It says 12:15.

> Don, in the spirit of transparency and the commitment I made at our last meeting —

— the commitment that Senator Harder made, he says right here —

> — this morning, I have had further discussions with other leaders and will be proceeding with a programming motion this afternoon —

— a programming motion that has probably never been seen in 150 years of this Senate.

Colleagues, I believe if we want to be collegial and if we want to collaborate, if we make deals, we keep deals. A few weeks ago, we had this same conversation when I made a deal with Senator Harder on I believe Bill C-55 — I'm not entirely sure — and Senator Harder came in here and served a notice of motion that same day. That, colleagues, is not the way to do business. Whether we agree politically or not, we need to be honourable and men and women of our word.

Some Hon. Senators: Hear, hear!

Senator Plett: To do what we saw here today is anything but keeping our word. I am offended and astounded beyond belief that my good friend Senator Harder would do what he did today.

Before I lose it completely, I will stop there. I will simply take the adjournment of the debate in my name.

The Hon. the Speaker: We have an adjournment motion on the floor.

Senator Woo, do you have a question?

Hon. Yuen Pau Woo: I have a question for Senator Plett.

The Hon. the Speaker: Senator Plett, would you take a question?

Senator Plett: Certainly.

Senator Woo: Senator Plett, can you recount to the chamber what discussions you've had with me or with any of my leadership team, representing the largest group in the Senate, on these arrangements you purportedly made with Senator Harder?

Senator Plett: I would be very happy to, Senator Woo. I have had no discussions with you because, quite frankly, you are not representing anybody. You are representing, by your own admission, 58 independents. A group of independents is an oxymoron: You're either a group or you're independents. We are the official opposition. Senator Harder is the government. So why would we have any conversations at all with a group that has no entity?

Please, you asked me to answer your question. I'm still answering.

Senator Day is representing an organized group who, quite frankly, probably on October 31 will be the official opposition because we'll be the government.

• (1520)

Some Hon. Senators: Hear, hear!

Senator Day: That's sort of bittersweet, isn't it?

Some Hon. Senators: Oh, oh!

Senator Woo: Senator Plett, did you also speak with Senator Day? And, if you can also clarify, is there a leaders' meeting, so-called, every Tuesday? Senator Smith is there, Senator Day is there, Senator Harder hosted a meeting and that I am part of that meeting as well.

Senator Plett: Well, quite frankly, no, I cannot confirm what kind of meetings you, Senator Smith, Senator Harder and Senator Day had. I can confirm what kind of meetings I've had with Senator Smith and Senator Day. So if you have a leaders' meeting, that is fine. You asked me what I did. Regarding my meeting with my leader today, together with my leader, we went to the Leader of the Government and had a meeting and got commitments. The day, Senator Woo, that you can commit your caucus to things, our caucus will be happy to start having those meetings.

Senator Woo: Can you tell us what Senator Smith told you, then, from the leaders' meeting, at which I was at and at which items were discussed around the scheduling, including the programming motion that you seem so surprised by?

Senator Plett: Again, Senator Woo, no, I cannot tell you exactly what Senator Smith said in my office about the programming motion because I'm not sure that he did. But Senator Harder did. Senator Harder promised that he would not bring in a programming motion. Again, Senator Woo, you have nothing to do with the programming motion. It has been done by Senator Harder and the government. They brought in the programming motion. So what conversations you had with anybody else in this chamber is irrelevant.

Hon. Frances Lankin: Senator Plett, I understand the vigour with which you are arguing to defend that you are a man of your word. I know when people are accused of something at a personal level, even by inference, by the events that have taken place, that can be taken to heart very seriously. I see you, in fact, are in that space.

I think there's an issue of bifurcated leadership that's a problem with communications. Irrespective of these particular motions that will be coming forward, your statement that you're always a man of your word — and I think for the most part you are — isn't in accord with my experience with you with respect to the *O Canada* bill and the months of discussion we had and the number of times you made commitments to me which you failed to follow and the final end of it, where you said to me: "You didn't really believe me, did you, senator?"

We have a jovial relationship around these things, but, please. There's a lot going on in Ottawa these days that rises to the level of sanctimony beyond belief from what I'm seeing. There's a bit of that in what you're saying today. I suspect my question to you would be, "Would you agree?" Your answer would be "no," but I want that on the record.

Senator Plett: I hope there's no danger of my running out of time before I can adjourn this.

Senator Lankin, I will probably say "yes" to that. I am sure there have been times when I have failed. As Senator Harder pointed out to me today, I told him one thing and he understood something else. So I said, "If that's what I told you, let me change that." So I did. Senator Lankin, I remember much of the anthem bill and our discussions. I don't believe that I ever lied to you then, and I don't believe that I have lied in this chamber.

Hon. Leo Housakos: Senator Plett, maybe you can clear up some things in my mind that are confusing for me. First and foremost, will you agree, Senator Plett, that in the decade that we've been in this chamber, I have never seen a motion like this, which is time allocation on steroids. That's the first question.

Second, we're arguing about semantics here with the Leader of the Government-appointed ISG group and the government leader that has been appointed by the same government about whom you have negotiated with, when the reality of the matter is, it seems to me, Senator Plett, that they both agree with the motion. The problem isn't the motion for them; it's who you're negotiating with.

Can you clear all this discrepancy up for me, because it's a bit confusing, as I'm sure it is for the Canadian public.

The Hon. the Speaker: Senator Plett, before you respond, there's only a notice of that motion given so far, so it's inappropriate to discuss the motion. You can answer Senator Housakos' question with respect to anything other than debate on the motion because as of yet there's only been a notice given.

Senator Plett: I apologize if I didn't understand all of that, Your Honour. I will briefly try to answer Senator Housakos' question.

The answer to your first question is in the 10 years I have been here, there has never been a notice of motion for a motion given like we just heard here today. I suspect in 150 years that hasn't happened.

Regarding your second question, insofar as negotiation is concerned, I think I have said to Senator Woo — and I respect Senator Woo as an individual and as an honourable senator very much — that I do not agree with the fact that they are any type of an organized group. Thus, I do not believe that we, as the official opposition, need to negotiate with them unless the honourable senator wants to become part of the government caucus, which, as I've been told sometimes, "Don, your fig leaf is getting rather small." That might be said here in this particular case, too.

The Hon. the Speaker: Honourable senators, we have a motion to adjourn. It was moved by the Honourable Senator Plett, seconded by the Honourable Senator Wells, that further debate be adjourned to the next sitting of the Senate.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

(On motion of Senator Plett, debate adjourned, on division.)

DIVORCE ACT
FAMILY ORDERS AND AGREEMENTS ENFORCEMENT ASSISTANCE ACT
GARNISHMENT, ATTACHMENT AND PENSION DIVERSION ACT

BILL TO AMEND—SECOND READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Dalphond, seconded by the Honourable Senator Coyle, for the second reading of Bill C-78, An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act and the Garnishment, Attachment and Pension Diversion Act and to make consequential amendments to another Act.

The Hon. the Speaker: Honourable Senator Dasko, I will remind you that you have about four minutes before we go to Question Period, at which time, unfortunately, I will have to interrupt you.

Hon. Donna Dasko: Honourable senators, I rise to speak to the objectives of Bill C-78, An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act and the Garnishment, Attachment and Pension Diversion Act and to make consequential amendments to another Act.

I commend the government for bringing this bill forward. Opening the Divorce Act for significant reform is rare. This is only the fourth time in 50 years that we have taken this step.

Before delving into the specifics of this bill, I urge honourable senators to take a step back from the words on the page. Bill C-78 is a point on an arc, a continuation of fundamental shifts in how we understand and approach marriage and its break down.

Marriage and divorce provide an excellent mirror of the changing social values that have changed Canadian society forever. As late as the 1960s, marriage was seen as a lifelong unbreakable bond, with strong religious sanctions. Divorce was rare and difficult to achieve. While this institution provided comfort and stability for many, for others it meant a life of unhappiness and entrapment.

But all of that was about to change as a result of two revolutions. The baby boom generation and its values — those being suspicion of authority, desire for personal fulfillment and a desire to control one's destiny — eventually came to dominate, and traditional marriage as we knew it was doomed.

The second revolution, the movement for women's equality, demanded fairness for women and an active recognition of women's contributions to society.

Who can ever forget the story of Irene Murdoch, the Alberta farm wife who was told by the Supreme Court of Canada, in 1973, that she did only what was expected of a wife, and that her claim for a share of the family ranch had no merit. Her case was a catalyst for family law reform and substantial changes to marital property laws in virtually all provinces in the following years.

At the federal level, the 1968 Divorce Act was the first major step ending state protection of marriage. It made divorce equally available to husbands and wives. It established a no-fault ground for ending a marriage, introducing the concept of permanent marriage breakdown as a ground for divorce. The 1985 revisions to the Divorce Act continued changes to the grounds for divorce, as well as to spousal support. The 1997 revisions focused on child support.

• (1530)

In 2005, Canada became the fourth country in the world to legalize same-sex marriage, and same-sex adoption is legal in all provinces and territories under varying rules.

We have other considerations as well. Over the course of the last 50 years, the rights framework has been enhanced in major ways. We must understand and apply international rights obligations, including the 1979 Convention on the Elimination of All Forms of Discrimination against Women, and several Hague conventions concerning the rights of children. We must understand and apply our own Constitution and its Charter of Rights and Freedoms.

We have learned a great deal about families and family law in these decades. Our society has changed and our human rights obligations have changed. I think we are now in another sweep of social change that involves confronting violence in all its forms, which brings me to Bill C-78.

I thank the Honourable Senator Dalphond for his excellent overview of Bill C-78. I fully support the objectives of the bill, which are to promote the best interests of the child, to address family violence, to reduce child poverty, and to make our family justice system more accessible and efficient.

Honourable senators, we can build on these important objectives. We can improve the bill, particularly with respect to addressing family violence and the related harms to women and children. And since the Divorce Act is our most used federal law, it behooves us to make it as good as we can.

I bring my own experience and knowledge to this and note that I am a director of the Women's Legal Education and Action Fund, an organization with expertise on women's equality rights.

The Hon. the Speaker: Excuse me, Senator Dasko.

Honourable senators, I understand the minister has been slightly delayed. Is it agreed that we continue with Orders of the Day until the minister arrives?

Hon. Senators: Agreed.

Senator Dasko: Thank you.

In reviewing this bill, however, I am puzzled by two omissions with respect to gender equality and analysis.

First, the Charter statement tabled by the Minister of Justice on May 22, 2018, with respect to Bill C-78 is silent on how it meets section 15 of the Charter, the equality rights section. Thus, we do not have the benefit of the government's analysis on how Bill C-78 addresses substantive equality.

Second, the government has not provided any GBA+ analysis of Bill C-78. We cannot continue to talk about the importance of gender and intersectional analyses and then fail to do these analyses, let alone fail to act on what they tell us.

I urge the committee studying Bill C-78 to take particular care to consider the extent to which the bill meets or does not meet our Charter obligations, as well as our international obligations mentioned earlier.

The Divorce Act creates a framework for the overall system. It provides direction for judges to apply in specific cases. Most couples decide for themselves how they will share parenting of their children after marriage breakdown. Although the Divorce Act is the most used federal law, litigation of parenting rights is relatively rare. However, the most complex and high-conflict cases are often decided by judges. It is our job to make sure that the governing legislation gives clear direction to the system overall and to judges in deciding specific cases.

Honourable senators, I propose that there are four ways we can ensure that Bill C-78 meets its objectives. My first point is that we should fully uphold and protect the primary direction set out in the bill. Clause 12 of the bill adds a new section 16 to the Divorce Act:

> The court shall take into consideration only the best interests of the child of a marriage in making a parenting order or a contact order.

Our colleague Senator Dalphond has noted that this is a foundational legal principle in both Canadian and international family law. The strength of this test, which we have had since 1985, is that it clearly puts children, not parents, at the heart of the decision.

Senator Dalphond has pointed out that the bill does not include a presumption in favour of joint custody, as it is sometimes called, or a presumption in favour of equal shared parenting. I fully support this decision to reject introducing such a presumption.

If we went the route of presumption of equal shared parenting, in every case parents would share parenting and parenting time equally, unless one of them could show that there were reasons why the other parent should not have equal entitlement. This would make the best interests of the child secondary. The dynamics between parents would drive the court's focus, time and resources.

Bill C-78 importantly adds new and specific direction to judges on what to consider in deciding on the best interests of the child. Proposed subsection 16(3) provides an extensive list of 11 factors for judges to consider when making parenting orders. For example —

The Hon. the Speaker: Sorry, Senator Dasko. The minister has arrived. I apologize; I will have to interrupt. You will be given the balance of your time following Question Period.

QUESTION PERIOD

Pursuant to the order adopted by the Senate on December 10, 2015, to receive a Minister of the Crown, the Honourable Catherine McKenna, Minister of Environment and Climate Change, appeared before honourable senators during Question Period.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, please welcome the Honourable Catherine McKenna, Minister of Environment and Climate Change.

Honourable senators, we will revert to the original agreement with respect to ministers for Question Period. The Leader of the Opposition will be granted one supplementary question. All other senators will be given one question only. If you have a supplementary or a second question, you will be put on the list if there is time permitting a second round.

I would ask senators to please be brief in your questions. We have a long list of senators who wish to ask the minister questions today. One question per senator.

MINISTRY OF ENVIRONMENT AND CLIMATE CHANGE

IMPACT ASSESSMENT BILL

Hon. Larry W. Smith (Leader of the Opposition): Good afternoon, minister. My question for you today concerns Bill C-69, which is currently before the Standing Senate Committee on Energy, the Environment and Natural Resources.

The lack of information regarding the project list continues to be a serious source of concern for provinces and industry. Types of projects previously excluded from the federal designated project list include in situ oil sands projects and offshore exploration wells. Are they still included? We do not know.

The committee recently heard from Minister Pedersen from the Manitoba government. He said that the provincial Deputy Minister of Intergovernmental Affairs and International Relations

was invited to a closed-door meeting with federal officials sworn to secrecy before he entered into the meeting and given a short draft project list. He was not allowed to memorize it, copy it or otherwise share it with anyone else.

Clearly a project list of some sort exists somewhere, minister. Why can't the list be made more widely available? Why is it being shown in such a piecemeal fashion? And how have you determined which provinces and industry groups can see the draft list while others may not?

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: Thank you very much for the invitation to appear today, senators. I'm pleased to attend Senate Question Period for my third time, and this is the first time I'll be appearing for a televised session. It's nice to see all of you back in Ottawa. We're working on the weather.

I'm sure you're all pleased to note that since yesterday, it is no longer free to pollute anywhere in Canada. I'm sure all senators will want to join in the effort to take serious action on climate change.

With respect to your question, senator, the government is taking the time to get the project list right. We've been consulting on the project list and the activities designated that would be subject to regulation. Under a typical parliamentary process, a regulation would not be released for comment until the bill receives Royal Assent. However, the government sees value in consulting the project list before the legislation receives Royal Assent so that changes can be made as required to ensure that good projects go ahead.

Technical work to develop the regulations is ongoing. Government is developing a criteria-based approach to revising the existing project list. The project list aims to make it clear for everyone whether a project is subject to a federal impact assessment, providing clarity and certainty that both Canadians and companies need and expect.

The goal is to establish clear criteria and transparent processes to periodically review and update the project list to ensure that projects with the greatest potential to cause effects in the areas of federal jurisdiction are assessed. The Government of Canada sought public comments from February 8 to June 1, 2018, to seek Canadians' views on the proposed criteria to revising the project list prior to any formal changes being made to the regulation. Technical science and evidence-based analysis continues to shape advice on these matters.

• (1540)

This is a very different approach than was taken under CEAA 2012, where there was no consultation at all on the project list. We believe that this is an important way forward. We need to hear from Canadians, and we need to get it right.

Senator Smith: Thank you, minister. Just as initial feedback, when the cannabis bill was presented, one of the questions we raised was the incomplete regulations. "Trust us. We'll do the regulations once the bill has passed."

It would be very helpful if people are informed, especially with the size and opportunities of these projects, to have those pieces of information available before legislation is passed.

According to *Global News*, your colleague Minister Morneau told an audience in Calgary last week that amendments to Bill C-69 are happening because of consultations, presumably including those involving his chief of staff who attended, together with Senator Mitchell, a meeting involving industries impacted by the bill.

I guess it leads to the question: Who is in charge of this bill?

Ms. McKenna: Thank you, senator, for your question.

We consult with everyone. We think it's extraordinarily important that we get this right, and that's why we consult with provinces and territories, Indigenous peoples, industry and environmental groups.

We're going to continue to do this. It's extremely important. We need to get a system that has the trust of Canadians but also ensures that good projects go ahead in a timely fashion. That's what we're doing.

Let's be clear about how much consultation has happened. We first introduced the interim principles in January 2016. It was right after I came back from the Paris climate negotiations.

We then had two House of Commons committees. We had two expert panels. We then brought together a report that we consulted on, and we have continued consultations because we think it is extraordinarily important. It's a team effort, and we certainly take all of the input seriously.

I have great faith in the senator who is leading this, and I believe we will get to legislation that is going to make a real difference in making sure that we can get good projects going ahead in a timely fashion, making sure decisions are based on science and evidence, and with proper consultation and accommodation with Indigenous peoples.

Hon. David Tkachuk: Minister McKenna, I'm going to follow up on Senator Smith's question about Minister Morneau, because he said in that speech in Calgary that he is considering amendments to Bill C-69, and I believe he was representing the government or himself, I'm not sure. His chief of staff, Ben Chin — I've heard that name before — has met with industry about amendments to Bill C-69, along with Senator Mitchell.

I'm going to be more specific: Are you still the lead minister on Bill C-69, and when can we hear from you regarding the amendments to Bill C-69 that you will consider?

Ms. McKenna: Thank you, senator. Yes, I am the lead minister on Bill C-69, but we are governed by cabinet. The environment and the economy go hand in hand, and I certainly work extremely closely with the Finance Minister, the Minister of Fisheries and Oceans, the Minister of Transport, and the Minister of Indigenous and Northern Affairs.

It is extremely important. This is broad-ranging legislation. We need to make sure that we get it right. We need to receive the proper input from industry. We need to hear the input from Indigenous peoples, environmentalists, provinces and territories, and Canadians.

We're working extremely hard, and I'm confident that we will get this right, with the Senate's help. If there's need for amendments, we are open to that. We need legislation that will ensure that we take advantage of the opportunity of getting good projects going ahead and creating good jobs across this country, but of course, in a way that has the trust of Canadians.

[*Translation*]

COASTAL EROSION

Hon. Joseph A. Day (Leader of the Senate Liberals): Good afternoon, minister, and thank you for being here this afternoon.

[*English*]

My question is with regard to the effects of climate change particularly being felt in the Atlantic region.

As a senator from Atlantic Canada, I have the privilege to represent a region with some of the most iconic and breathtaking landscapes in all of Canada. Its natural beauty is not only important to those who live there but to tourism, and it's a sense of pride to all Canadians.

The shore along the East Coast is one of our main attractions, and off those shores is a very important fishery that is suffering. Scientists are warning that the warmer climate in the north Atlantic will result in rising water levels, increased flooding, and the erosion of our shorelines. We have seen record flooding already along the Saint John River last spring and its huge devastation. Many people were forced to leave their homes.

Could you tell us, Madam Minister, what your government is doing to work with the governments of New Brunswick and the other Atlantic provinces to better protect our shorelines?

[*Translation*]

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: I appreciate your interest and your work, senator. It is very important that we all work together, with the provinces and territories, to tackle climate change.

[*English*]

You're right. There was a report that just came out that talked about coastal erosion, which is a huge issue, as you know, threatening people's lives and livelihoods. Also, ocean acidification is a huge issue with a warming climate.

We had a report that came out just yesterday that you probably saw, talking about how Canada is warming at twice the global average.

It's imperative that we work together, both on mitigating climate change, but also when it comes to adapting to climate change. If we don't think about the communities and the people in New Brunswick on the East Coast and across the country, we will see more flooding.

The Insurance Bureau of Canada now estimates that the costs of climate change have risen from $400 million a year in insured costs to sometimes over $2 billion for a particular incident. So we're paying the costs of climate change right now. It's only going to increase. We need to be taking ambitious action.

I'm proud of the Government of Canada's plan to tackle climate change, to work with the provinces and territories, Indigenous peoples, municipalities from coast to coast to coast, businesses, hospitals, schools and Canadians. We have no choice. It is the most serious challenge we face, not just to our environment but to our economy.

CLIMATE PLAN

Hon. Yuen Pau Woo: Minister, thank you for coming back to the Senate. If I could follow up on your reference to the report yesterday that Canada is warming at twice the global rate.

Perhaps you could comment on what that report means for the government's climate change action plan. It's clear that we're not doing enough.

How has it changed your thinking on the current targets and the means and tools you put in place to try and curb our emissions to keep global warming at a manageable level?

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: Thank you, senator, for your advocacy on this issue.

This report is sobering. I don't think it's a surprise. Last year we had a UN report that talked about what we're seeing internationally, but now we see the facts here.

The impacts of climate change are extraordinarily significant right now, but we have a choice about whether or not we're going to take really ambitious action on climate change and try to mitigate the greatest impacts of climate change. The impacts will be paid for by our children, grandchildren and future generations.

We have a climate plan. It gets us three quarters of the way to our target. We are talking about a target in 2030. We do need to be doing more, but we need to be landing the key elements of our plan.

I will say it is great that it is no longer free to pollute across the country, but it is extraordinarily disappointing to see Conservative politicians of this generation who don't support one of the most effective actions that we have: putting a price on pollution so that is no longer free to pollute.

I've had many conversations with former Prime Minister Mulroney. He used a price on pollution to tackle the biggest challenge I faced growing up: acid rain.

I was extraordinarily worried as a child. I remember doing a project on acid rain. I was worried about our lakes and rivers literally dying because of pollution. But guess what? It was solved by putting a price on pollution. It was cheaper and faster, and Canadian companies found the solutions. It is a great example.

The other day I was speaking with Arnold Schwarzenegger, not just the "The Terminator" but the former Republican Governor of California who brought in a price on pollution. Guess what? It works in California.

• (1550)

They have reduced their emissions. The have one of the fastest growing economies in the United States and they have a vibrant clean tech sector. He was proud that not only did we put a price on pollution, but we did it in the most conservative, small c conservative way possible by returning the revenues directly into the province — 90 per cent to people, 10 per cent to businesses, schools, hospitals and universities.

We need to take action on climate change and we need to be more ambitious. I wish that we could do it in a bipartisan way because it doesn't matter in if you're a Liberal or Conservative r from any other party. It does not matter if you live in the north or the south, in the city or a village. We're all being impacted by climate change.

IMPACT ASSESSMENT BILL

Hon. Howard Wetston: I'm behind you, minister. I'm often behind whoever is speaking, given where I sit in the Senate. Bittersweet.

Minister, I wanted to just follow up. Obviously, a number of questions here are around Bill C-69. I think you probably agree, as I think we all would in the Senate, that it's imperative in Canada to have a robust, predictable, timely and transparent federal impact assessment process.

In considering Bill C-69, we've heard that greater clarity, predictability and reduced litigation risk would be desirable. It can't be avoided, but it would be desirable to reduce it.

The Standing Senate Committee on Energy, the Environment and Natural Resources havs now heard from over 25 witnesses, including government officials. Many stakeholders have presented an extensive number of amendments for the committee to consider. I appreciate the fact you've recognized that where appropriate amendments can be proposed, the government would consider them.

My question goes back to the current law, CEAA 2012. If this bill is passed, it will become law. I would like your opinion or point of view on why you believe this bill is a more effective policy vehicle to obtain the goals of a predictable, timely, and transparent impact assessment process.

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: Thank you very much, senator. I think you're a leader at the front of the pack on many issues. Unfortunately, CEAA 2012 gutted the existing system. It was done without consultation. It was jammed into an omnibus bill and we are paying the consequences right now. We have polarization. It's extremely difficult for many major projects to go ahead and we do end up in court. We end up with people protesting. You're not always going to get everyone on side, but surely we can do better. Also, we can do better with the public trust and in terms of having a more timely system and a system with more transparency.

That should be what we are all striving for. Let's talk about Bill C-69. How does it improve on the previous bill? First of all, it went through a proper consultation process. I think we need to hear from everyone so that we can figure out how to improve the system right now.

When it comes to timeliness, a review now will take half the time. That is a good thing. We're also ensuring there is one project, one review. We heard from provinces and territories that sometimes we weren't aligning between the federal government and the provinces. There will be early engagement, which I think is very good for Indigenous peoples, to hear concerns and from the public at the outset. But it's also good for proponents because proponents are putting hundreds of millions or billions of dollars on the line.

An early engagement process will allow us to look at how we ensure we're aligning with the provinces and territories. It will now enable us to have, should it be wanted, a list of all the permits that are needed. It will allow us to look at the major considerations that need to be considered. I think that is a very important part of it. However, it is also ensuring that we're making decisions on good science. That is critically important, as is incorporating Indigenous knowledge — not as a nice to have but as a must have — and ensuring that when decisions are made, they're made in a transparent way.

One of the things I found extremely frustrating as minister is that we would be deciding on major projects, and it would be through a press release that we were trying to justify it. That is not the best we can do. It is explaining how we have proper criteria, we have moved to an impact assessment considering a range of factors, explaining how we got to that decision and looking at the economic benefit of the project before. We didn't consider the positive and negative benefits of the project across the board, including the economy. We need to be considering that as part of this.

I think it is a much better system. It's great if there are ways that we can improve it through the Senate process. I believe greatly in the importance of the Senate. I think that will enable us to take advantage of our natural resources in a responsible and a sustainable way, but also making sure that the public believes in the system, making sure that Indigenous peoples are true partners in this. I think this can be a model for the world.

[*Translation*]

Hon. Jean-Guy Dagenais: Minister, I have here a written communication from a senior official in your department dated January 28, 2019. It states, and I quote:

> The minister's office has asked us to prepare a list of questions on Bill C-69 to which we would like to proactively provide responses before the Environment Committee.

Later it continues:

> The minister's office will work with senators to have questions asked at committee.

A little later it adds the following:

> Maya will review the proposed questions tomorrow. Please read them over and send us your comments.

I'll refrain from questioning the so-called non-partisan work of your departmental officials, and instead focus on three questions. In preparation for your testimony here today, did you or staff in your office prepare questions for senators to ask so you could get your messages across? Is that practice exclusive to your department or, to your knowledge, do all ministers' offices prepare questions for certain senators? Lastly, can you provide us with a written list of the senators who received your questions and who are therefore acting as your staff's parrots?

I can provide you with the four-page document containing the questions if you commit to giving us the answers. The name of the interdepartmental task team leader is Jennifer Dorr.

Ms. McKenna: Thank you for your question, senator. I would say from the outset that I'm not a parrot. I don't read from notes except maybe on a few issues. I work very hard to be well informed on my portfolio and I'm pleased to answer any questions senators may have.

Yes, answers are prepared for me because I'm not an expert on every aspect of my portfolio. Of course I do my own preparations as well and I will be pleased to take any question from any senator. I will do my best to answer.

[*English*]

CARBON TAX

Hon. Denise Batters: Minister McKenna, Prime Minister Trudeau recently flew back and forth twice in one week commuting from his family vacation in sunny Florida to Ottawa to try and contain his government's huge SNC scandal. You might want to have a word with your leader because those corruption-induced cabinet shuffles sure do create one heck of a carbon footprint.

Minister, your government's carbon tax won't just squeeze middle-class Canadians at the gas pump; it will increase the price of everything, even flights for family vacations. A family of four flying from my hometown of Regina to visit Parliament Hill in Ottawa in 2022 will pay an additional $190. By 2030, they'll pay an extra $460 for those flights. That will ruin many family vacations.

Your government lauds its so-called rebate to Canadians under this carbon tax scheme but while you give pennies with one hand, you grab fistfuls of dollars with the other. By the time Canadians pay more for gas, groceries and for those flights because of your carbon tax, the rebates will be long gone.

Why won't you be honest how much your carbon tax sleight of hand will really cost Canadians?

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: Thank you, senator. I'm very happy to answer your question. We've tabled the documents in Parliament.

Let me give you an example: A family of four in Ontario will receive $300. They will pay $244. We believe in transparency. We have developed a system that makes sense, putting a price on pollution is the most effective way to reduce emissions. I'm proud that we have companies across the board that support this.

We have our Carbon Pricing Leadership Coalition, we have major energy companies that understand the importance of putting a price on pollution, consumer good companies, all five major banks, telecoms companies. The Nobel Prize winner in economics last year proved that putting a price on pollution works, and we have done it in the most affordable way.

• (1600)

Preston Manning supports putting a price on pollution. Brian Mulroney supports putting a price on pollution. Former Premier Charest introduced the cap-and-trade system along with California. Actually, if you go to my Twitter feed, you will see a video where Stephen Harper supports putting a price on pollution.

We understand that we need to be taking action to make life affordable and to create good jobs. That is exactly why putting a price on pollution is a key part of our climate plan. We're doing a number of other measures which are also important, but you cannot have a credible climate plan without having a price on pollution.

It's extremely unfortunate that it's been 337 days since the leader of the federal Conservative Party said they would have a climate plan. Unfortunately, we haven't seen one. If you don't have a plan for climate change in the 21st century, you don't have a plan for the economy.

[*Translation*]

CLIMATE PLAN

Hon. Serge Joyal: Minister, the conclusion of the report entitled *Canada's Changing Climate*, published yesterday by your department, is that the anticipated disaster is so significant that the current measures proposed by the government — including carbon pricing and shifting to a green economy — as commendable as they might be, won't be enough to offset ever-increasing greenhouse gas emissions, especially methane emissions from the melting permafrost in the Far North. It seems to me that what the government has proposed so far — and

which, in my opinion, deserves the support of Canadians, the provinces, and stakeholders — falls somewhat short of the kind leadership that the new generation, that young people, expect from the government to assure them that their future isn't at risk.

[*English*]

It seems to me that you have to be much more *audacieux*, much more inventive and much more creative because all of the indicators show that even the objectives that have been given by the government at the COP21 in Paris will be well below what, in fact, we should be aiming for.

In other words, you should not be fighting to defend what you propose. You should be fighting to propose what we needed that will go beyond the mere results that we will get with the carbon tax and all those other measures you have been repeating.

What will you say on the campaign trail to Canada's youth to convince them that they can trust you?

[*Translation*]

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: Thank you, senator. I appreciate your support for our government's ambitious climate action plan. It certainly is ambitious. We have the most ambitious plan of any federal government. Is it enough? No. We've taken more than 50 measures, making Canada a world leader. We're eliminating 40 per cent of methane emissions in the oil sector, something that no other country is doing. We're investing in renewable energy and putting a price on pollution. We're eliminating coal-fired electricity and making historic investments in public transit and in renewable energy. We certainly need to do more. I'd very much like to see Conservative parties across the country support our actions. It's difficult right now because they are saying things that are untrue and people are worried that life will become less affordable. That's why we have an affordable plan.

[*English*]

But I agree with you. We have to be more ambitious. That's why I have a sustainable finance task force. How do we transform the billions to trillions that we need? That's led by Tiff Macklem.

We just announced another climate change advisory committee led by two well-known environmental leaders in Steven Guilbeault of Quebec, and Tamara Vrooman, who is the CEO of Vancity. We have asked them to talk to us about how we can unleash more financing, in particular when it comes to the transportation sector, our built environment, our buildings and houses, because those are huge sources of emissions.

Internationally, we created the Powering Past Coal Alliance. It's not just about what we do in Canada. We desperately need countries to get off coal. Coal is absolutely the most polluting substance we can be using and we need to be figuring it out. That's why we're supporting countries and businesses that are getting off coal. We're making investments in developing countries so that in some cases they can leapfrog coal.

Absolutely, we need to do more. First of all, we need to implement parts of our plan and then continue, every single day, to strive to be more ambitious. As I say, it would be a lot easier if climate action was a bipartisan or multi-partisan issue so that we could have people understand that the transition to the future will include everyone, that we will be able to do it while creating jobs and that life will be affordable.

We are going to continue working on it through this mandate and we hope to get elected and implement it through another mandate.

But let's be clear that there is a Conservative Party that believes that we should do less rather than more and that it should be free to pollute across the country. That will increase our emissions dramatically. It is not the kind of leadership we need. It also puts fear in people who otherwise would support measures that make sense and work.

Hon. Frances Lankin: Minister, thank you for joining us today. Minister, as you will know, roughly one quarter of greenhouse gas emissions come from transportation, so in order for us to meet climate goals it will be necessary to shift to electric cars.

The 2019 budget sets out incentives for purchasing such cars, and with it we see a commitment to the necessary expansion of the network of charging stations.

The budget itself, with respect to that, sets out $130 million over five years starting this year, and it's to deploy new recharging and refuelling stations. It's a long list of places and at the end it says "and remote locations."

That's what I want to talk to you about today. More broadly, access to renewable energy, and specifically, electric vehicle charging stations, is currently overwhelmingly concentrated in urban areas. Canadians living not just in remote areas but in rural, remote and Northern communities have often come as an afterthought. As a senator from Northern Ontario, I believe that we are being left out of this transition. I'm pleased to see the commitment, but implementation will be key.

Here are my questions: Is the government putting forward a specific plan to address the unique needs of these communities? What commitments or targets will that entail? How will that be monitored, measured and reported on? And if a detailed answer can't be given today because these plans are still under development — and I would understand that — will the government provide us with this information before the budget bill reaches the Senate?

Ms. McKenna: Thank you very much, senator. I absolutely agree. We need to make sure everyone is part of the transition to a cleaner future and we need to be tackling emissions in the transportation sector.

When you look at what we've done, we've made historic investments in public transportation and vehicle efficiency standards. We are looking at how we can keep our ambitious vehicle efficiency standards even in the light of the potential decision by the U.S. administration federally to move backwards.

We've invested and we've made available an incentive of $5,000 for buying an electric vehicle. Unfortunately, Rob Ford's Ontario government removed the incentive to buy zero-emission vehicles in the province.

We are installing charging stations. It is a challenge in areas where there are longer distances. That's why having a charging network is so critically important. Luckily, the technology is transforming. We now see batteries in vehicles that are able to go longer distances and that are able to withstand challenging temperatures, but we need to continue to do more. We need to accelerate that. I think looking at public transit of all sorts will be extremely important. I recognize that there are unique challenges when it comes to rural and remote communities of all sorts.

Another commitment we have made is getting rural and remote communities off of diesel electricity generation. It will not necessarily get us a huge reduction in emissions, but it's just the right thing to do. There's a health issue, there's an economic opportunity and we can do better.

I'd be happy to have my office follow up with you to go into more detail to understand what more we can do to respond to the concerns and needs of rural and remote communities.

CARBON TAX

Hon. Paul E. McIntyre: Welcome back to the Senate, minister.

My question for you concerns your carbon tax, which came into effect yesterday, on April 1. As a result, gas prices in my home province of New Brunswick rose by 4.5 cents per litre, plus HST. This will certainly impact middle-class families and small businesses across my province.

• (1610)

As you know, the Provinces of Saskatchewan, Ontario and New Brunswick have challenged the constitutionality of your carbon tax before the Saskatchewan Court of Appeal, which has reserved judgment. I believe, as do many others, that this matter will ultimately end up in the Supreme Court.

Minister, don't you think you should have waited to impose your carbon tax until the courts have decided with respect to its constitutionality?

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: Thank you, honourable senator. Unfortunately, climate change isn't stopping. Climate change is accelerating. We need to take action. We have full confidence in the constitutionality of our action because climate change is a national concern and pollution doesn't know any borders.

We gave provinces a year to decide how they were going to price pollution, and the good news is that the great majority of provinces and territories did that. Unfortunately, provinces that were led by Conservative premiers decided to make it free to pollute and decided not to take advantage of the most efficient way to reduce emissions. As I say, it is a Conservative idea. It uses the market.

We've also done it in a way that makes sure most people receive more than they pay. In New Brunswick, a family of four will receive $256. That's more than the majority of families will pay, and they have the opportunity to save even more money if they look at more energy efficiency measures in their homes, such as smart metres, LED lights, better insulation or heat pumps. They can look at other opportunities for transportation like commuting with a group, public transit, if that's available, or an electric vehicle, for which we have a $5,000 incentive.

What we can't do is wait. We need to take action on climate change. This matter will end up in the Supreme Court, but we don't have time to wait. Climate is changing. We just had a report that says how fast it is.

CLIMATE PLAN

Hon. Mary Coyle: Welcome, minister.

The United Nations Climate Action Summit is scheduled for September 2019, which I'm sure you know well. The summit is said to be an opportunity to "showcase a leap in collective national political ambition." It is meant to accelerate actions to implement the Paris Agreement. How would you describe our Canadian national ambition in this regard, and what are the priority concrete measures Canada will take to accelerate our own commitments related to the Paris Agreement?

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: Thank you very much, senator, for your interest in this issue.

I think there are a number of ways that we have taken action and shown leadership. I think one of the most important is how we're addressing phasing out of coal. We have a Just Transition Task Force working with Alberta where we have actually gone to communities. We had labour representatives and business representatives going to communities and hearing the stories of workers and of those communities. If we want to be ambitious when it comes to climate change, we need to put people at the very centre of it. This is a lesson I've learned. It's great to have good policies, but you need to have people be supportive. It's actually a social justice issue.

I think one of the things that is incredibly important is making sure that every country phases out of coal as quickly as possible. To meet the Paris Agreement targets, we know that developed countries need to phase out by 2030, 2040 in China and 2050 for the rest of the world. To do that is going to require a great deal of effort. That is going to require ensuring a just transition where you are thinking about not just workers, but those communities. I think that's incredibly important.

I think there's a whole range of other measures that we've taken where we've shown leadership. Reducing methane by 40 per cent in the oil and gas sector may not sound like something really big, but it's a large reduction in emissions. It was something we agreed to with the Obama administration. Unfortunately, the federal U.S. administration backtracked on that. That's something we'd like to see internationally.

How do you put a price on pollution in a way that it's going to be sticky policy? It's extremely important that you can pass legislation, but as we've seen in other parts of the world, you can easily lose it with new governments. What I'm working really hard to do with a price on pollution is showing Canadians how you can do it in a way that makes life affordable but is also effective.

I know the world is watching. That is why I will continue working so hard to make the case for why it can no longer be free to pollute, how you can do it in a way that puts money in the pockets of people. The people who actually benefit the most have the lowest incomes because they pay the largest proportion of a small amount of money towards heating and other costs, so getting this money back will make a real difference.

There is a whole range of measures. I think one of the great things about the climate negotiations is that you have an opportunity to see what the world is doing.

I have also been extremely proud that we have had Indigenous peoples with us. We've pushed to recognize Indigenous knowledge, Indigenous rights and also an Indigenous peoples platform.

We all have a lot of work to do. Every time we go, we learn about other opportunities to do more as a country but also internationally as a world.

[*Translation*]

GENETICALLY MODIFIED SALMON

Hon. Éric Forest: Thank you for being here today, Minister. I wanted to ask you for the third time about Bill C-69 and how important it is for municipalities, but sometimes we have to shift our priorities based on current events. I can guarantee my colleagues that the question that I'm going to ask does not come from a national caucus. It's my question, and it has to do with the American company AquaBounty Technologies, which announced this morning that Environment Canada approved the first commercial production facility for genetically modified salmon in Canada. It will be located in Prince Edward Island. If I had found out about this yesterday, I would have thought it was an April Fool's joke.

The department ignored the precautionary principle and the opinions of consumers who overwhelmingly reject this technology and authorized AquaBounty to produce 250 tonnes of genetically modified salmon a year. Canada has thus become the second country in the world to authorize the commercial production of genetically modified salmon.

In my opinion, this decision will tarnish the image of the Canadian fishery in the eyes of our European partners. It is also of great concern to the Mi'kmaq and Maliseet communities in the Gaspé and Lower St. Lawrence, the senatorial division that I represent. This decision threatens their way of life. They are worried that genetically modified salmon will contaminate wild salmon stocks.

Why did the government approve the production of genetically modified salmon when Canada doesn't have mandatory labelling to help consumers make informed choices and when there's been no consultation about regulating the production of genetically modified animals for human consumption? I think that's a very important part of the process.

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: Thank you for your question, senator. It is within the purview of the Department of Fisheries and Oceans. I can only answer to issues within my own portfolio, but I will certainly pass your question on to the minister responsible.

[*English*]

The Hon. the Speaker: Honourable senators, the time for Question Period has expired. I know all senators will want to join me in thanking Minister McKenna for being with us today.

Hon. Senators: Hear, hear!

ORDERS OF THE DAY

DIVORCE ACT
FAMILY ORDERS AND AGREEMENTS ENFORCEMENT ASSISTANCE ACT
GARNISHMENT, ATTACHMENT AND PENSION DIVERSION ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Dalphond, seconded by the Honourable Senator Coyle, for the second reading of Bill C-78, An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act and the Garnishment, Attachment and Pension Diversion Act and to make consequential amendments to another Act.

Hon. Donna Dasko: I was completing one of four points on Bill C-78.

Bill C-78, importantly, adds new and specific direction to judges on what to consider in deciding on the best interests of the child. Proposed subsection 16(3) provides an extensive list of 11 factors for judges to consider when making parental orders. For example, proposed section 16 requires a judge to consider a child's views and preferences, to take into account the history of care of the child, to take into account the child's cultural and linguistic heritage, including Indigenous heritage, and to take into account any family violence, among several other factors listed. I support this approach completely, as it addresses the ambiguity inherent in the current legislation.

My second point is that proposed new subsection 16(6), titled "Maximum Parenting Time," is not consistent with the purposes of the bill. I argued earlier that we should not have an explicit presumption of equal shared parenting when it comes to parenting orders or custody. However, this section, as currently drafted, creates an implicit presumption of equal shared parenting.

How do we know that equal parenting would be presumed? We know it because it's already happening. In the current Divorce Act, the predecessor section, subsection 16(10), using a very similar title and words, has been interpreted as imposing joint-care parenting presumptions and supporting contact in all but the most extreme cases. Courts have ignored the direction to take into account the best interests of the child in allocating time. This undermines the best interests of the child and may also diminish issues of family violence.

• (1620)

The bill before us does not adequately fix this problem. However, the problem can easily be solved. We can simply remove the short subclause 16(6) from Bill C-78, or we can simply remove the word "maximum" from the title.

My third point relates to the topic of family violence. Bill C-78 represents a historic and substantive shift that we should welcome: For the first time, it makes family violence visible. The question is whether the proposed amendments go far enough in incorporating what we know about family violence. We know that the understanding of family violence is very uneven across the large family law system, including the courts. We are not yet at the point where all Canadians have access to specialized unified family courts.

Consequently, the bill should fill the dangerous vacuum that exists today, and explicitly tackle myths and preconceptions that we know arise in the application of the Divorce Act by judges and others. We should also avoid putting women and children to greater risk of violence through the design of the system.

Canada has a family violence problem. We have to work with the whole of what we know. Looking at self-reported data from the Statistics Canada 2014 GSS, women and men say they experience overall equivalent rates of spousal violence, at 4 per cent. However, that same survey establishes clearly that women are more severely harmed: 34 per cent of female victims report severe forms of spousal violence compared to 16 per cent of male victims.

The 2016 data on intimate partner violence reported to police show that the vast majority — 79 per cent — of reporting to police were women. Specifically, women accounted for 8 in 10 victims of violence by a current spouse, former spouse, current dating partner and former dating partner. Intimate partner violence was the leading type of violence experienced by women in 2016, and make no mistake about it: Family violence in a children's home is child abuse. Also, separation is known to be a time of increased danger for women and children.

The parliamentary record on this bill already contains well-founded and articulated proposals on the need to recognize how family violence is experienced when looked at through gender, diversity and Indigenous lenses. The definition of "family violence" in Bill C-78 should recognize the gendered and intersectional nature of violence and flow that through provisions.

I question how the new paragraphs 16(3)(c) and (i), relating to parental willingness and ability to communicate and work together, and proposed subsection 16.2(2), relating to day-to-day decision-making, will apply when there is family violence present. The government's failure to provide a GBA+ analysis of Bill C-78 is particularly troubling when considering the family violence provisions of the bill.

I see Bill C-78 as a significant test of our willingness not just to talk about substantive equality for women and children in all their diversity, but to deliver on it, however challenging that may be.

My fourth and final point relates to the provisions in clauses 7.3 and 7.7 of the bill. These place obligations on legal advisers to parties to encourage —

The Hon. the Speaker pro tempore: I'm sorry, senator. Your time is up.

Is it agreed, honourable senators, to grant five more minutes?

Hon. Senators: Agreed.

Senator Dasko: Thank you very much.

Although both provisions include a reference to appropriateness, that reference is vague and does not include adequate standards. As drafted, these could cause disregard for family violence or other laudable provisions of the bill.

In closing, I remind honourable senators that there was a time, as late as the 1960s, when senators themselves had to adjudicate individual divorces for Canadians in some provinces. The Senate Standing Committee on Divorce kept itself very busy looking at between 400 to 500 divorces per year.

Thankfully, we no longer have that responsibility, but we do have a responsibility to look closely. Bill C-78 is significant. We do not open the Divorce Act easily or often. Its provisions are fixed for generations of Canadians to come.

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

The Hon. the Speaker pro tempore: Do you have a question, Senator Lankin?

Would you accept a question, Senator Dasko?

Senator Dasko: Yes, I will.

Hon. Frances Lankin: Thank you very much, Senator Dasko. That was concise and informative. That's an art — a talent and an art — that I don't have.

I would like to ask you this: Your comments about weaving the gender analysis through — I couldn't agree with you more — but have you looked at the provisions of the bill to understand

how that would work or what you would recommend specifically? I'd like to get down into the weeds a little bit, from your thinking. I realize we'll hear more at committee, and that's the place we will be able to discuss it further, but your answer to that would be helpful to me.

Senator Dasko: Thank you, Senator Lankin. In looking through the testimony that was given by various witnesses in the House of Commons committee, I think there are a number of different ideas there as to how to weave it through the bill, especially the provisions around violence and the kinds of language that would be useful.

I think the witnesses there had different specific things to say but very useful. I can't describe all of those here, but I can refer you to the testimony of those witnesses. You'll see a lot of different ideas there, united by theme but different ways to approach the issue of gender recognition, especially in the violence part of the bill.

The best place is to take a look at those proceedings and get a sense of what they have to say. I don't think I can do justice to what they said. Thank you.

Hon. Yvonne Boyer: Honourable senators, I rise to speak to An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act, and the Garnishment, Attachment and Pension Diversion Act and to make consequential amendments to another act, which I will refer to as Bill C-78.

The bill is the first major reform of federal family law in over 20 years. Canadian families have changed significantly during this time, and Bill C-78 is a welcome and desperately needed update to an area of the law that deeply impacts the lives of Canadians going through divorce and especially children of divorce.

The former Minister of Justice identified four main goals of the proposed bill when speaking in the other place: promoting the best interests of the child, addressing family violence, reducing child poverty, and improving the efficiencies and accessibility of the family justice system. Senator Dalphond expertly outlined these goals in his speech a few weeks ago, so I will not address each one again. Instead, I would like to discuss one of these goals — family violence and, particularly, violence against Indigenous women, two-spirited persons and individuals who do not identify within a male/female gender binary.

Bill C-78 proposes a comprehensive but not exhaustive definition of "family violence." This proposed definition recognizes that family violence manifests itself in many forms, including physical assault, threats, and patterns of coercive and controlling behaviour. It recognizes that exposing a child to these behaviours, either directly or indirectly, also constitutes family violence.

However, as Senator Miville-Dechêne indicated in her speech on this matter, this definition fails to recognize that those who experience family violence overwhelmingly identify as women. The statistics regarding family violence against women are unsettling. According to a 2014 Statistics Canada survey, while approximately equal numbers of men and women reported family violence, women were twice as likely to experience severe forms of violence, including being sexually assaulted, hit, choked or threatened with a weapon. In addition, the survey indicated that family violence is more prevalent after a relationship has ended. Women reported that they experience family violence far more often after a relationship ended than those who reported experiencing family violence in a marriage or common-law relationship. Almost half of these women reported that the violence they experienced increased in severity after the relationship ended.

• (1630)

The statistics I have outlined indicate that Bill C-78's proposed gender-neutral definition does not adequately capture the reality of those who most often experience family violence. But I understand that the purpose of a gender-neutral definition is to acknowledge that men and nonbinary individuals also experience family violence. To exclude them from the definition would deny their experiences and exclude their voices. Yet, as Leighann Burns, Executive Director of Harmony House and a family lawyer with over 30 years of experience advocating for survivors of violence, testified in the other place, "using gender-neutral terminology — has the impact of erasing and obscuring the most pervasive form of violence that continues to be a cause and consequence to women's inequality." It is important that these issues be further analyzed at committee.

Colleagues, as I have outlined, men, women and non-binary persons have different experiences with family violence, and, as a result, family violence should be analyzed through a gendered lens. This lens must also be intersectional, as we've just heard. Women and non-binary persons are more vulnerable to family violence because of the intersections of their gender identity with other characteristics, including economic status, race, sexual orientation, gender expression, disability, religion, Indigenous identity, citizenship, age and geographic location. In Canada, Indigenous women and Two-Spirited persons are especially vulnerable to family violence.

In fact, the Statistics Canada 2014 survey indicated that Indigenous women were over three times as likely to report experiencing family violence than non-Indigenous women. In addition, half the Indigenous women reported being injured because of family violence, compared to 39 per cent of non-Indigenous women. Of these Indigenous women, over half reported experiencing severe forms of family violence. In addition, a recent study by the Department of Justice found that while 6 per cent of non-Indigenous mothers reported experiencing this, 16 per cent of Indigenous mothers had experienced it. Finally, almost one quarter of Indigenous women who participated in another study cited by the Department of Justice experienced post-separation family violence compared to 7 per cent of non-Indigenous women.

As Leighann Burns testified at committee in the other place, many of the ways that women experience family violence falls outside what might come to mind when one thinks of formerly used terms such as "domestic abuse" or "intimate partner violence." She testified that these tactics include monitoring and regulating activities of daily living, particularly activities associated with women's roles as mothers, homemakers and sexual partners. These targets of regulation and control may

include access to money, food and transport and how women dress, clean, cook or perform sexually. According to the Statistics Canada survey, one quarter of Indigenous women reported experiencing emotional or financial abuse by a current or former spouse, and those who experienced physical violence almost always experienced other forms of violence. A study cited by the Department of Justice also found that Indigenous women experience more coercive control than non-Indigenous women. A failure to adequately acknowledge these less stereotypical forms of violence therefore means a failure to adequately respond to the needs of Indigenous women who experience it.

The evidence indicates that Indigenous women often experience coercive control, especially regarding their finances and economic security. Family violence thus contributes to economic marginalization, which, in turn, thrusts them into situations that increase their vulnerability to family violence. As the Native Women's Association of Canada explains, "Violence is present through the cycle of poverty as a cause, result and barrier to escaping poverty." In a round table discussing the organization's Poverty Reduction Strategy, women recounted where they had to stay in situations involving family violence because of economic dependency. Ending the cycle of poverty for Indigenous women and their children thus requires addressing the prevalence of family violence they experience.

The vulnerability and high levels of violence Indigenous women experience in Canada is not a new conversation. Indeed, it is currently the subject matter of the National Inquiry into Missing and Murdered Indigenous Women and Girls. As family violence is the most frequent form of violence Indigenous women experience, Bill C-78 is an important opportunity to begin ensuring Indigenous women are protected from further victimization and receive justice for the family violence they have already experienced. We simply cannot wait another 20 years for an intersectional gender-based analysis of family violence.

Without such an analysis, we run the risk of excluding the voices of Indigenous LGBTQ2I and Two-Spirited communities. As the Native Women's Association of Canada explains, these groups exist "at the intersections of homophobia, transphobia and colonial racism," making them highly vulnerable to violence. Unfortunately, there is not a lot of research available in this area. However, 80 per cent of participants in a 2010 study in Winnipeg conducted by Janice Ristock and Art Zoccole reported they had experienced some form of family violence, so they should be given the opportunity to voice their experiences and perspectives.

Colleagues, to conclude my discussion of the need for an intersectional gender-based analysis of the family violence in the proposed Bill C-78, I would like to bring to your attention an amendment proposed at committee in the other place. This proposed amendment, put forward by the National Association of Women and the Law and Luke's Place, was endorsed by 31 additional organizations, including feminist legal organizations and organizations representing individuals from various groups vulnerable to family violence. They proposed the bill be amended to include a preamble acknowledging the diverse experiences and backgrounds of those who experience family violence. This preamble, they testified, would provide guidance to courts on how to interpret the legislation and understand the nuanced nature of family violence through an intersectional gender-based analysis. According to Leighann Burns, without such a preamble Bill C-78 will not go far enough to address family violence experienced by these women. I therefore urge the committee who studies this bill to consider the proposed preamble and invite the National Association of Women and the Law to provide more details on its efficacy.

Honourable senators, one of the responsibilities of the Senate is to give a voice to those who are often rendered silent in our legal system. Bill C-78 provides us an opportunity to ensure those voices cannot be ignored. I therefore support moving this bill to committee for further study and encourage my colleagues to do the same. Thank you. *Meegwetch*.

(On motion of Senator Martin, debate adjourned.)

CANADA-ISRAEL FREE TRADE AGREEMENT IMPLEMENTATION ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Wetston, seconded by the Honourable Senator Bovey, for the second reading of Bill C-85, An Act to amend the Canada-Israel Free Trade Agreement Implementation Act and to make related amendments to other Acts.

Hon. Linda Frum: Honourable senators, it is my pleasure to rise today to speak to Bill C-85, An Act to amend the Canada-Israel Free Trade Agreement Implementation Act.

I am very supportive of this legislation, which I think is representative of a general by-partisan consensus that exists in Canada on two issues: First, I believe that Bill C-85 represents the value of free-trade agreements in promoting Canada's prosperity; and, second, I believe this legislation underscores the importance of Canada's broader bilateral relationship with the State of Israel. I would like to address both of these issues in my remarks.

On the trade side, Canada has had a free-trade agreement with the State of Israel since 1997. Since that time, merchandise trade between Canada and Israel has more than tripled. In 2017, its total value reached $1.7 billion.

Canada's top exports and imports to Israel have been in the following sectors: Industrial machinery, aircraft and parts, pharmaceutical products, electrical and electronic equipment, precious stones, scientific and precision instruments.

Senators will note that many of these merchandise exports and imports are in the high-technology sectors. Indeed, Canada's trading relationship with Israel is characteristic of the relationship that exists between two highly industrialized and technologically advanced countries.

Several Canadian provinces have recognized the technological opportunities that exist in our trading relationship with Israel. It is not surprising that Nova Scotia, Saskatchewan, Ontario and Quebec all have concluded bilateral science, technology and innovation agreements with Israel.

The Israeli economy affords Canada with an important market in the Middle East. Total Canadian exports to Israel averaged over $400 million annually between 2015 and 2017. At the same time, some $1.3 billion in annual imports to Canada originate in the State of Israel.

• (1640)

The Israeli economy is strong and continuing to expand, with 3.5 per cent growth expected in 2018. It is natural, therefore, that Canada would seek to further benefit from this trading relationship, and it was in 2014 that the former Conservative government initiated discussions with Israel to broaden our bilateral trade agreement.

These negotiations were completed in July 2015 with four chapters in the original agreement having been updated and with an expansion of the free trade agreement to include seven new chapters, specifically chapters on e-commerce, intellectual property, sanitary and phytosanitary measures, technical barriers to trade, trade and environment, trade and labour, and trade facilitation.

Once the CIFTA is fully in force, nearly 100 per cent of Canadian agriculture, agri-food, and fish and seafood exports to Israel will benefit from preferential tariff treatment. That is an improvement from 90 per cent of agricultural exports benefiting from preferential tariffs currently.

Under CIFTA there will also be new opportunities for Canadian companies in the aerospace, technologies and life sciences, and energy sectors.

The aerospace and defence sector, in particular, represents a significant potential market for Canadian companies. Opportunities exist for Canadian firms in avionics, communication systems, unmanned aerial vehicles, as well as other systems.

With respect to clean technology and sustainable energy, there are also significant opportunities. These sectors, along with effective water management, are key priorities for the Israeli government and for Israeli industry. In contrast to Canada, Israel lacks significant water and energy resources.

Canadian firms that are active in solar technology, energy storage, biofuels, water disinfection technologies, leak detection and wastewater reuse are now afforded potentially enhanced opportunities in the Israeli market.

Yet more opportunities exist in relation to education and research. Both Canadian and Israeli post-secondary institutions benefit significantly from international cooperation based on institution-to-institution agreements, as well as on faculty and student exchange programs. Indeed, in 2017, 690 students from Israel were studying in Canada, and Canada also welcomed more than 78,000 visitors from Israel in that same year. Going in the other direction, nearly 100,000 Canadians visited Israel in 2016.

These people-to-people ties are really the core foundations of Canada's close relationship with Israel. It is therefore right and fitting that Canada has identified the State of Israel as a key trading partner and that Israel was included as a priority country among the 10 bilateral and multilateral negotiations initiated by Canada between 2006 and 2015.

As important as the bilateral trading relationship is, this relationship between Canada and Israel is about so much more than economics and trade. Indeed, the conclusion of the updated CIFTA symbolizes the fact that Canada and Israel have become strategic partners.

In 2014 when the former government of Stephen Harper entered into negotiations for an expanded CIFTA, Canada also signed a memorandum of understanding with Israel ushering in a strategic partnership relationship. That strategic partnership underlines the commitment that both countries share to a common set of core values. Principles and interests identified in the strategic partnership MOU include our shared commitment to democracy, free markets, security, peace, justice, human rights and freedom. Both parties also agreed that the security of Israel and the wider region directly affect the security of Canada.

The Canada-Israel Strategic Partnership provides a forward-looking framework upon the bilateral relationship that can be developed and strengthened. The agreement and legislation that we have before us today arises from that foundational concept document that was signed in 2014 under the Harper government.

Colleagues, I believe that the principles outlined in the memorandum of understanding have never been more important. Today Israel is the only liberal democracy in the Middle East. It is the only country in the region with which Canada shares core fundamental values, most specifically a joint and common commitment to liberal democracy and to the rule of law.

It has been disconcerting to witness the human misery caused by extremist movements in various parts of the Middle East over the past decade. Countries and societies have been systemically destroyed along with the hopes and dreams of ordinary people in these same countries.

Viewed in this larger strategic context, Israel really is an island of stability in an increasingly chaotic region, and I believe it is important for us to recognize that. In this regard, Canada has been wise in recognizing that extremist groups that directly threaten Israel, including Hamas, Hezbollah, al Qaeda and ISIS, also pose a serious threat to democracies everywhere. This is why it is important that we can continue to acknowledge the broader strategic importance of Canada's relationship with the State of Israel.

Honourable senators, I strongly support Bill C-85. I support it for the enhanced trade opportunities that it will afford Canada and Israel, but I also support the bill and the agreement because they are one component of a broader strategic partnership that is so important for both of our countries.

Therefore, I urge all senators to support this legislation, which I look forward to seeing considered in greater detail when it is referred to the Standing Senate Committee on Foreign Affairs.

The Hon. the Speaker pro tempore: Do you have a question, Senator Plett?

Hon. Donald Neil Plett: On debate.

I have a few brief comments to basically repeat what I said earlier on Bill C-75. Certainly this is a piece of legislation that, as Senator Frum says, we should all want to support. I am saddened the government has decided to play hardball and to politicize even something like this, where we would be unanimous in our support. In light of the actions of our government and our government leader today, I will be taking the adjournment of the debate.

The Hon. the Speaker pro tempore: It is moved by the Honourable Senator Plett, seconded by the Honourable Senator Frum, that further debate be adjourned to the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker pro tempore: I see two honourable senators rising. Is there agreement on the time for the vote?

There will be a one-hour bell. The vote will take place at 5:47.

Call in the senators.

• (1740)

Hon. Yuen Pau Woo: Your Honour, I'm pleased to report to the chamber that the opposition has negotiated with the Independent Senators Group and we have agreed to allow the adjournment to go through on division.

Hon. Donald Neil Plett: Your Honour, I would like to make a correction, please. The opposition negotiated with Senator Woo.

Hon. Terry M. Mercer (Deputy Leader of the Senate Liberals): The opposition did not negotiate with the Senate Liberals.

The Hon. the Speaker: Senator Mercer, I have yet to call for the consent of the chamber.

Is it agreed, honourable senators, that we not go to a vote and it pass on division?

Some Hon. Senators: No.

The Hon. the Speaker: I hear a no.

Honourable senators, it was moved by the Honourable Senator Plett, seconded by the Honourable Senator Frum, that further debate be adjourned until the next sitting of the Senate.

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Anderson	MacDonald
Andreychuk	Maltais
Ataullahjan	Manning
Batters	Marshall
Beyak	Martin
Black (*Ontario*)	Massicotte
Boisvenu	McCallum
Boniface	McCoy
Bovey	McInnis
Boyer	McPhedran
Brazeau	Mégie
Busson	Mitchell
Carignan	Moodie
Christmas	Neufeld
Cormier	Ngo
Coyle	Oh
Dagenais	Omidvar
Deacon (*Nova Scotia*)	Patterson
Deacon (*Ontario*)	Petitclerc
Dean	Plett
Doyle	Poirier
Duffy	Pratte
Eaton	Richards
Francis	Ringuette
Frum	Saint-Germain
Gagné	Seidman
Galvez	Smith
Gold	Stewart Olsen
Hartling	Tannas
Housakos	Tkachuk
Klyne	Wells
Kutcher	Wetston
LaBoucane-Benson	Woo—67
Lankin	

NAYS
THE HONOURABLE SENATORS

Campbell	Harder—3
Greene	

ABSTENTIONS
THE HONOURABLE SENATORS

Bellemare	Dyck
Bernard	Lovelace Nicholas
Cordy	Mercer
Downe	Munson—8

• (1750)

[*Translation*]

THE UNITED CHURCH OF CANADA ACT

PRIVATE BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-1003, An Act to amend The United Church of Canada Act, and acquainting the Senate that they had passed this bill without amendment.

ADJOURNMENT

NOTICE OF MOTION WITHDRAWN

On Government Business, Motions, Order No. 258, by the Honourable Diane Bellemare:

That, notwithstanding rule 3-1(2):

1. when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Saturday, March 23, 2019, at 10 a.m.; and

2. when the Senate adjourns on Saturday, March 23, 2019, it do stand adjourned until Sunday, March 24, 2019, at 10 a.m.

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, pursuant to rule 5-10(2), I ask that Government Notice of Motion No. 258 be withdrawn.

(Notice of motion withdrawn.)

[*English*]

• (1800)

The Hon. the Speaker: Honourable senators, it being six o'clock, pursuant to rule 3-3(1), I'm required to leave the chair until eight o'clock, unless there is unanimous consent that we not see the clock. Is it agreed, honourable senators, that we not see the clock?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: I hear a "no." The sitting is suspended until 8 p.m.

(The sitting of the Senate was suspended.)

(The sitting of the Senate was resumed.)

• (2000)

QUESTION OF PRIVILEGE

The Hon. the Speaker: Earlier today, honourable senators, pursuant to rule 13-3, Senator Tkachuk gave both written and oral notice of a question of privilege. According to rule 13-5(1), I now recognize Senator Tkachuk.

Hon. David Tkachuk: Honourable senators, Senate rule 13-1 states:

> A violation of the privileges of any one Senator affects all Senators and the ability of the Senate to carry out its functions. The preservation of the privilege of the Senate is the duty of every Senator and has priority over every other matter before the Senate.

We take this rule seriously, senators, and we should. We also take seriously the inviolability of our in camera proceedings. As *Beauchesne's* makes clear, the publication of the proceedings or reports of committees sitting in camera is a breach of privilege.

The senators on the Transport Committee are very well aware of that. They know that discussions during in camera proceedings are to remain in camera, and they are particularly aware of that because the committee had a discussion very recently about making public the in camera proceedings that took place at their meeting on February 19. While the motion to make these proceedings public was generally agreed to by the senators present, a few of the senators who took part in that in camera meeting were not present to give their approval. In the end, those senators did not give their permission, so the proceedings remained in camera.

Some senators were not happy, but as we and the clerk explained, those are the rules.

Enter Senator Simons, who was at that meeting. She was aware that the proceedings had to remain in camera and yet still saw fit to publish on Twitter and Facebook portions of our in camera

discussion related to travel on Bill C-48. As I did in my letter to the clerk, let me elaborate on what she wrote. On Twitter, first, she began by writing:

> So. I got off the plane to see heated allegations on line that I have betrayed Alberta re C-48 and that I voted against committee travel. That's not precisely true. Allow me tell you what actually happened, if I may.

By way of explanation, she then wrote:

> The Conservatives proposed that we travel to Norway, the Netherlands, Alaska and the Gulf of Mexico. Such a trip would have cost well over $1 million, and I opposed it. I thought it was an unjustifiable expense. I wouldn't ask taxpayers to stand for it.

She then wrote:

> Next, the Conservatives suggested we travel to Newfoundland and Nova Scotia. Again, I couldn't see how that applied to getting information about a west coast tanker ban.

In the tweet following that, she wrote:

> Some of the rest of us on the committee countered with a plan to visit Prince Rupert and Terrace, where we could hear pro and con arguments and see the area in question for ourselves. . . .

All of the discussions referenced in these tweets took place in camera and should never have been revealed publicly.

Furthermore, Senator Simons did not confine herself to Twitter in revealing the content of in camera proceedings but availed herself of a lengthy post on Facebook, where, in regard to the same in camera discussion that took place on February 19, she wrote:

> Some people on the committee had what you might call very ambitious travel visions. We came back from our break to find a proposal before us for a huge international trip, with stops in Norway, the Netherlands, the Gulf of Mexico and Alaska. To me, that was going to be a very dubious use of our time and money. I pushed back pretty hard against that plan. Others on the committee questioned whether we should travel at all. They argued that we could hear all the witnesses we needed to hear in Ottawa or via video conference. Since the committee had never travelled in the past, they could see no reason, no justification, for us to travel at all. Others of us on the committee, myself included, looked for a compromise. To us, it made sense to travel to the coast in question and to hear from the people most directly affected — people who might not otherwise have the chance to make their voices heard.

This portion of her post on Facebook was also the publication of committee proceedings that took place among senators in camera.

Senator Simons seems to believe that, while it is the duty of every other senator to preserve the privilege of the Senate, that does not apply to her. I say this because she is very clear about why she felt the need to violate the sanctity of in camera proceedings. As she wrote, she got off the plane to allegations that she had betrayed Alberta. Any concern about the privileges of other senators was cast aside in order to burnish her own image. What is most egregious about this breach is that it leaves other senators unable to defend themselves without violating the in camera nature of the discussion that took place.

I'm particularly concerned by Senator Simons' tweet quoted above that:

> The Conservatives proposed that we travel to Norway, the Netherlands, Alaska and the Gulf of Mexico. Such a trip would have cost well over $1 million, and I opposed it. I thought it was an unjustifiable expense. I wouldn't ask taxpayers to stand for it.

This leaves the impression, first, that Conservatives were being blissfully frivolous about the use of taxpayers' dollars and, second, that Senator Simons bravely led the charge against such unjustifiable expenses.

While I do not want to violate the confidential nature of the discussion Senator Simons is referring to, I can tell you this: I and I alone, without consulting any colleagues and in my capacity as chair, asked the library to prepare a draft travel proposal, and that proposal was intended as nothing more than a document to stimulate the very discussion that took place. As for it being a Conservative proposal, I would ask His Honour to take a look at the in camera transcripts and pay particular attention to an exchange between the chair and another senator over the origin of the travel proposal, as well as the comments of other Conservative senators present regarding international travel.

Honourable senators, this breach of privilege is made worse by the self-serving, self-ennobling interpretation of the in camera discussion that Senator Simons portrayed in her tweets and on Facebook. It is made even worse by the mischaracterization of the views and the opinions of others during that discussion, knowing full well that unless they, too, were willing to breach other senators' privileges, senators who participated in that discussion could not defend themselves.

Honourable senators, if a question of privilege is found in this case, I am prepared to move a motion that this matter be referred to the Standing Committee on Rules, Procedures and the Rights of Parliament for examination, report and remedy.

Hon. Donald Neil Plett: Honourable senators, I would like to add a few words to what Senator Tkachuk has said. I was at the meeting in question, and I, too, am quite alarmed and concerned with Senator Simons' tweets when they were brought to my attention.

Colleagues, whether due to inexperience or the flouting the rules, I do not know, but in my opinion, a breach of privilege is clear and concerning.

The particular committee meeting included both an in camera portion and a public portion. The transcript of the public portion shows quite clearly that the debate was contentious; there is no question about that. However, that does not excuse Senator Simons' flagrant violation of the rules. As Senator Tkachuk has very ably said, all the references in these tweets took place in camera and should never have been revealed publicly.

• (2010)

As I said, I was there. We have no means of defending ourselves, because by defending ourselves, we have to commit that same breach of privilege. We have to say that what Senator Simons said isn't correct, because it was an in camera meeting. So not only did she breach a privilege; she prevents us from defending ourselves.

In camera meetings, as senators know, allow for frank discussions because it is an environment which is understood to be confidential. If this confidentiality is breached, it is not only a serious breach of privilege, but it also impacts the confidence of senators to speak openly in future in camera meetings. This was not a simple slip of the tongue. Senator Simons provided a blow-by-blow, detailed account of what happened in an in camera meeting, and this, colleagues, is outrageous.

Furthermore, Senator Simons' public comments were not only a breach of that confidentiality but, as Senator Tkachuk has indicated, they also misrepresented what took place in the meeting. And I can't tell you what took place in the meeting.

But it doesn't end there. Senator Simons' breach of privilege included information, again, that is simply not true. She said in one of her tweets:

> Since the committee had never traveled in the past, they could see no reason, no justification, for travel at all.

As senators know, the Transport Committee has travelled in the last few years on its study on automated vehicles and its study on pipelines. The Finance Committee did a thorough travel plan.

Senator Simons is a senator who has quite a following. For those of us who read articles in *The Hill Times* this week when they reported on senators of influence, they listed Senator Simons as one senator who has a lot of influence in the independent side of this chamber.

Senator Simons has more Twitter followers than the entire Senate. She has 47,000 Twitter followers that read what we discussed in an in camera meeting. This is not just a simple slip of the tongue where a dozen or two dozen, even a hundred people read it; 47,000 people know what we discussed in an in camera meeting and the conversations we've had there.

Colleagues, I say this with the highest degree of respect. When Justin Trudeau appointed many of the people opposite to this chamber because he wanted to reform the Senate and make this a better place, is that making this a better place? I'm partisan and I admit to it, and I will fight for my beliefs, but I hope I will do that with integrity.

As I said earlier, I try to be a man of my word. Maybe I slip occasionally. As Senator Lankin pointed out, I might have, and I'm sure I have over the years. But this wasn't a slip. This was a flagrant violation of our rules, Your Honour. I sincerely hope that you will find clearly that our privilege was compromised, where we will no longer be able to properly speak in an in camera meeting if you do not rule in favour of Senator Tkachuk's motion of privilege. Thank you, colleagues.

Hon. Frances Lankin: It's normally not in order in this place to draw attention to an honourable senator's absence from the chamber, but with Senator Simons' agreement, I want to inform the chamber that she is absent dealing with planned medical matters. Senator Tkachuk, I believe you are aware of this, as she sent you a letter a few weeks ago informing you of this in your role as committee chair.

In speaking with Senator Simons today, she has asked me to relay the following to all of you. She wants to clearly state that Senator Tkachuk's assertions are correct. She agrees with him, given what she now understands, that she incorrectly revealed some parts of what took place in an in camera session of the committee.

Of course, there is, as always, context to what happened, but she does not rely on that as an excuse. Senator Simons wishes to offer her unreserved apology to her committee colleagues and to every one of her honourable colleagues in this chamber.

I understand that on the question of whether or not a prima facie case has been made, the Speaker may rule immediately or may take this under advisement in order to consider the four criteria that must be met. I also understand, according to Appendix IV of the *Rules of the Senate*, matters of this specific nature are usually taken up first with the committee in question. Nothing, of course, prohibits an individual senator from raising a point of privilege, as Senator Tkachuk has done. But again, according to Appendix IV of the *Rules of the Senate*, if the Speaker were to rule immediately that there is a prima facie case of a breach of privilege, any subsequent motion would be deferred until the committee in question first dealt with the issue.

Your Honour, if you make such a finding this evening, and if Senator Tkachuk proceeds with his intended motion regarding sanctions, or process, as he has indicated the motion would be, it would be my intent to move adjournment of the debate to allow Senator Simons to be here in person to respond to his suggested approach.

Your Honour, as only one of her Senate colleagues, I personally accept her sincere apology and wish her well with her medical matters. Thank you.

Hon. Leo Housakos: I too want to rise in support of my honourable colleague Senator Tkachuk's point of privilege today. I think, colleagues, it's a point of privilege that is so fundamental and goes to the core of our parliamentary system. Nothing is more sacrosanct than our parliamentary privilege as parliamentarians. And nothing is more important in our day-to-day toolbox in order to be able to conduct our work in this place.

My concern, colleagues, is not the fact that we have undoubtedly had a breach, but the question I have is why? In my decade of service in this august chamber, I don't recall ever such a breach of privilege by any of my colleagues. I believe the reason for that isn't that some senators are more merit and others are non-merit appointments. I believe it's simply due to the fact that when we all came to this chamber, we all came to understand that we had something to learn about this institution. It doesn't matter how much political experience you had or didn't have or from which walks of life you came; you came here with the understanding that this is the upper chamber, the Parliament of Canada. It has rules. It's based on the Constitution and on the Parliament of Canada Act.

We have procedures, precedents and rules that have to be respected. Some are rigid and some are intentionally malleable depending on the circumstance. Just because someone can come in here and think they're innately more knowledgeable or innately more merit-based doesn't give them the right or the belief they can change those rules on a whim because they know better.

But to be as egregious as to basically trample on the privilege of in camera meetings of committees is very serious. We have in camera meetings for a variety of reasons; some are technical, some are questions of confidentiality, particularly in the case of Internal Economy; some of them are very sensitive political issues. But at the end of the day, whichever side of the debate you're on, you respect the privilege of your fellow parliamentarians. You don't put them in the predicament that Senator Simons put her colleagues in.

• (2020)

We have experimented over the last few months with some new approaches to Parliament, and we've trampled upon some of those fundamental privileges of the Parliament of Canada Act, of privilege, and we do it on a regular basis, and it's becoming very disconcerting. We saw it earlier this evening, something that was unprecedented. And we saw recently something again on the part of Senator Simons, which is also unprecedented. I don't know where this is going and where this will end, but at some particular point in time I think those of us who come to this institution as new arrivals should look at the veterans of this place and learn from them the way I did.

When I arrived here, there were people like Senator Comeau, Senator Cowan and Senator Fraser on both sides of the chamber. I learned from and worked with veteran senators on both sides of the chamber, including Senator Tkachuk. I had the privilege of working closely with His Honour the Speaker, Senator Furey, in various capacities. Before you learn how to sprint, you learn how to walk and run. I think we have to be respectful of this institution, the Constitution and the foundations we stand on.

I believe, Your Honour, that this is clearly a breach of privilege. Thank you.

Hon. Marc Gold: Honourable senators, I tend to think that the disclosure through tweets and Facebook was a breach of privilege and I think it's regrettable, for all of the reasons we've heard expressed. But Senator Simons asked Senator Lankin to convey her apologies in an unreserved way, which she did. And Senator Simons acknowledges that she disclosed information from an in camera hearing that she should not have disclosed. Nor did she avail herself of any excuses, frankly, neither her relative lack of experience nor her understanding of the rules and their parameters. She simply apologized to each and every one of us, with no reservations whatsoever. As we would say in French, *c'est tout à son honneur*.

I think that we have heard ringing an important declaration of the importance of privilege and of maintaining confidentiality of what goes on in camera, and that is to the honour of the Senate. But regrettably, and I say this more in sadness and not in anger, some of the endorsements of these high principles were accompanied by impugning the character of Senator Simons herself. It's regrettable that we impute to her some sense of higher moral superiority. We in the ISG are used to being impugned for the fact that we do not sit in a national caucus; we do not take directions from political parties and that we are committed to a Senate that's less partisan. And I respect those, like my colleague Senator Plett, who is proudly partisan. We get along fine, even though we disagree about how the Senate should be.

But Senator Simons apologized, and I want to go on record as saying she's a senator of integrity, and I am saddened by the direct and indirect imputations and the aspersions that were cast on her character. I don't think that is *à l'honneur* of this Senate. Thank you.

Hon. Denise Batters: Honourable senators, I would like to make a few points to support this question of privilege by Senator Tkachuk. I'm a senator from Saskatchewan. I am not a member of the Transport Committee, but I am deputy chair of the Internal Economy Committee. Our Internal Economy Committee dealt with the Bill C-48 travel budget at our last meeting. And at that meeting, I and others raised significant concerns that the Transport Committee would not be travelling to Alberta or Saskatchewan on a bill which so dramatically affects the oil and gas industry in our provinces.

Then, being a senator who has been active on social media, I watched this debate play out on social media when I got home a day or so later. Many people who follow my Twitter account expressed serious concerns that this committee was not going to Alberta or Saskatchewan, and then there was Senator Simons trying to justify that she was standing up for Alberta with her vote on this, and justifying it with those particular reasons that have been enunciated by Senator Tkachuk. Then I find out that she improperly used in camera discussions to do this.

This affects, Your Honour, a broader range of senators other than just those on the Energy Committee. It also affects those of us from the Conservative side, from Alberta and Saskatchewan, who could not defend the actions of our caucus colleagues on that. In addition, Your Honour, Senator Simons has 47,000 followers on Twitter. She also has an additional 8,000 on Facebook. What I'm wondering is, how many of those 55,000 people who follow her on social media will ever find out about this? Thank you.

Senator Tkachuk: I want to add a few closing comments on some of the issues that were raised. Yes, I did know that Senator Simons was at home, but I had to raise it now because it was the

first opportunity. I understand that. But also, she has some of the same issues I have so I sent a note to her and wished her well, and I still wish her well.

I'm asking for a prima facie case here and hopefully that it will be moved to the Rules Committee. People who have been around a while know that if you're found guilty of something, we don't flog anybody. If His Honour finds in my favour and we're able to move this motion to the Rules Committee, it's an opportunity for that committee to examine why it happened and how to prevent it from happening again. There will be other senators who will be appointed, there will be new senators and this thing will happen again, and that's not a good thing. This was not a good thing that happened. It was not.

I was sitting there, Senator Plett was sitting there, Senator Manning and Senator Boisvenu. We know that's not what happened, but we can't talk about it. This is not something that can just be sent away with an apology. This is something that has to be examined. This is something that has to be looked at and then hopefully the Rules Committee will come up with some ideas to prevent this from happening again. Perhaps senators should take the time to learn from their own caucus whip and their own people as to how this thing all works.

With that, Your Honour, I hope you find in my favour.

Hon. Rosa Galvez: Honourable senators, I was there in that meeting, too. In your reflection about what happened and in your ruling, I want you to consider this: That meeting was a little bit confusing. We were in camera and then all of a sudden we went into public. Then there was a request to move from in camera to public. We voted and it was agreed. But then the next day we were told that two persons who were there didn't vote and that they couldn't vote. So therefore it couldn't be public.

I think it will be important to read all of the transcripts and talk to the people who were there, because it was pretty confusing.

Hon. Michael Duffy: Your Honour, I think it's very telling that Senator Simons has not tried to weasel out of this and that has apologized unreservedly to the Senate and has learned a lesson. I was quite moved by Senator Housakos' remarks about privilege and how important and sacred it is here. I would encourage my colleagues to read the *Huffington Post* from December 1, 2015, when they reported that the Auditor General's report was selectively leaked by Senator Housakos, who was then the Speaker. And those leaks damaged the reputation of a whole series of members of this chamber. So before we take any lessons, I think we should read the *Huffington Post*.

• (2030)

Hon. Linda Frum: Your Honour, I would like to draw to your attention that while it is touching to hear that Senator Simons has offered an unreserved apology for the disclosure of confidential comments made in camera, the tweets in question remain on her Twitter feed. The Facebook post in question remains on her Facebook page right at this minute.

So thank you, Senator Lankin, for conveying an apology for a leak and a breach that is still happening as of this moment.

Hon. Pierre J. Dalphond: I believe there was a breach of the Rules, and I understand that, and apparently the culprit has pleaded guilty to it. So before sentencing normally the judge will hear about the consequences of what was done. What are the consequences? What is the harm suffered? Can somebody tell me what is the real harm for the public?

The Hon. the Speaker: Honourable senators, I believe I have heard sufficient argument. I want to thank all honourable senators who participated in the debate. I will take the matter under advisement. However, as has been done in the past, I leave open the possibility, if I feel it is appropriate, to call for further argument on the matter. This has been done in the past, as I said, and it may be done in the future.

I also wish to remind colleagues of the provisions of Appendix IV of the Rules. Paragraph (a) notes that "If a leak of a confidential committee report or other document or proceeding occurs, the committee concerned should first examine the circumstances surrounding it." Paragraph (c) then goes on to state as follows:

> The committee investigation of the leak would not prevent any individual Senator raising a question of privilege in the Senate relating to the matter. As a general matter, however, and in the absence of extraordinary circumstances, it would be expected that the substance of the question of privilege would not be dealt with by the Senate until the committee has completed its investigation. Thus, if the Speaker finds that a prima facie case exists, any consequent motion would be adjourned until the committee had tabled its report.

Paragraph (e) makes clear that, if the committee does not deal with the matter in a timely way, the issue could be taken up at a future time in the Senate.

Nothing, therefore, prevents the Transport and Communications Committee from dealing with the issue, and, if appropriate, reporting to the Senate.

BUSINESS OF THE SENATE

Hon. Terry M. Mercer (Deputy Leader of the Senate Liberals): Your Honour, I rise on a point of order. What the previous matter brings to the foreground again is the fact that all of our colleagues who have been appointed in recent days arrive here, some with some experience, most with none. I arrived here as someone who has been around this place for years as a participant in politics in another form. I had that privilege.

However, when I arrived here I still didn't know the Rules. I was taken aside by the Leader of the Government in the Senate of the day when I was appointed. She sat me down. We talked about certain things to make sure I met all the proper requirements and then she talked to me about the Rules. Then with me and Senator Munson, who was appointed at the same time, she conducted a training program on the Rules.

I think it's incumbent upon the Senate, that when people are appointed to this place, do not assume that someone else is going to train them. It's incumbent upon the Senate to take every new senator aside and it should be a requirement of you taking your

seat, of having to sit down with somebody and having the Rules explained to you and a little bit about the procedure that happens here so that we can have more decorum. In that way, issues like this can perhaps be avoided or if they happen at least you could point back and say you did take this training, did it not sink in?

I think it's incumbent upon the chamber, senators collectively, to make sure the next person who is appointed here is trained properly.

The Hon. the Speaker: Senator Mercer, I thank you for your comments. I consider them comments of elucidation or clarification. However, I don't think they rise to the level of a point of order.

UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Sinclair, seconded by the Honourable Senator Pratte, for the second reading of Bill C-262, An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples.

Hon. Patrick Brazeau: Honourable senators, I have a few quick words in support of Bill C-262, An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples.

One common thing I often hear from non-Indigenous Canadians is that Indigenous issues are "too hard," they are "overly complicated" and "fractious." As a result, many of these people just throw their hands up in the air and give up. They freeze. They absolve themselves of doing the difficult work because it is just too difficult. Even when handed a potential blueprint for a way out of the Indian Act, as Jody Wilson-Raybould offered our last Prime Minister, these efforts will be waved away as "too difficult."

There always seems to be a reason why we cannot decolonize this country. There is always a reason why we can't dismantle the Indian Act. I would like to suggest that with Bill C-262 we have an excellent opportunity. This can be a catalyst to eliminating the Indian Act altogether.

[*Translation*]

I know that some non-Indigenous lawyers in the Indian industry and some chiefs may be shaking their heads as I speak. They will surely try to convince you that it's too hard. But who benefits when things are hard? There will always be people who defend the status quo because it serves their interests. This declaration must not be considered purely aspirational. Viewing it that way will keep us trapped in colonialism for another 100 years. We need to do the difficult work of defining "free, prior and informed consent." These are difficult conversations, but we can't avoid them just because they're difficult.

[*English*]

Can the United Nations Declaration on the Rights of Indigenous Peoples be a replacement to the Indian Act? Is it a framework for reconciliation? The declaration sets out minimum international standards of achievement to be pursued in the spirit of partnership and mutual respect.

My friend and Innu lawyer, Armand MacKenzie, has said:

> The rights recognized in the declaration constitute the minimum standards for the survival, dignity and well-being of the Indigenous peoples of the world.
>
> In terms of self-government arrangements, UNDRIP, in its Article 3, recognizes one of the most fundamental human rights enshrined in the International Pact on Civil and Political Rights by stating that Indigenous peoples have the right to self-determination.
>
> By virtue of that very right, they freely determine their political status and freely pursue their economic, social and cultural development.
>
> UNDRIP further develops in Article 4 that Indigenous peoples, in exercising the right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

This caveat or addition was mentioned to reassure nation states some level of comfort with possible threats of secession.

Mr. MacKenzie also states:

> Any political or judicial reforms related to the Indian Act should be executed bearing in mind that fundamental principles found in UNDRIP:
>
> 1) Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their Indigenous origin or identity.
>
> 2) All doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable socially unjust;
>
> In this context the Indian Act would not abide by all basic human rights standards and would need to be repealed and replaced with self-government arrangements as proposed by the Royal Commission on Aboriginal Peoples or as envisioned in the defunct Charlottetown constitutional accord with respect to self-government for Aboriginal peoples.

• (2040)

Colleagues, there will be passionate debates about the word "veto" and who will have a veto over what. There should be.

However, while we argue passionately and seek to persuade each other, please remember that these lands were occupied and governed prior to the arrival of newcomers concerned about vetoes. New groups arrived and gave themselves a veto over everything.

I would, colleagues, encourage you to ask the hard questions to work together to make the declaration real.

[*Translation*]

It shouldn't just be a nice little poem about Indigenous peoples and how they feel.

[*English*]

We must use this opportunity to undo some of the damage of colonialism and make our laws fairer to Indigenous peoples.

In my former capacity as national chief, I participated in the negotiation of the declaration from 2001 to 2007. I would like to share briefly my experience about how difficult it can be at times being an Indigenous leader dealing with the government.

Since the mid-1990s, the Government of Canada funded Indigenous peoples to assist them in negotiating the words that eventually became the declaration we are talking about. I thought that previous governments were on board with the language, but they were not — at least not fully.

In 2007, I learned that the Government of Canada accepted the declaration, but not when it came to the articles dealing with lands and resources. I strongly advocated against this position because the government did not believe that Indigenous peoples should have the right of veto over their own lands. Let me repeat that: The Government of Canada did not believe in or support the idea that Indigenous peoples should have the right of veto over their own lands. To all those who may support that view, I ask: Why should the government have a right of veto over Indigenous lands?

I have a final point to make, honourable senators. It was suggested to me at the time that the government's position was not really the elected government's position. It was the position of individual senior public servants at Indian Affairs and the Privy Council Office.

I quickly found out that — contrary to popular belief — politicians, regardless of political stripe and colour, are sometimes dissuaded from taking action by an overly cautious public service. As confirmed to me by three former Indian affairs ministers, when it comes to Indigenous rights, the position of some within the public service is not to ruffle any feathers and to avoid rocking the boat. In other words, the status quo.

Of course, like all of us, public servants have a job to do. Most of them do it well and offer the elected government their best advice. However, sometimes sensible caution can turn into an inability to move at all. Regardless, at the end of the day, the position of the bureaucrats became the position of the government.

Honourable senators, we have the opportunity to move forward beyond the status quo. Let's push back against bureaucratic inertia. Let's rock the boat. Let's ruffle feathers, but in a positive way. Let's send this bill to committee so we can properly study how to harmonize our laws with the United Nations Declaration on the Rights of Indigenous Peoples without reservation. *Meegwetch*.

Hon. Scott Tannas: Honourable senators, I, too, rise to speak tonight on this bill. The short title is the United Nations Declaration on the Rights of Indigenous Peoples Bill. I want to congratulate the sponsor Senator Sinclair and I want to commend the originator of the bill M.P. Romeo Saganash.

I'm not the critic of this bill, but I've followed closely the interventions from many senators in the chamber over the past few months, and I've posed questions to many senators who spoke at the conclusion of their remarks. It's my turn now, I guess, to speak to the bill and to lay out my thoughts for consideration by this chamber.

First, I want to say how vital I believe it is that Canada and the 95 per cent of Canadians who are not Indigenous find a way to a peaceful, healthy and prosperous relationship with the Indigenous citizens of this country. This, in my opinion, is the issue of our time. If we don't soon find our way together down the right path, we will be destined to endure the further decades of court hearings and acrimonious wins and losses that they create. I believe that civil unrest cannot be far behind, as Indigenous and non-Indigenous citizens react to this escalating conflict.

So what's the right path? In order to be on the right path, I believe we must first see clearly the vision for the future, stand and in our minds bask for a moment at the ideal future and document and remember what it is we see. I'm confident that the future that Indigenous Canadians would see for future generations would, frankly, not be much different than from all other Canadians: freedom, prosperity, health, a vibrant culture that includes identity, a strong and supportive community, personal and family security, and happiness and well-being.

If we look around the world, we know that just laws — just laws — and stable governments are the very foundation of such an ideal future. For most Canadians, we already have these tenets and we recognize them every day. Indigenous Canadians do not.

For more than a century, Indigenous Canadians have endured unjust laws and successive governments with agendas that have been at worst malicious and at best misguided. In recent decades, governments have become more subtle and nuanced in their dealings with Indigenous peoples, often using jargon and soothing words to cover their actions or their inactions.

As Jody Wilson-Raybould said in a keynote address last year in Saskatchewan:

> But words are also easy/cheap. And too often we see the tendency — especially in politics — to use important words that have real meaning and importance carelessly. We see them being applied to ideas and actions that in truth do not reflect their actual meaning — even, sometimes, their opposite.

Colleagues, my biggest fear is that we pass this bill, thinking that it is merely symbolic, that it can be passed and somehow ignored or minimized or, worse, that we'll just leave it to be interpreted through decades in court. That would be a continuation, in my mind, of the kind of cynical and hypocritical actions that have placed us in this shameful and dysfunctional relationship with the Indigenous peoples of Canada.

Bill C-262 has, in my mind, the clear intention of incorporating into Canadian law the words of the United Nations Declaration on the Rights of Indigenous Peoples. It needs to be taken seriously. I take it seriously. I read the bill. It's not a hard read. It's only a couple of pages. I took the time to ride along on a meeting that Senator Massicotte had arranged with Mr. Saganash and with his legal adviser who helped him draft the bill.

There's a clause in the bill — I think it's two pages — which says:

> 4 The Government of Canada, in consultation and cooperation with indigenous peoples in Canada, must take all measures necessary to ensure that the laws of Canada are consistent with the United Nations Declaration on the Rights of Indigenous Peoples.

I actually asked Mr. Saganash and his legal adviser if that meant that it was their intention to codify every last word of the United Nations Declaration on the Rights of Indigenous Peoples into Canadian law, and the answer was, "Yes."

• (2050)

I want us all to realize that this is not symbolic. This is not something that is intended to be aspirational or something that we can, with a wink and a nod, say will have no effect or that it doesn't mean what paragraph 4, out of six paragraphs in the entire bill, says it needs. If I'm wrong, then I want to hear about it at committee. I'm sure that all of you will want to hear about the answer to that particular question in the report from committee.

The second issue for me is actually in the United Nations Declaration on the Rights of Indigenous Peoples, and many have talked about it. Senator Brazeau just mentioned it. I support the UNDRIP in its entirety, with the exception of the word that gives me heartburn, which is "consent." What does that mean? Well, this word and its meaning seems simple enough. *Webster's* has a definition. The Supreme Court has provided a meaning, albeit mostly in criminal behaviour, but it seems pretty clear that the supremes came down on the side of a definition that is often described as "no means no." To me this means in no circumstances where the UNDRIP cites consent, it means a veto. It means: No means no.

However, there are many people who support the bill and suggest that consent is not as clear as it appears to me, that it is more nuanced, that there may be some kind of a reasonableness test that ought to be applied to "no means no," or "consent." Or that there may be some way to mitigate the word and its meaning.

I think, colleagues, the entire issue of how we apply sober second thought to this bill turns on the definition of "consent." I'm prepared to listen carefully to the experts at the committee.

If, as it has been suggested, the word "consent" as it applies to this bill means something less than a veto, then what it means needs to be made clear through the upcoming committee study and their report to the Senate, including perhaps some clarifying language incorporated into the bill by amendment. I think this would go a long way to easing the worries of many of us in this chamber and indeed across the country, and it would allow us to celebrate an important step on a path to a better future for Indigenous Canadians.

However, if it turns out that consent equals a veto or anything approaching a veto for Indigenous people over activities and projects affecting their traditional lands, then we need to know that before we vote on this bill and bring it into law. We would then need to consider the enormous ramifications to our country. We would need to consider if Canadians are aware of and understand and support such a thing, and it would be reckless to do anything other than that.

It should be clear to all of us that the upcoming hearings at the Aboriginal affairs committee as it pertains to Bill C-262 are vitally important, and they must provide us with the clarity that we need on this bill's impact and on this question of consent.

It's also clear that after decades of work and negotiation and hope, this bill and all it stands for represents one of the most powerful statements that Canadians can make to finally show respect and recognition to our Indigenous citizens, a statement that will result in actions that will forever change our country. Our decision here in this chamber may someday be seen as historic. I believe that we must, with courage and respect, do our best to find the right and the just path. Thank you.

Hon. Lillian Eva Dyck: Would the honourable senator take a question?

Senator Tannas: Absolutely.

Senator Dyck: Thank you for your thoughtful speech. You've nailed some important questions.

The House of Commons surely must have explored that particular issue. Having looked at those transcripts, could you give us a summary of where they came from? Did they say that "consent" was a veto, or did they say "consent" was something else?

Senator Tannas: I have not looked extensively. I understand that there were some 70 witnesses on this particular bill and I hope we would be at least as thorough. I hope that we would seek to summon some of the witnesses that provided their voice to the other place. I hope we would seek information specifically on consent and on the bill's impact in Canadian law as it stands now, that we would spend a little more time focused on those two areas. I think that would be the value we could add in sober second thought to get at the very heart of those two issues.

(On motion of Senator Martin, debate adjourned.)

HISTORIC SITES AND MONUMENTS ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Sinclair, seconded by the Honourable Senator Pratte, for the second reading of Bill C-374, An Act to amend the Historic Sites and Monuments Act (composition of the Board).

Hon. Leo Housakos: May I take the adjournment in my name?

(On motion of Senator Housakos, debate adjourned.)

RIDING NAME CHANGE BILL, 2018

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Harder, P.C., seconded by the Honourable Senator Verner, P.C., for the second reading of Bill C-402, An Act to change the name of certain electoral districts.

Hon. Patrick Brazeau: Honourable senators, when he last spoke on this bill, the Leader of the Government in the Senate quoted Shakespeare, so allow me to join in on the fun.

"What do you read, My Lord?" Polonius asks Hamlet. Hamlet answers, "Words, words, words." I'm sorry, but I'm not in theatre, so I'm not a very good actor.

Indeed, honourable senators, our Prime Minister has graced us with a lot of words. During the last federal election campaign, we heard many lofty words about reconciliation with Indigenous peoples in this country. Some of the promises he made are harder to keep than others, but certainly the one we have before us today is fairly straightforward and simple: Do not rename in a riding without consulting the people in it.

The proposed change to the riding of Manicouagan would disrespect the Indigenous people who live there. We have seen this sort of thing done by colonizers around the world for hundreds if not thousand of years. Without naming names, more than one group of people has resisted when relative newcomers renamed ancestral lands after themselves. So if a rose by any other name would still smell as sweet, why not name it wisely and inclusively? Let the name of the rose better reflect the richness, beauty and diversity of all those who spring forth from the land.

[*Translation*]

Last May, eight chiefs of the Innu Nation signed a letter proposing a name for the riding that would meet all these criteria. These eight chiefs are opposed to Bill C-402, which would change the name of the riding of Manicouagan to Côte-Nord.

Given the plethora of election promises the Prime Minister made about consulting Indigenous peoples, they naturally expect to be consulted.

[*English*]

If this song sounds familiar, it is because we have heard it so many times before. It is, honourable senators, if you don't mind a double meaning, a broken record. The word "Manicouagan" is an Innu word referring to the largest reservoir in the district. Visible from space, it is a ring-shaped body of water and has long been the site of traditional and religious activities of Innu families.

• (2100)

In their wisdom, the chiefs recognize that the riding name as it is does not reflect the current population and could be improved. They therefore recommend a name that takes into account the Indigenous, French and English heritage of its inhabitants.

The chiefs recommend the name "Nitassinan—Côte-Nord and Lower North Shore." Nitassinan is an Innu word meaning "our land." In their own words, Your Honour, the chiefs say:

> Wiping an Indigenous name from an electoral map and replacing it with "Côte-Nord," a uniquely French name, would be contrary to the spirit of reconciliation advocated by the current federal government. This term does not have the same meaning and magnitude as Manicouagan and, contrary to the claims of the Bloc Québécois MP for Manicouagan, the term "Côte-Nord" is not at all representative of that region.
>
> On the one hand, it obscures the previous Indigenous occupation of the site and, on the other, it also ignores the presence of the English-speaking fishermen in the Basse-Côte-Nord, not to mention the fact that the towns of Fermont, Schefferville, Matimekush-Lac John and Kawawachikamach are quite far from the so-called Côte-Nord as they are geographically located in the interior.

[*Translation*]

Today, I'm asking my colleagues to think carefully about what these eight Innu chiefs are proposing and to keep an open mind. Do not ignore the wisdom of these chiefs simply because we're being asked to adopt this bill before the next election. We're not here to fast-track bills or to adopt them without first diligently studying them.

[*English*]

I ask honourable senators today to think carefully about what the Innu chiefs are proposing. Drawing on the wisdom of the chiefs, I will therefore move an amendment at third reading, if necessary, in support of the chiefs' wishes.

[*Translation*]

Allow me to conclude with an excerpt from a Georges Dor song to illustrate the poetry in the name chosen for the riding.

> If you knew how bored we get

at the Manic

You would write to me more often

at Manicougan

(On motion of Senator Martin, debate adjourned.)

[*English*]

SENATE MODERNIZATION

SIXTH REPORT OF SPECIAL COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Tannas, seconded by the Honourable Senator Wells, for the adoption of the sixth report (interim) of the Special Senate Committee on Senate Modernization, entitled *Senate Modernization: Moving Forward (Speakership)*, presented in the Senate on October 5, 2016.

Hon. Ratna Omidvar: Honourable senators, I move the adjournment of this debate in the name of Senator Greene.

(On motion of Senator Omidvar, for Senator Greene, debate adjourned.)

ANTI-BLACK RACISM

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Bernard, calling the attention of the Senate to anti-black racism.

Hon. Frances Lankin: Honourable senators, I want to begin my address tonight with these words:

> First, what we're dealing with, at root, and fundamentally, is anti-Black racism. While it is obviously true that every visible minority community experiences the indignities and wounds of systemic discrimination throughout Southern Ontario, it is the Black community which is the focus. It is Blacks who are being shot, it is Black youth that is unemployed in excessive numbers, it is Black students who are being inappropriately streamed in schools, it is Black kids who are disproportionately dropping out, it is housing communities with large concentrations of Black residents where the sense of vulnerability and disadvantage is most acute, it is Black employees, professional and non-professional, on whom the doors of upward equity slam shut. Just as the soothing balm of "multiculturalism" cannot mask racism, so racism cannot mask its primary target.

Those words are a specific quote. They might sound to some of us like they would be the words of a member of the movement Black Lives Matter. In fact, they're not. Those words are from Stephen Lewis' June 1992 report to Premier Bob Rae on racism in Ontario.

No Canadian would deny that racism exists. For most of us, especially those of us who are not visible minorities, exposure to racism is, however, only superficial. We may have seen it, but I question, do we really know it? It might be an offensive joke told by a relative or a hurtful comment overheard on the bus or the way a job applicant is received when showing up for an interview.

Indeed, this excerpt from Stephen Lewis' paper brings to light how we, Canadians, betray ourselves in two key ways when it comes to anti-Black racism. We downplay it here because of how blatant and violent it is in America. We assume the reality of life as a Black Canadian could never be as brutal as it is in America; that the bleak picture painted by Lewis is something that only exists in America. It is not.

We assume things have been getting better. They haven't. That report is over 25 years old and yet it remains true today. To change this, we have to go a step further from seeing racism to actually knowing racism. More than one million Black Canadians know racism from the implicit to the explicit, from the structural to the personal, from morning to night. For the rest of us, to go beyond simply seeing racism to trying to know it, we must imagine walking in someone else's shoes.

Let's break it down. What might a day in your life look like if you were a Black Canadian? Maybe when you wake up, you're in a more precarious housing situation than most Canadians. Maybe when you exit your home, your neighbourhood is a food desert with poor government services and little public transit. Maybe you're stuck in a poverty trap because of this.

Maybe you're growing up as a child where your father isn't around, since 40 per cent of Black children in this country grow up in single-parent households, a legacy of Black slavery. In Toronto's Jamaican community, that number is two out of three homes.

Or maybe if you're that same child, you're growing up in the child protection system like in Toronto where more than 40 per cent of children in care are Black, despite Black kids only representing 8 per cent of the city's children.

Maybe as you get older, you begin to notice that people look at you differently and that there are stereotypes about you. Maybe you're wondering why the word Black is often negative in its connotation: the black market, to black-list, to be blackened, to have a black heart, black magic.

Maybe as you become a teenager, you notice the stark contrast in police presence between your neighbourhood and White neighbourhoods. Maybe this leads to constant interactions with the police. Maybe it's after school when you walk home. Maybe it's at night when you're driving your friends home. The recent report on the Halifax police referred to by Senator Bernard earlier today shows us that young Black males are six times more

likely than Whites to be stopped during street checks. Maybe this leads, as we've seen far too many times, to you or your friend getting profiled, carded, harassed, beaten or even killed.

• (2110)

A report commissioned by the Montreal police and leaked to *La Presse* found that in Saint-Michel and Montréal-Nord, up to 40 per cent of Black youth were stopped in 2006-07. Much of this heightened policing was justified to the public as curbing gang activities, when in reality, in 2009 only 1.6 per cent of crimes were gang-related.

Maybe you end up in the justice system and you're more likely to be treated harshly, which explains the over-representation of Blacks in prison — 3 per cent of general population and 10 per cent of prison population.

Or maybe the trauma of this upbringing destabilizes your mental or physical health, as Senator Bernard has aptly described in her book *Race and Well-Being*. Racism is also a health issue.

Maybe, if you just so happened to pull yourself up by the bootstraps despite all of this, you're likely going to have a harder time in the job market. And if you're a Black woman, the pay gap is greater. You'll likely earn 37 per cent less than White males and 15 per cent less than White females. And maybe if you demand a better life for you and for your community and you join a movement, such as Black Lives Matter, you're branded radical.

The list goes on and on, and these things build up in people's experiences and they build in the culture of a community. They are daily experiences that build your reality as a Black Canadian.

This isn't to say that many Black Canadians aren't successful, nor does it mean that non-Black Canadians don't struggle. It simply means that for Black Canadians, the colour of their skin adds to the struggle.

This didn't begin today. This is a historical legacy that we all know never reconciled. These beliefs and behaviours may be contained, but they are alive and well. So how do we come to terms with this present-day reality that many are convinced are relics of the past?

I guess we have to start by looking in the mirror. Many White people are put off by academic jargon or by the rare incidences of self-inflicted victimization, as we saw recently with the allegations concerning actor Jussie Smollett, of paying two friends to perform what is reported to have been a staged racist attack. But this doesn't diminish the underlying truths.

I want to raise a term that some will find is jargon and that many of us as White Canadians will find uncomfortable, and that's the expression "White privilege."

I want us to search in our lives for an understanding and a meaning of White privilege. I want us to understand that as much as our individual stories are individual and may contain struggle, we don't struggle with the same issues.

I remember being part of a group that worked to expose racism in Ontario prior to the 1992 report of Stephen Lewis. I remember that we looked at ads for rental accommodation. I remember that we sent a Black couple to seek information about the apartment for rent, and they were told flatly, in a number of rental offerings on the market, that the apartment had been rented. We immediately followed up by sending a White couple in, and they were escorted, shown the apartment and offered a rental opportunity.

There are a lot of examples like that. That's not something I have ever experienced in my life nor will I ever experience in my life. I don't live with the latent fear that Black Canadians live with in everyday interactions due to continued racist stereotypes, and I don't feel the alienation that that community feels.

We see growing evidence of White supremacy and White supremacist groups in this country, in Canada. I'm appalled by the numbers I've heard of the groups that are active and operating. It comes with a particular kind of rage, and we have only to look at President Trump's MAGA rallies to see it. But even here in Canada, from well-intentioned movements like United We Roll, there were people within that who found that group as a place to harbour their racist agenda. I refer you to an antihate.ca article to read more about that.

It goes from that to reactionaries in this country who seek to diminish people's lived experiences, to violent attacks by White supremacists. It is the lingering face of racism in Canada, and we need to acknowledge it, to understand it, not just to see it, but to know it.

Anti-Black racism in our society, for those of us willing to recognize it, we must show solidarity in public, in the workplace and especially with groups like Black Lives Matter, as they seek for a way, as a movement, to raise questions and to bring justice.

The smearing of this movement resembles how MLK Jr. was seen in his time. In the future, Black Lives Matter will be viewed in the same way as the civil rights movement of its time, especially if the political establishment is responsive.

So what can government do? Twenty-five years later, how have we done since the Stephen Lewis report? What can we learn from it?

The previous Ontario government of Mike Harris shut down the anti-racism secretariat that was established in response to the Lewis report. They repealed the Employment Equity Act. They cut funding to the Ontario Welcome House network of settlement centres for newcomers. There was zero progress for many years. Then Premier Wynne took a go at it, but despite their best efforts, the stats aren't improving. Today, the current Government of Ontario has axed the anti-racism subcommittees that were in place.

So we need a plan. We have to work with provincial jurisdictions. Some of these issues are provincial. It's accessibility to health care. It's about schools, our education system and how we structure students' experiences there. It is about police and police interactions with community.

Where can the feds and the Senate help? Within federal jurisdiction, there's tax alleviation, safety nets, community centre support, housing support, business development support, banking services, criminal justice reform, and I point to Senator Pate and some of the initiatives she's bringing forward.

In the Senate, we have a constitutional duty to look out for minorities. Why not pay special attention to the most discriminated groups of Canadians when looking at legislation that affects these areas?

We talked earlier today about the Divorce Act and the need to weave gender analysis through the provisions of that act. We talked this evening about the United Nations Declaration on the Rights of Indigenous Peoples and the work that the committee will do to see how we can bring our laws into accord with that.

Tonight we're talking about anti-Black racism, which often doesn't have its voice and its face raised clearly enough for all of us, but it is our duty in the Senate.

What about looking at bills that could be most impactful with respect to those communities, to Black Canadians? We should try to understand whether we have an analysis ourselves about what that impact would be: 228, marketing to kids; 237, interest rates; 240, immigration and refugee protection; 243, maternity assistance; 249, domestic violence; 251, independence of the judiciary; 252, blood donations; 45, cannabis criminalization; 46, driving; 65, harassment; 74, BIA; 75, justice reform; 78, Divorce Act; 81, people with disabilities. All of those could stand to be looked at through the view of what the impact will be on one of the most marginalized and discriminated against communities, that community of Black Canadians? All of those can have an impact on how Blacks are treated in Canada.

• (2120)

So my question is: 25 years from now, will we have more to show compared to the past 25 years? What kind of real commitment are we willing to make when reflecting on the impacts of legislation? Where is our understanding of Black lived experience when we reflect on these bills? It is a challenge for all, but one that our professed values demand that we confront now. Thank you very much.

(On motion of Senator Cordy, debate adjourned.)

FOREIGN AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE WITHDRAWN

On Motion No. 461 by the Honourable A. Raynell Andreychuk:

> That the Standing Senate Committee on Foreign Affairs and International Trade have the power to meet on Wednesday, March 20, 2019, at 4:15 p.m., even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

Hon. A. Raynell Andreychuk: Honourable senators, pursuant to rule 5-10(2), I ask that Notice of Motion No. 461 be withdrawn.

(Notice of motion withdrawn.)

[*Translation*]

OFFICIAL LANGUAGES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE WITHDRAWN

On Motion No. 465 by the Honourable René Cormier:

> That the Standing Senate Committee on Official Languages have the power to meet on Monday, April 1, 2019, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

Hon. René Cormier: Pursuant to rule 5-10(2), I request that the Notice of Motion No. 465 be withdrawn.

(Notice of motion withdrawn.)

[*English*]

NATIONAL FINANCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE WITHDRAWN

Leave having been given to revert to Motions, Order No. 457:

> That the Standing Senate Committee on National Finance be authorized to meet on Wednesday, March 20, 2019, at 6:45 p.m., even though the Senate may then be sitting, and that the application of rule 12-18(1) be suspended in relation thereto.

Hon. Percy Mockler: Honourable senators, pursuant to rule 5-10(2), I ask that Notice of Motion No. 457 be withdrawn.

(Notice of motion withdrawn.)

ABORIGINAL PEOPLES

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Lillian Eva Dyck, pursuant to notice of March 21, 2019, moved:

> That the Standing Senate Committee on Aboriginal Peoples have the power to meet on Thursday, April 11, 2019, from 1:00 p.m. to 4:00 p.m., for the purposes of its study on the subject matter of Bill C-92, An Act respecting First Nations, Inuit and Métis children, youth and families, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

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?

Hon. Senators: Agreed.

(Motion agreed to.)

LEGAL AND CONSTITUTIONAL AFFAIRS

MOTION TO AUTHORIZE COMMITTEE TO STUDY CERTAIN MATTERS PERTAINING TO THE FORMER MINISTER OF JUSTICE AND ATTORNEY GENERAL OF CANADA AND TO CALL WITNESSES—POINT OF ORDER

Hon. Donald Neil Plett, pursuant to notice of March 21, 2019, moved:

> That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine and report on the serious and disturbing allegations that persons in the Office of the Prime Minister attempted to exert pressure on the former Minister of Justice and Attorney General of Canada, the Honourable Jody Wilson-Raybould, P.C., M.P., and to interfere with her independence, thereby potentially undermining the integrity of the administration of justice;
>
> That, as part of this study, and without limiting the committee's right to invite other witnesses as it may decide, the committee invite the Honourable Jody Wilson-Raybould, P.C., M.P.;
>
> That the committee submit its final report no later than June 15, 2019; and
>
> That the committee retain all powers necessary to publicize its findings until 180 days after tabling the final report.

He said: Honourable senators, I would like to say a few words on my motion. My deputy leader says I first have to move this. Before you chastise me, Your Honour, I will move the motion.

Hon. Peter Harder (Government Representative in the Senate): I would like to raise a point of order, Your Honour, with respect to this motion. I would like to suggest that this motion is out of order for the following reasons.

As you know, honourable senators, the Order Paper contains a motion that is substantially the same. In February, Senator Smith moved Motion No. 435, which has been the subject of vigorous debate and now sits on the Order Paper awaiting a separate ruling by the chair. Motion No. 470 is substantially the same as Motion No. 435 and as such cannot coexist on the Order Paper. Because both motions are substantially the same, in order to safeguard the efficiency of proceedings, support the right of the house to manage its business in an orderly way and to prevent the wasting of time of this house, it is out of order to move Motion No. 470. If anything, it is common sense that it not be permitted to pepper the Order Paper with a multitude of motions that are nearly identical and which seek the same substantive outcome. Were it in order to move Motion No. 470, it would then be possible to move hundreds of motions of a substantially similar nature.

Beyond common sense, the conclusion I seek from the chair in this point of order is bolstered by ancient parliamentary principles, procedural authorities and the most recent relevant precedents. Under the ancient rule of anticipation applying to Parliaments of Westminster origin, it is not permissible to move a motion that anticipates a matter that is already on the Order Paper for further discussion.

The spirit of the rule of anticipation is reflected in two explicit *Rules of the Senate*. Under rule 4-2(5)(b), it is not in order for a senator's statement to anticipate an existing order of the day. Similarly, under rule 5-2, an inquiry shall not relate to any bill or any other matter that is currently on the Order Paper.

The precise matter at hand, that of a motion that anticipates another motion which already sits on the Order Paper for further discussion, is not provided for or resolved explicitly by the text of the *Rules of the Senate*. However, the analysis does not end there. One of the cardinal *Rules of the Senate* and indeed the very first rule in the book establishes the principle governing resolution of unprovided cases, that is to say, cases that are not resolved by the codified rules.

Rule 1-1(2) reads as follows:

> In any case not provided for in these Rules, the practices of the Senate, its committees and the House of Commons shall be followed, with such modifications as the circumstances require. The practices of other equivalent bodies may also be followed as necessary.

Hence, when a procedural question is unresolved by the *Rules of the Senate*, the rules, practices and procedural authorities of the other place and other equivalent bodies, including other legislatures in the Westminster tradition, may be followed as necessary. It is therefore open to us to look beyond the Senate toward the other place and other parliamentary bodies.

Setting aside the Canadian House of Commons for a moment, it's worth noting that the anticipation rule is widespread among parliaments having a Westminster origin, including the United Kingdom, New Zealand, Australia and India. For example, Standing Order 28 of the United Kingdom acknowledges anticipation as a valid ground to deem an item of business out of order. It reads as follows:

> In determining whether a discussion is out of order on the ground of anticipation, regard shall be had by the Speaker to the probability of the matter anticipated being brought before the House within a reasonable time.

In New Zealand, rule 110 provides that a member may not anticipate discussion of any order of the day.

The proceedings of the lower house of India, the Lok Sabha, are also governed by this principle. Rule 343 of the Lok Sabha provides that:

> No member shall anticipate the discussion of any subject of which notice has been given provided that in determining whether a discussion is out of order on the ground of anticipation, regard shall be had by the Speaker to the probability of the matter anticipated being brought before the House within a reasonable time.

Closer to home, the sixth edition of Beauchesne's *Rules and Forms of the House of Commons of Canada* explains at page 154 that:

> . . . a matter must not be anticipated if it is contained in a more effective form of proceeding than the proceedings by which it is sought to be anticipated.

Beauchesne also says that:

> In determining whether a discussion is out of order on the grounds of anticipation, the Speaker must have regard to the probability of the matter anticipated being brought before the House within a reasonable time.

The second edition of O'Brien and Bosc *House of Commons Procedure and Practice* published in 2009 provides clarity on the purpose and operation of the rule of anticipation. Again I quote:

> The rule is dependent on the principle which forbids the same question from being decided twice within the same session.

O'Brien and Bosc clarify that the rule "does not apply . . . to similar or identical motions or bills which appear on the *Notice Paper* prior to debate."

In other words, the fact that two similar motions or bills appear on the Notice Paper does not mean that the rule of anticipation is at play. However, the rule is engaged if one of those two has been moved in the subject of the debate.

O'Brien and Bosc make it clear that the rule of anticipation, and again I quote:

> . . . becomes operative only when one of two similar motions on the *Order Paper* is actually proceeded with. For example, two bills similar in substance will be allowed to stand on the *Order Paper* but only one may be moved . . . .

O'Brien and Bosc continue by stating:

> A point of order regarding anticipation may be raised when the second motion is proposed from the Chair, if the first has already been proposed to the House and has become an Order of the Day.

That is exactly the present case, since substantively the identical motion of Senator Smith is an order of the day identified on the Order Paper as Motion No. 435.

I recognize that the rule of anticipation is rarely engaged and that it has rarely been invoked in the Senate of Canada. To my knowledge, it may never have been ruled upon in the Senate in circumstances quite like the case we have before us. To me, this serves to illustrate the extraordinary and, I would argue, inappropriate nature of the strategy adopted by the opposition in this motion.

• (2130)

But even if it has rarely been invoked in the Senate, the existence of a rule of anticipation has been recognized by rulings of previous Speakers of the Senate. The most clear and pertinent ruling of this matter was delivered by Speaker Molgat in 2000 in the context of the Senate's contentious second reading debates on Bill C-20, the Clarity Act. Specifically, a point of order was raised in objection to a motion to create a special committee to study Bill C-20 on the basis that the motion for a special committee anticipated the motion for second reading of the bill.

Speaker Molgat deemed the motion in order, but while he refused to apply the rule on the facts of the case, he made it very clear that the rule of anticipation is, in fact, a principle of practice applying to the Senate and, furthermore, that the point of order would have been well-founded had the two motions been substantially similar.

Speaker Molgat said:

> . . . the rule of anticipation is not an explicit rule of the Senate or of the other place, though it is a principle of practice. Citation 512(1) and (2) in the sixth edition of Beauchesne's at page 154 notes that the rule of anticipation is dependent on the same principle as the rule on the "same question."

Later, he continued:

> I would be prepared to consider accepting that proposition, if I could be convinced that the two questions are the same, or even substantially similar, but they are not. The motion for the second reading of Bill C-20 involves a decision on the principle of the bill and whether it warrants further study by the Senate. The motion to create a special committee to examine Bill C-20 does not directly address the principle or content of the bill, but rather seeks to provide an alternative to the possibility of referring the bill to another kind of committee. These two motions are not the same in substance, and the rule of anticipation does not apply to their consideration.

Because the motions in the case of the Clarity Act were so different in nature, one for the second reading of the bill and the other to create a special committee, Speaker Molgat decided not to apply the rule of anticipation. By contrast, however, I posit that the present case is distinguishable; that motions 435 and 470 are the same in substance, and that the rule of anticipation must operate to disqualify motion 470 notably to avoid absurd and inefficient outcomes.

Some may argue that motion 470 is in order because it is not identical to motion 435. This is not persuasive. It is not necessary that both motions be identity. The standard is not that of a carbon copy, but rather the crux of the matter is whether they are substantially similar.

The core purpose of the rule of anticipation is to support the right of the house to manage its business in an orderly way and to prevent wasting time. For example, there is a link between the rule of anticipation and the same question, the object being that one decision should be made on a matter. It is plain and obvious that motion 470 and motion 435 are substantially similar. Motion 435 has exactly the same objectives as the new motion; namely, and I quote now from both motions:

> That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine and report on the serious and disturbing allegations that persons in the Office of the Prime Minister attempted to exert pressure on the former Minister of Justice and Attorney General of Canada, the Honourable Jody Wilson-Raybould, P.C., M.P., and to interfere with her independence, thereby potentially undermining the integrity of the administration of justice. . . .

If one of those two motions were adopted, the other would be of no purpose and serve no object. If one of the two motions were defeated, the other would be out of order on another ground by operation of the same question rule. This is because the order of reference for the study contemplated by the two motions is identical, and they both engage the Standing Senate Committee on Legal and Constitutional Affairs. The pith and substance of motion 435 — indeed, its heart — is to authorize the Standing Senate Committee on Legal and Constitutional Affairs to conduct a study on the subject identified, a subject that is identical in motions 435 and 470.

The rule of anticipation would serve no purpose if it were possible to circumvent it by a simple tweak of a witness list or the shifting of a reporting date back by a few days. If motion 470 is to be found in in order, it would be open to Senator Plett and his colleagues to move dozens of substantially similar motions, each with a different reporting date or combination of witnesses. The Senate as a whole would then have a debate on each of these every sitting day, notwithstanding the principle that members have only one opportunity to speak on a given matter and despite the fact that they are substantially the same proposal.

Should it now be open for Senator Housakos to move a third motion that would change the reporting date of the motion to June 7? Should it now be possible for Senator Carignan to move a fourth motion that would simply add former Minister Philpott to the witness list? Should it now be open for Senator Martin to move a fifth motion that would simply change the reporting date of the motion to June 21? Under such a scenario, the Senate would soon become a theatre for the absurd. This is precisely what the rule of anticipation seeks to deter.

In addition, by ruling this motion out of order, Senator Plett does not lose any procedural right. The procedurally appropriate vehicle to change the date of motion 435 or to strike out some of its witnesses would be a motion to amend motion 435. Instead, motion 470 seeks to circumvent the appropriate procedural amendment and to indirectly circumvent the principle that members have only one opportunity to speak on a matter. However, should motion 435 be withdrawn, then this motion could be reintroduced and would be in order.

But at least and most crucially, there is a recent precedent from the other place that is quite relevant to the case before us. On June 11, 2014, the Speaker of the other place ruled a motion out of order precisely because another motion that was substantially similar was already on the Order Paper. The NDP Opposition Member for New Westminster—Burnaby moved a motion that he had put on the Order Paper, instructing the Standing Committee of Justice and Human Rights to split Bill C-13. However, two weeks prior, the NDP Member for Gatineau had already moved a similar motion of instruction, which was adjourned and sat on the Order Paper. The difference between the first and the second motion was five words.

The government house leader at the time, Peter Van Loan, argued that the two motions were substantially similar and that by operation of the rule of anticipation, it was out of order for the Member of New Westminster—Burnaby to move the new motion. The speaker of the other place said:

> I appreciate the points raised by both the government House leader and the opposition House leader. Upon examination of the section of O'Brien and Bosc, upon which both House leaders have relied extensively for their arguments, it seems to the Chair that the key concept is the question of whether or not the motions are substantially the same.
>
> Upon examination of both motions on the notice paper, it does seem that the motions are substantially the same and that the principles cited by the government House leader as to the practice of the House are persuasive to the Chair. Accordingly, we will not be proceeding with the motion at this time.

I believe the clarity of this ruling resolves the issue before us. After all, how can we doubt the wisdom of the Member for Regina—Qu'Appelle, Speaker Andrew Scheer? I have no doubt that the senators opposite would consider a ruling of Mr. Scheer to be quite authoritative.

In brief, a point of order regarding the anticipation may be raised here because this second motion, motion 470, is being moved while the first motion, motion 435, has already been moved and has become an order of the day, and the motions are substantially similar. For these reasons, and with particular emphasis on the learned findings of the former Speaker Andrew Scheer, I submit that the motion that has just been moved should be ruled out of order.

Hon. Yonah Martin (Deputy Leader of the Opposition): Would the honourable senator take a question?

Senator Harder: Of course.

Senator Martin: I was curious, in the example that you cited that sets a certain clarity or precedence for us, with the first motion that was on the Order Paper, was there an amendment that gutted the entire motion other than the first word?Or were they two exact same motions? I'm anticipating that there is a Speaker's ruling, but it's an extraordinary situation that's going on here. So I find that situation absurd as well. I've never seen a motion that was fully gutted. I was just curious if the situation was similar in the house.

• (2140)

Senator Harder: Well, the situation in the house involved the exact same motion as I referenced in the debate. The motions were viewed by the Speaker of the day as absolutely similar. That doesn't speak to whether or not those motions were amended or subject to amendment or there were amendments on the table. It is with regard to the motion itself, and that's the heart of the matter.

Hon. Donald Neil Plett: Boy, I wouldn't have missed today for anything in the world. We've had lessons today on — what did Senator Harder call that fiasco he had? — a programming motion today that the chamber hasn't seen in 152 years.

We had a motion today that will provide time allocation on the entire government agenda at every stage of the process, whether it be at first reading, second reading, committee, third reading, and any hypothetical bills coming in.

Now we are given a lesson here on similar motions when Senator Harder — again, as he does in Question Period — says, "Yes, I'll accept the question." He won't give an answer, but he will certainly accept the question.

To Senator Martin's question, is there an amendment that entirely guts Senator Smith's motion? Yes, there is, and there is a point of order on that. And hopefully the Speaker will rule on that shortly, but he hasn't done so yet.

One word Senator Harder leaves in a motion, and he believes that it is somehow a legitimate amendment. Yet, when we bring forward a second motion that is substantively different, he jumps up and self-righteously and with all indignation tells us what we should and should not do.

Your Honour, the rule of anticipation is an ancient rule that is no longer strictly observed in parliamentary practice. Canadian procedural authorities note that attempts to apply the rule of anticipation have been inconclusive. Senator Harder likes to quote O'Brien and Bosc. While the rule of anticipation is part of the standing orders in the British House of Commons, it has never been so in the Canadian House of Commons. Furthermore, references to past attempts to apply this British rule to Canadian practice are inconclusive. The rule is dependent on the principle which forbids the same question from being decided twice within the same session.

This particular motion, which we hope to debate here shortly, is indeed a new motion that is separate from the one introduced by Senator Smith.

My motion, Your Honour, deals with the Office of the Prime Minister attempting to exert pressure on the Minister of Justice and Attorney General, the Honourable Jody Wilson-Raybould, who was until recently a Liberal. It invites only Ms. Wilson-Raybould to appear at committee — only Ms. Wilson-Raybould.

Senator Smith's motion is a separate motion that directs the Legal Committee to invite several people to appear, and Senator Harder has moved an amendment that, again, completely negates the original motion to acknowledge that the Conflict of Interest and Ethics Commissioner is examining the matter.

Also, both motions could be adopted and not be contradictory. Neither Senator Smith's motion nor Senator Harder's amendment has been decided. There has been no decision taken by the Senate yet, and indeed there is a point of order outstanding on an amendment to Senator Smith's motion. Irrespective of whether a decision has been taken by the Senate, these are two distinct motions and debate should be allowed on both of them. Thank you.

The Hon. the Speaker: I will thank honourable senators for their input on this point of order and take the matter under advisement.

(*At 9:45 p.m., the Senate was continued until tomorrow at 2 p.m.*)

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