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The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Wednesday, October 28, 2020

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

Prayers.

[*Translation*]

SENATORS' STATEMENTS

THE OKA CRISIS

THIRTIETH ANNIVERSARY

Hon. Jean-Guy Dagenais: Honourable senators, I would like to take a few minutes today to mark, in my own way and based on my own experience, the thirtieth anniversary of what is known as the Oka crisis.

Last summer, many people marked the thirtieth anniversary of this event, which I would describe as both historic and tragic. This anniversary helped us to realize that, since 1990, we have been powerless bystanders to a lot of political rhetoric and very little real action on the part of governments to resolve this situation, which again resulted, just 10 days ago, in new verbal clashes and complaints to the police with regard to the famous wooded area that was and still is the reason for the conflict.

One need only reread the 1969 white paper by the Minister of Indian Affairs at the time, Jean Chrétien, under Pierre Elliott Trudeau's government, to see that we have not come very far. Fifty-one years ago, Jean Chrétien proposed that Indigenous affairs become a provincial rather than a federal responsibility, but that did not happen. He also proposed that the reserves be transformed into municipalities, which did happen in some areas. However, nothing was done to regularize land located off-reserve. Twenty-one years later, the Oka crisis occurred and 50 years after Jean Chrétien published the white paper in 1969, we are still at the same point. Three cheers for efficiency.

Let me get back to what I wanted to share with you about what happened in Oka, when I was a police officer on duty. It's important to remember that this crisis claimed the life of a police officer, 31-year-old Corporal Marcel Lemay of the Sûreté du Québec. I can admit today that I never accepted the conclusions of the coroner's inquest, which found that Corporal Lemay was killed by a bullet from a weapon that was different than the ones carried by the officers. Who else but the police officers had guns at the Oka barricades? Of course, the inquest was shut down. No one was charged, and no one apologized for that man's death.

I also have this memory of the crisis. During the Oka crisis, I was hit by a Molotov cocktail that set my uniform on fire, and I know for sure police officers were not the ones who threw it. People threw bricks at me, but I was wearing a helmet, fortunately. I know for sure police officers did not throw those bricks. People insulted me and shouted words I would not repeat here, and I know for sure it was not police officers who did that. That is what life was like on the barricades during the Oka crisis.

Police officers like me were waiting for politicians to do something, but they never did. Maybe it is time to ask ourselves what is the point of an apology if nothing changes and they just keep putting things off, hoping it will all be someone else's problem someday.

Indigenous affairs and the conflicts involving Indigenous communities get a lot of media attention every day. Indigenous peoples are not the only ones waiting for politicians. The people of Oka, hunters in Abitibi and fishers in the Maritimes are waiting for solutions to conflicts that have gone on for years.

Because of the crisis I witnessed and everything I experienced back then, I came to the realization that all of these Indigenous issues will probably never be resolved unless everyone is willing to accept the truth and sincerely willing to stop looking back and start focusing on building the future. Yes, there are some things that will never be erased, like the death of my colleague and friend, Corporal Lemay, in 1990. No apology can bring him back to life.

[*English*]

WAHBUNG: OUR TOMORROWS

Hon. Mary Jane McCallum: Honourable senators, the following excerpts are taken from the prologue and message of the Grand Chief in a document called *Wahbung: Our Tomorrows* written by the Indian Tribes of Manitoba in 1971:

The four Indian tribes of Manitoba — the Cree, Ojibway, Chipewyan and Sioux — by united effort through the Manitoba Indian Brotherhood, present to the Canadian people through their government our position on policies necessary to achieve a just and honourable and mutually satisfactory relationship between the people of Canada and the Indian people of Manitoba.

We, the first people of this land now called Manitoba, are the people of indomitable will survive, to survive as a people, proud, strong and creative.

During the centuries in which we lived on this land, we faced many times of struggle, for the land is not always kind, and our people like any other people had to find ways to adapt to a changing environment.

These last hundred years have been the time of most difficult struggle, but they have not broken our spirit nor altered our love for this land nor our attachment and commitment to it. We have survived as a people.

Our attachment means that we must also commit ourselves to help develop healthy societies for all peoples who live upon this land. But we will not be able to contribute unless we have the means first to develop a healthy society for ourselves. Since the signing of the Treaties one hundred years ago, we have been constantly and consistently prevented from doing so.

Three fundamental facts underlie this paper and are reflected in all aspects of it.

• (1410)

First, we are determined to remain a strong and proud and identifiable group of people.

Second, we refuse to have our lives directed by others who do not and cannot know our ways.

Third, we are 20th century people, not a colourful folkloric remnant. We are capable and competent and perfectly able to assess today's conditions and develop ways of adjusting positively and successfully to them.

Other Canadians must recognize these three facts.

We ask you for assistance for the good of all Canada, and as a moral obligation resulting from injustice in the past, but such assistance must be based upon this understanding. If this can be done, we shall continue to commit ourselves to a spirit of cooperation.

Only thus can hope be bright that there might come a tomorrow when you, the descendants of the settlers of our lands, can say to the world. Look, we came and were welcomed, and then we wrought much despair; but we are also men of honour and integrity and we set to work in cooperation, we listened and we learned, we gave our support, and today we live in harmony with the first people of this land who now call us, brothers.

We hope tomorrow will come.

Chief David Courchene

Grand Chief of Manitoba

WOMEN'S HISTORY MONTH

TRIBUTE TO ELIZA BROOKS

Hon. Patricia Bovey: Honourable senators, I rise today to read a statement on behalf of our colleague Senator Bernard, who is unable to be here due to COVID restrictions.

As we near the end of Women's History Month, I'm deeply honoured to pay tribute to East Preston's oldest community member, Eliza Brooks. This year's theme, Because of You, celebrates women and girls who have made lasting impacts on our country. I can think of no other who has contributed more in their life to our community than Eliza Brooks, who celebrated her hundred and first birthday this past May. Ms. Brooks continues to be an active community leader as a member of the East Preston Senior Citizens' Club and the East Preston United Baptist Church, where she has been a member of the choir for over 70 years.

Ms. Brooks is a shining example of how members of East Preston work together for the betterment of others. At 13 years old, Ms. Brooks became the primary caretaker of her family after her mother died. She would often help her father shovel the road since there was no snowplow service in the early years of her life. To this day, Ms. Brooks participates in social and civic engagements, where she actively contributes to intergenerational conversations by sharing her lived experiences as an African Nova Scotian woman. One such experience that she shared was of a time when there was no support for the community's segregated school. The community banded together to supply wood to the local one-room school in order to keep it warm during those brutally cold winters. Her courage and resilience inspire so many of our young women.

Honourable colleagues, please join me in thanking this remarkable woman, Eliza Brooks, for her many contributions that have helped shape and strengthen our community of East Preston, Nova Scotia.

[Translation]

BRITISH COLUMBIA

OCTOBER 24, 2020, PROVINCIAL ELECTION

Hon. Bev Busson: Honourable senators, today I rise with pride to congratulate the people of British Columbia for participating in the provincial election held on October 24.

[English]

Elections are the ultimate expression of our rights as free citizens and the stability of the rule of law. I know my colleagues in this chamber will join me in celebrating the holding of free and fair elections, regardless of the outcome.

Last Saturday, in the middle of a stressful and dangerous pandemic, the people of British Columbia stood up and took their civic duty seriously. They voted in person and they voted by mail. Approximately 500,000 mail-in ballots are in play, which is one third of all votes cast. Because of this, the final outcome is yet to be proclaimed in a number of constituencies.

The election has been conducted safely and effectively in challenging conditions. I offer congratulations to all the professionals at Elections BC for a job exceptionally well done.

One of the reasons why an election was even possible in these pandemic circumstances has been the admirable job played in British Columbia by our Provincial Health Officer, Dr. Bonnie Henry. Her work set high standards for the conduct of the election and helped everyday people assess how to best exercise their right and duty to vote. No one is an island, and Dr. Henry is joined by a superb team that includes deputies Dr. Brian Emerson; Dr. Martin Lavoie; and Dr. Danièle Behn Smith, who focuses solely on Indigenous health issues. There were many other unsung heroes involved in this.

As a senator from British Columbia, I am honoured to congratulate Premier Horgan, along with all the party leaders and candidates for having stood for the election. I'd like to also thank the people of British Columbia for having participated so actively in this expression of democratic will.

Thank you. *Meegwetch.*

ROUTINE PROCEEDINGS

THE ESTIMATES, 2020-21

SUPPLEMENTARY ESTIMATES (B) TABLED

Hon. Marc Gold (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the Supplementary Estimates (B), 2020-21.

ADJOURNMENT

NOTICE OF MOTION

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

That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, November 3, 2020, at 2 p.m.

CITIZENSHIP ACT IMMIGRATION AND REFUGEE PROTECTION ACT

Hon. Mobina S. B. Jaffer introduced Bill S-215, An Act to amend the Citizenship Act and the Immigration and Refugee Protection Act.

(Bill read first time.)

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

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

THE SENATE

MOTION TO EXTEND SENATORS' STATEMENTS FOR THE
REMAINDER OF THE CURRENT SESSION ADOPTED

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, with leave of the Senate and notwithstanding rule 5-5(j), I move:

That, notwithstanding any provision of the Rules, for the remainder of the current session, the normal duration for Senators' Statements be 18 minutes.

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.)

GIRL GUIDES OF CANADA

PRIVATE BILL—PETITION TABLED

Hon. Mobina S. B. Jaffer: Honourable senators, I have the honour to table a petition from the Girl Guides of Canada, of the City of Toronto, in the Province of Ontario; praying for the passage of a private Act to replace its Act of incorporation with a new Act that continues the corporation and makes changes relating to its administration.

• (1420)

QUESTION PERIOD

FINANCE

FEDERAL FISCAL DEFICIT—ECONOMY

Hon. Larry W. Smith: Honourable senators, my question is for Senator Gold.

The federal government recently hit a troublesome milestone. Today marks 328 straight days that a Parliament has existed without a tabled budget. The previous record of 315 days without a budget was set by Jean Chrétien's government. In football terms, this would result in a delay of game penalty.

Since this government first came into power in 2015, it has allowed federal deficits to balloon out of control, and it seems now that they are using the COVID-19 pandemic as a cover.

However, no country has been immune to the impacts of COVID-19. Many governments have been able to table budgets while fighting the pandemic. Examples: Australia, New Zealand, Germany and France, just to name a few.

Senator Gold, when can Canadian taxpayers expect a full federal budget will be tabled by this government?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. As the government announced through the Speech from the Throne and has repeated more recently, the government will present Canadians with an update on a fiscal situation later this fall. This government will continue to be transparent and open with regard to what they know and what they don't know about the outlook for Canada's economy.

Senator Smith: With all due respect, Senator Gold, the government has no business running a country if it can't walk and chew gum at the same time. Accountability and transparency are paramount during times like these. Provincial governments in our own country have been able to table budgets. Why are other governments able to fight the pandemic while carrying out their normal duties but this government can't?

Senator Gold: The Government of Canada is working responsibly and diligently to respond to the needs of Canadians during this pandemic. It is both walking, chewing gum and doing many other things at the same time to the benefit of all Canadians.

[Translation]

PAROLE BOARD OF CANADA

RIGHTS OF VICTIMS OF CRIMINAL ACTS

Hon. Pierre-Hugues Boisvenu: My question is for the Leader of the Government in the Senate. The Canadian Victims Bill of Rights is a federal law that gives fundamental rights to victims of crime, in particular the right to participate. No government or federal institution can disregard those rights.

Since the start of the pandemic, the government has repeatedly claimed that it is protecting the health and safety of Canadians. However, it has forgotten about one class of citizens, the victims of crime, who still do not have proper access to the Parole Board of Canada. Allow me to remind you that the Minister of Public Safety, Mr. Blair, promised three times in April that victims could attend the meetings of the Parole Board of Canada by video conference.

To date, the only thing victims of crime and their families have been offered is the opportunity to testify by telephone, and I have seen this first-hand. Last Monday I was supporting some family members of Brigitte Serre, who was murdered in Montreal in 2006, as they participated in the proceedings over the phone. Four victims testified by telephone while the offender was supported by a parole officer, a correctional officer, a lawyer and a psychologist. The victims were left to fend for themselves, over the phone. Mr. Leader, despite Minister Blair's many promises,

why did it take the government eight months to promise once again to victims last Tuesday in the House of Commons that, as of November 9, these hearings will be held by video conference?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question, your dedication and for defending victims' rights in this important matter.

The Government of Canada still firmly believes in the importance of ensuring that victims' voices are heard in the most effective way possible so that they may participate in the process that you described so well.

As you mentioned, we already have the necessary protocols in place for victims to attend the hearings by phone and I have received confirmation that the government is running tests and working on a video conference system so that the victims can participate in the process.

I'm also told that Minister Blair and the Parole Board of Canada, of which I was a member, are in touch with the Ombudsman for Victims of Crime about these new developments and they continue to work together on this.

Senator Boisvenu: Thank you very much for the sympathy you have shown for the victims. This is the fourth time the minister is promising that the victims can attend these deliberations by video conference.

This is the fourth time the minister is giving hope to the families. Will you commit today to ensuring that, if the families still cannot attend the hearings by video conference by November 9, the government you are part of will apologize to them?

Senator Gold: I can't make that commitment, but I will ask the government the question and come back with an answer shortly.

NATIONAL RESEARCH COUNCIL

NATIONAL BUILDING CODE

Hon. Rosa Galvez: My question is for the Government Representative in the Senate.

[English]

Canada's national building codes have been delayed until December 21, on the eve of their planned release this fall. These codes will include crucial changes, an entire code system that will facilitate the development and implementation of policies and incentives that will help reduce the carbon footprint of our building sector. This is a low-hanging fruit that is overripe for the picking, which I described and recommended in my white paper on the subject last year.

Many jurisdictions around the world, including our own British Columbia with the BC Energy Step Code, are well ahead of the federal government in this regard. Strong and up-to-date building codes should therefore be seen as crucial tools for

providing incentives to homeowners as we seek to recover in a clean and just way from the COVID-19 pandemic, and as we seek to build forward better.

The Corporate Knights' system estimates that \$20 billion in investments in building retrofits will produce 170,000 jobs and reduce our emissions by nearly 10% of their current levels.

Senator Gold, this disappointing news comes on the heels a \$2-billion investment from the Canada Infrastructure Bank for large building retrofits. How can the government insist on retrofiting buildings for energy efficiency under an outdated and now delayed building code regime?

Hon. Marc Gold (Government Representative in the Senate): Thank you, senator, for your question. Let me begin with question two and it will lead me back to question one or at least to your opening remarks.

The government made it clear in its Throne Speech that it remains committed to investing in all types of infrastructure, including energy efficient retrofits, especially with regard to northern and Indigenous communities.

The 2020 building codes are now being revised, and when they're finalized, they will — we hope — provide a coherent path for both provinces and territories to meet the net-zero, energy-ready performance target. Indeed, I've been advised that a number of building code changes are underway to enable carbon reductions.

With regards to your comments about the delays in the building codes, I think it's important for senators to appreciate the context in which this initiative takes place.

The national model building codes actually have no legal status themselves because the provinces and the territories have the constitutional authority to regulate and enforce building codes. The National Research Council leads a building code development system through the Canadian Commission on Building and Fire Codes and its standing committees. Provincial and territorial interests are represented by an advisory committee, the Provincial/Territorial Advisory Committee on Codes, which advises on policy directions. Another example of federalism complicating, in some sense, an answer to this question, in a national forum.

• (1430)

I've been advised that the delayed implementation of the National Building Code can be attributed exclusively to COVID-19 because the social or physical distancing measures, which were put in place to protect us all, simply slowed down the research work and also hindered significantly the National Research Council secretariat's ability to bring the provinces and territories together for the meetings and consultations that were necessary in order to provide revisions to the model code.

Senator Galvez: As you mentioned, the government committed in 2016 to develop Net-Zero Energy Ready model building codes by 2030. All three years — 2017, 2018 and 2019 — since that commitment have registered in the top five warmest years on record globally.

[Senator Galvez]

Shouldn't the government consider advancing the 2030 deadline in order to give Canadians and policy-makers the tools they need to help reduce our national emissions and to meet our national and international commitments?

Senator Gold: Thank you for the question and for the advance notice of the question. I've made inquiries to that effect but unfortunately have not yet received a response. When I hear back, I will report to the chamber in a timely fashion.

FINANCE

SUPPORT FOR CHILDREN AND FAMILIES

Hon. Rosemary Moodie: Honourable senators, this question is for the Government Representative in the Senate.

Senator Gold, in September, UNICEF Canada released a report on the state of children in Canada in comparison to other OECD countries. Canada was ranked in that report thirtieth out of 38 countries in terms of the well-being of our children. We ranked twenty-eighth on spending on children and families, spending 1.68% of GDP compared to the OECD average of 2.38%. Switzerland, Australia and New Zealand are among the countries that spend more than us on children.

Canadian stakeholders have pointed to the need for parental leave and better access to early childhood education and care as part of a broader number of social policies to help Canadian children and families. However, these policies, Senator Gold, are not possible if the government does not make the investments needed.

Does the government believe its current level of spending on children is sufficient? If so, can you tell us why?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question, senator. I think we all listened with great interest to your speech yesterday, and your motion, and your passionate defence of children and advocacy on their behalf.

I don't have an answer for you with regard to the government's view as to its current spending, and how the government's spending fits in with and complements the spending of both provincial and territorial governments. I will make inquiries and will be pleased to report back to you.

Senator Moodie: Again, Senator Gold, the government's main investment in families and children is through the Canada child benefit, yet this benefit is insufficient in many ways and has been described by many advocacy groups as a half measure or not going far enough.

Can Canadian families expect more help through an addition to the CCB in the next budget? Will the government commit to protecting children from post-pandemic budget cuts?

Senator Gold: Again, senator, thank you for your question. We are awaiting with interest a number of initiatives from the government — initiatives that will continue to provide assistance to Canadians and their families and, therefore, to the children of those families, in addition to the specific benefit to which you referred.

This government has been clear — and has been criticized by some in this chamber for its clarity — that it will do whatever it needs to do to make sure that Canadians, their families and their children get through this pandemic as best as we can and so we can recover as a strong society as we transition out of this pandemic.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

SUPPORT FOR FARMERS AND PRODUCERS

Hon. Robert Black: My question is for the Government Representative in the Senate.

Senator Gold, as Senator Plett highlighted yesterday, in September's Speech from the Throne, the Governor General indicated yet again that the government remains committed to fulfill the promised compensation for losses incurred by the Canadian dairy industry as a result of this government's trade agreements over the past six years.

Eight months ago, this government advised that they were committed to fully and fairly compensating the dairy industry, and that they would continue to work with these producers and processors to address the impact of recent trade agreements. This industry has suffered not only as a result of the COVID-19 pandemic, as have many other industries, and they deserve the details they've been waiting for.

Honourable colleagues, the government is well aware of the challenges the dairy industry is currently facing. I questioned the Government Representative on this topic in February of this year and last December, and I have received only delayed answers. Each time I provided my questions in advance to the Government Representative in the Senate, in hopes of receiving an actual response to these questions, yet answers received appear to be only platitudes from the government.

Senator Gold, the time for delayed answers has passed. The dairy industry needs answers now. My question today is this: When will the government finally commit to sharing the full scheduling of the CETA and CPTPP compensation for the remaining seven years, as well as the amount and nature of compensation for CUSMA to ensure Canadian farmers and processors receive the support needed to offset the harmful effects of the Comprehensive Economic and Trade Agreement, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership and, more recently, the Canada-U.S.-Mexico Agreement?

Hon. Marc Gold (Government Representative in the Senate): Thank you, senator, for continuing to raise in this chamber the situation and, indeed, the plight of Canada's farmers and processors, and for raising this with Agriculture Minister Bibeau's office, as I know you do on many occasions.

I've also asked the minister for the detailed payment schedule that you're asking for, but I've not yet received information on the timeline or nature of the full compensation that Canada's dairy sector will receive.

I might add that, in addition to the investments I noted in my response to Senator Plett yesterday, the chamber should be reminded that in 2017 the government launched a \$250-million Dairy Farm Investment Program; and this year, to help dairy farmers deal with surpluses during the COVID-19 pandemic, the government permanently increased the borrowing capacity of the Canadian Dairy Commission by \$200 million, as well as launching the \$50-million Surplus Food Rescue Program.

I have made the request and will provide the answer as soon as I receive it.

NATIONAL RESEARCH COUNCIL

NATIONAL BUILDING CODE

Hon. Terry M. Mercer: Honourable senators, I have a follow-up to Senator Galvez's question on the National Building Code.

I don't know what this government and the previous government are waiting for. There are numerous reports from committees in the Senate. For example, the Standing Senate Committee on Agriculture and Forestry, in their report on the forestry sector, called for a rewrite of the National Building Code.

What plan are they looking for? People have been giving them ideas for years. This is not rocket science. It is a total delay by the bureaucracy, by this government and the previous government, to act on providing Canadians with an up-to-date building code. This is 2020, not 1920. It's about time that we had a building code that reflects the reality of today's industry.

Senator, I know you don't have a direct say in this, but as you talk to your colleagues in government, please emphasize with them that time is up. Give us the plan, and we'd be happy to discuss it. There are a lot of people in this chamber who have expertise in the area of building, and they would be happy to participate in the debate. Please tell your colleagues in the government that time is up.

Hon. Marc Gold (Government Representative in the Senate): Thank you for that, senator. I will certainly communicate that message to my colleagues in the government.

However, I do want to underline that the National Building Code has to be the product not simply of the expertise that may exist in this chamber and elsewhere, but of the input and involvement of those jurisdictions, provinces and territories that have the actual constitutional, legal and democratic responsibility for creating, implementing and applying those standards. Indeed, it extends beyond the provinces, into municipalities and the like. It is a complex process that is inevitably implicated when we deal with national standards in areas of provincial jurisdiction. We could spend the rest of Question Period — but I won't — listing all those areas, from national standard rules in the legal system to health.

• (1440)

[Translation]

PUBLIC SERVICES AND PROCUREMENT

UNTENDERED GOVERNMENT CONTRACTS

Hon. Claude Carignan: My question is for the Leader of the Government in the Senate. Mr. Leader, there's a saying that's becoming increasingly popular in Quebec: "*Un chum, c'est un chum*", or a friend is a friend. It has emerged from the scandal you've surely heard about.

This saying came to mind when I heard that the Trudeau government had rushed to sign a nearly quarter billion dollar contract in April to buy ventilators manufactured by a company owned by a former MP and long-time Liberal organizer.

Baylis Medical, run by Frank Baylis, who was a Liberal MP from western Montreal until September 2019, was subcontracted to manufacture 10,000 ventilators to treat COVID-19 patients. Just 2,174 of the 10,000 had been delivered as of October 14.

The timeline of events is troubling. Baylis Medical says it was approached to manufacture ventilators on March 26. On March 31, FTI Professional Grade was created by Rick Jamieson. The same day, the government announced the end of the tendering period. On April 11, Ottawa signed a \$237-million contract with FTI Professional Grade, and on April 16, FTI Professional Grade subcontracted Baylis Medical.

Leader, can you tell us how many times in the history of Canada the government has given a \$237-million contract to a company that has only been in business for 10 days?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question, which was raised several times in the other place. The important thing here is that the Government of Canada did not sign any contract with Mr. Baylis's company.

Senator Carignan: I don't think you understood my question. The contract was signed with FTI Professional Grade. I didn't say anything about a contract with Baylis. I am talking about the contract with FTI Professional Grade. This company had only been in business for 10 days when your government gave it a \$237-million contract.

[Senator Gold]

I will repeat my question. Is it a common occurrence for the Trudeau government to sign a \$237-million contract with companies that have only been in business for 10 days?

Senator Gold: Thank you for clarifying your question. However, the important thing to remember is that, in light of the current crisis, the government needs to meet the needs of Canadians, which include vaccines and equipment. The government acted responsibly to ensure that it has access to what Canadians need.

[English]

INNOVATION, SCIENCE AND ECONOMIC DEVELOPMENT

RELIABLE HIGH-SPEED INTERNET ACCESS

Hon. Dennis Glen Patterson: Honourable senators, my question is also about an urgent matter — it seems to be the theme today — and it's for the Leader of the Government in the Senate.

Internet broadband providers have been raising the alarm for years that ad hoc government spending threatened the access of Nunavummiut to reliable internet. The CRTC has yet to make a broadband funds award on open applications from Nunavut. Today, 18 months after the 2019 budget approved over \$1 billion in much-needed broadband funding, the federal government has not acted on multiple calls for targeted investments that would ensure Nunavut homes continue to have access to the internet at fair prices.

Now, at a time when northern Canadians rely on the internet the most, one internet provider has announced it will withdraw from the territory by the end of the year. Federal subsidies ran out months ago for a second provider, which serves 67% of Nunavut's households outside of Iqaluit. The lack of new funding assistance means that thousands of households are at imminent risk of losing the internet or having to pay huge amounts. Fog and rain interrupt internet services with a third provider, regularly cutting the territory off from the rest of the country and interrupting business, education and health, including as recently as last Friday for a full day.

My question is — and I've spoken to you about this, Senator Gold — could you tell us what concrete actions the Government of Canada will take to protect the access of Nunavummiut to reliable and reasonably priced internet to ensure those currently connected in our 24 remote communities are not imminently disconnected?

Hon. Marc Gold (Government Representative in the Senate): Thank you very much, honourable senator, for your question. Even before the pandemic hit us, the government recognized that reliable and affordable high-speed internet access is a necessity. It is no longer a luxury but a necessity for all Canadians, especially those living in rural and remote communities. The government is aware there is much more work to do.

I appreciate, senator, that you reached out to me. It gave me the opportunity to forward the material you kindly provided me to the minister's office. I had occasion to speak to Minister Bains personally the day after we spoke, and he assured me that he is looking at this very seriously to see how we can assist.

Senator Patterson: Thank you for that answer. I'm really happy to be asking a question about an urgent need that doesn't require the identification of new money. My point is that the CRTC announced its second call for applications from its \$750-million fund a year ago in November 2019. Then in that same month there was a \$1-billion fund in the federal budget. So it seems to me that there are resources available to respond immediately to urgent needs. I would hope our representative in the cabinet could convey that this one does not require the identification of new money.

Senator Gold: Thank you. I'll certainly make sure that message is passed on.

FINANCE

ECONOMIC AND FISCAL SNAPSHOT 2020

Hon. Tony Loffreda: Honourable senators, my question is for the Leader of the Government in the Senate and concerns keeping effective control over our finances, which is a very important matter, as is the theme today.

On Monday, the Prime Minister stated that the government's upcoming fiscal update won't include a fiscal anchor to indicate to Canadians that the government has put in place a ceiling or cap on its public spending, deficit or debt level. Numerous experts agree that there are many positives in doing so, including, to outline a few: providing a measure of fiscal discipline inside the government, ensuring that the government has the ability to respond to future economic shocks and unforeseen crises — we are nowhere near the end of this crisis, retaining the confidence of lenders and global markets — that's very important. Also important is creating a positive investment climate for businesses, as they are all going through a very difficult time.

I appreciate that we are in a pandemic and more and more Canadians are relying on government intervention to make ends meet and put food on the table. For many, the government's various emergency response benefits have been a lifeline, and we should continue supporting Canadians when and where it is possible and required. However, most Canadians also understand that we must operate within a budgetary framework. We don't know how long this pandemic will last or how quickly our economy will recover.

Senator Gold, many experts and Canadians would feel more comfortable if the government had a fiscal anchor and an actual spending plan in place despite the volatility of the situation — a tool, as I said to Minister Freeland when she was here. A dynamic tool that could be moved.

• (1450)

Here is a question and a challenge: Can you influence or encourage the government to include a fiscal anchor in its upcoming economic update in order to give us a sense of direction, as most experts would like, and to keep an effective control over our finances while continuing to support Canadians?

The Hon. the Speaker: I am sorry, Senator Gold, but the time for Question Period has expired. You may wish to reply by delayed answer.

ORDERS OF THE DAY

ETHICS AND CONFLICT OF INTEREST FOR SENATORS

SECOND REPORT OF COMMITTEE PRESENTED DURING FIRST SESSION OF FORTY-THIRD PARLIAMENT— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Tannas, seconded by the Honourable Senator Patterson, for the adoption of the second report of the Standing Committee on Ethics and Conflict of Interest for Senators, entitled *Consideration of an inquiry report of the Senate Ethics Officer*, presented in the Senate on June 18, 2020, during the First Session of the Forty-third Parliament.

The Hon. the Speaker: Honourable senators, pursuant to rule 12-30(2), a decision cannot be taken on this report, as yet. Debate on the report, unless some other senator wishes to adjourn the matter, will be deemed adjourned until the next sitting of the Senate.

Is that agreed, honourable senators?

Hon. Senators: Agreed.

(Pursuant to rule 12-30(2), further debate on the motion was adjourned until the next sitting.)

HUMAN RIGHTS

MOTION TO AUTHORIZE COMMITTEE TO STUDY ISSUES RELATING TO THE HUMAN RIGHTS OF FEDERALLY SENTENCED PERSONS IN THE CORRECTIONAL SYSTEM AND REFER PAPERS AND EVIDENCE FROM FIRST SESSION OF THE FORTY-SECOND PARLIAMENT TO CURRENT SESSION—DEBATE ADJOURNED

Hon. Kim Pate, pursuant to notice of October 2, 2020, moved:

That the Standing Senate Committee on Human Rights be authorized to examine and report on issues relating to the human rights of federally sentenced persons in the

correctional system, with reference to both national and international law and standards, as well as to examine the situation of marginalized or disadvantaged groups in federal prisons, including Black and Indigenous Peoples, racialized persons, women and those with mental health concerns, when and if the committee is formed;

That the papers and evidence received and taken and work accomplished by the committee on this subject during the First Session of the Forty-second Parliament be referred to the committee; and

That the committee submit its final report no later than June 30, 2021.

She said: Honourable senators, when Senator Munson rose in this chamber nearly four years ago to call on us to study violations of the human rights of those in federal prisons, he made things very clear. He said, “Something wrong is going on . . .”

This summer, in the wake of far too many tragedies and travesties, the Black Lives Matter movement and Indigenous leaders called on Canada to redress centuries of colonialism and systemic racism. In addition, the vast majority of all prisoners and more than half of women in federal prisons are racialized.

Worse yet, during this pandemic, prisoners have been subjected to months of conditions that violate constitutional protections against cruel and unusual punishment and that are recognized internationally as amounting to torture.

Canada’s Charter enshrines guarantees of human rights for all. Yet, as revealed by the most recent reports from the Correctional Investigator and the chair of the ministerial advisory body set up to monitor the structured intervention units — which were supposed to replace solitary confinement and segregation — prisons continue to operate as if those guarantees end at the walls, and despite the laws being clear, that they cannot and do not penetrate those walls.

Canadians have a right to know what actions our government and state agencies are taking in our names and with our public resources. They also have a right to know when state agencies break the law and violate human rights. In the public interest and in the interest of public safety, we have a responsibility to investigate, expose and work to remedy breaches of the law and human rights.

Those whose human rights are violated in federal prisons face an incredibly difficult challenge to make their voices heard. As senators, we are among the few who have a statutory right of access. Along with rights come responsibilities. In this context, some 30 of us, as well as the members of the Human Rights Committee, have taken this responsibility seriously and have worked diligently to examine conditions of confinement and the human rights of federally sentenced persons.

Having consulted with many of you who participated in this study last Parliament, I am today urging us to ensure that we complete our work.

Over the course of more than two years, the committee heard from more than a hundred witnesses, visited 30 prisons across Canada, met with prisoners, staff, prison managers and administration, and issued an interim report.

The interim report documents deeply troubling accounts from prisoners, correctional staff, monitoring bodies and civil society representatives, of individual and systemic human rights violations. Significantly, these concerns were recurring throughout prisons and across all regions of the country.

• (1500)

The report notes:

The committee heard that access to health care is inadequate, admission to gradual and structured release is insufficient, correctional programming is deficient, conditions of confinement are poor, access to remedial measures is lacking and quality and quantity of food is severely substandard.

One overarching theme was that CSC policies often discriminate against Indigeneity, race, gender, disability, mental health, ethnicity, religion, age, language, sexual orientation and gender identity.

This happens particularly when it comes to two-spirited, lesbian, gay, bisexual, transgendered and questioning and queer folk.

Following the interim report, the committee further documented information regarding “marginalized and vulnerable groups, international standards, solitary confinement,” and other forms of segregation, “access to justice” issues, as well as “rehabilitation and reintegration.”

When Parliament rose for the federal election in 2019, the committee was at a stage where all that remained was to issue a final report. Unfortunately, because we were not granted leave to complete that work during the summer, that work remains unfinished.

While what is needed to complete this final report is minimal, the implications of not finishing the study are significant — years of resources invested and efforts undertaken in the name of Canadians, countless hours of expert testimony and stories entrusted to us by both staff members and prisoners alike, hoping and working for a system that upholds the rule of law and human rights.

Many people are waiting for the final report. Just this week, the committee’s work was featured in *The Globe and Mail* report on systemic racism associated with the Correctional Service of Canada’s security classification system.

The interim report has also informed our debates, particularly on Bill C-83. It has featured in presentations on human rights in Canada by committee members, as well as to international bodies including the Inter-Parliamentary Union and in countless other fora. We must finish, not abandon, this vital work.

This motion does not involve significant time or resources. In my humble view, all that would be needed would be to update the committee's evidentiary record from the last Parliament, particularly to account for the implementation of Bill C-83 and the effects of COVID-19 in federal penitentiaries.

This would also allow the Senate to contribute to a conversation of national importance about how to redress systemic racism that, as Senator Bernard has noted, prisons both entrench and create.

As public attention is increasingly focused on the lack of correctional transparency and accountability, the committee could provide valuable information to Canadians via as few as two additional hearings.

We must pay close attention to the findings and experiences of an advisory panel appointed for one year by the Minister of Public Safety to monitor the implementation of the structured intervention units mandated by Bill C-83.

This week, the panel released an analysis of the Correctional Service of Canada data on isolation of prisoners and reported that the panel had been prevented, dear colleagues, by the Correctional Service of Canada from carrying out its mandate.

Colleagues, let us be clear about what this means. During this crucial period, with new internationally significant legislation, and during the pandemic, federal prisons are segregating prisoners with virtually no oversight.

Late last week, the ministerial advisers received some of the data they requested and it reveals a shocking reality that of all the individuals, only 5% of people placed in structured intervention units are receiving the meaningful human contact or time out of cell that Bill C-83 promised. A full 95% of people placed in structured intervention units are not receiving the meaningful human contact or time out of cell that Bill C-83 promised in order to prevent profoundly harmful and unconstitutional solitary confinement. This was indeed a reality well before COVID-19, but when the pandemic hit, this situation became far worse.

Rather than follow the direction of the minister or the advice of countless health professionals, CSC chose to default to the most oppressive approach. Not only did they cease all programs, services and supports, they unlawfully detained people who had been granted parole and institutional lockdowns resulted in virtually every person detained in a federal penitentiary being subject to segregation conditions akin to solitary confinement. All of this is despite the reality that Bill C-83 purported to eradicate such practices.

This widespread and seemingly unchecked use of conditions of isolation emphasizes that laws and human rights standards are not being followed and that means we should be considering Dr. Doob's proposal for permanent external oversight of corrections. This is what the Senate proposed in its amendments to Bill C-83, a system of court oversight of decisions made by CSC that would affect prisoners' rights — one of the amendments that hindsight suggests was erroneously rejected by the government.

Small wonder that CSC was reluctant to release the data. Small wonder that academics like Dr. Emma Cunliffe continued to urge judges to subject information generated by the correctional authorities to heightened scrutiny.

The interim report of the Human Rights Committee was a great first step and is replete with crucially important testimony. Colleagues, let's finish the job and complete this vital study. *Meegwetch*. Thank you.

Hon. Pierrette Ringuette (The Hon. the Acting Speaker): Senator Pate, would you take a question?

Senator Pate: Certainly.

Hon. Mobina S. B. Jaffer: Senator Pate, thank you very much for all the work you and the committee have done on this issue. It would be very helpful for us to know how many years the committee spent on it and the amount of time you're asking to finish the report. From what I heard, you were asking for a very short time for this very important report to be produced. Is that correct?

Senator Pate: Thank you very much, Senator Jaffer. Yes, indeed. In December, it will be four years since Senator Munson moved that the study be conducted, and it was over two years that the committee worked on this study. Some other studies were worked on as well.

In my humble opinion, I estimate one or two sessions would be needed in order to update the evidence and then the report could be completed.

(On motion of Senator Dalphond, for Senator Bernard, debate adjourned.)

THE SENATE

MOTION TO CALL UPON THE GOVERNMENT TO CONDEMN THE
JOINT AZERBAIJANI-TURKISH AGGRESSION AGAINST THE
REPUBLIC OF ARTSAKH—DEBATE ADJOURNED

Hon. Leo Housakos, pursuant to notice of October 27, 2020, moved:

That the Senate of Canada call upon the Government of Canada to immediately condemn the joint Azerbaijani-Turkish aggression against the Republic of Artsakh, uphold the ban on military exports to Turkey, recognize the Republic of Artsakh's inalienable right to self-determination and, in light of further escalation and continued targeting of innocent Armenian civilians, recognize the independence of the Republic of Artsakh.

He said: Honourable senators, I've been watching with grave concern the ongoing conflict in the Republic of Artsakh, or as some of you may know it, the Nagorno-Karabakh Republic.

On September 27, Azerbaijan launched yet another offensive on the Republic of Artsakh along the entire line of contact. This large scale war comes two months after Azerbaijan targeted Armenia proper, in July of this year, causing significant casualties, and threatening to bomb Armenia's nuclear power plant. Since the fighting began, there have been three so-called ceasefires staged by Russia, France and the U.S. — October 10, 18 and 26.

• (1510)

Each time, while Armenia has fully adhered to the ceasefire terms, Azerbaijan violated all three — making it very clear that Azerbaijan is not willing to find a peaceful resolution to this conflict.

Azerbaijan's targeting of peaceful regions and civilians far away from the line of contact and the shelling of major cities and towns constitute blatant war crimes and are a cause for extreme outrage by all.

According to official reports, both civilian and military casualties are mounting, thanks in part to Canadian drone technology, colleagues. There has been significant destruction of civilian infrastructure, like the main cathedral of Stepanakert, as well as basic humanitarian supplies.

Exacerbating the situation is the involvement of the Republic of Turkey, as they provide military support and foreign jihadist mercenaries to fight alongside the Azerbaijani Army. This is a clear breach of international law, unworthy of a NATO ally and must be condemned, at once, in the strongest possible terms.

Turkey's actions should come as no surprise to anyone who has been paying attention to President Erdogan, his authoritarian regime and their increased aggression of late, both domestically and throughout the Mediterranean, the Baltic regions and the Middle East.

What alarms me most is that the aggression has been going unchecked by the Western democratic world, including by us right here in Canada, and is serving only to further embolden Erdogan and encourage his pan-Turkism aspirations in Asia Minor.

We saw it when he converted Hagia Sofia into a mosque in direct disrespect and violation of international law. It has been months since he has done so and yet there are no consequences. We see it in Turkey's refusal to respect the sovereign Mediterranean waters of Greece and Cyprus, where they have continued to neglect and ignore UN declarations for years and, recently, threatening war on their Mediterranean neighbours.

Over the past few weeks, overwhelming evidence has shown Azerbaijan is using the Turkish-made Bayraktar TB2 attack drones. That's where we come in, colleagues. Last week we saw footage of an Armenian defence official displaying parts of one of these downed drones. And what's really troubling for us, and should be, is that these drones are not only equipped with

Canadian-manufactured targeting technology made by L3Harris WESCAM, but we now know they are also equipped with the Rotax engine, made by an Austrian subsidiary of Canadian manufacturer Bombardier.

But, colleagues, how is that possible since Canada banned exports of defence technology to Turkey in October of last year, following their invasion in northern Syria, and renewed that ban again in April of this year?

With the engine parts, there's a bit of a loophole because they're subject to regulations in Austria, where they are manufactured. But to Bombardier's credit, they have done the responsible thing and suspended any further delivery of these aircraft engines to countries with unclear usage, amid reports of their likely usage in this Azerbaijani conflict.

What about the targeting technology? While I applaud Canada's Minister of Foreign Affairs, Mr. Champagne, for his announcement earlier this month that Canada would suspend export permits to Turkey for targeting technology, why were those export permits granted in the first place? What happened to the original ban, colleagues?

It turns out that there were exemptions granted to the existing ban. I think we as parliamentarians and as Canadians need to know why that exemption was granted and by whom.

The House of Commons was unable to get straight answers from a senior bureaucrat just last week at a House of Commons committee. We do know that Prime Minister Trudeau spoke to President Erdogan about these exports in a telephone call last April and again earlier this month. Did our Prime Minister make a deal with President Erdogan that we don't know about? If so, will it happen again?

It is absolutely crucial for Canada not to engage in any further sales with the Republic of Turkey and to strictly adhere to its own government's decision to halt exports, without personal interference from anyone, not even our Prime Minister.

Canadians deserve assurances that no further exemptions will be granted on the side by Mr. Trudeau to President Erdogan. The ban on offensive and aggressive military technology to Turkey, still used today to commit genocide and crimes against humanity must be upheld — full stop, no exemptions, not negotiable.

The other thing we need from our government is to properly address what is happening; to call it out for what it is. Since the initial outset of this conflict in the 1990s, Canada and the international community have refrained from using the proper language to condemn Azerbaijani aggression, emboldening it to push forward with attacks, even during this global pandemic.

Prime Minister Justin Trudeau and Minister Champagne must be unequivocal in condemning these aggressions and denounce the abhorrent crimes and violations of international law committed by Azerbaijan with the help of the might and military support of Turkey.

Canada must do so, not for political reasons, but because it is the right thing to do. What we are seeing right now is similar to the Trudeau government's response to China's increased

aggression, whether it be in Hong Kong, against the Uighur Muslims, intimidation of Taiwan, military aggression in the South China Sea or the unlawful detainment of our two Michaels.

Prime Minister Trudeau turns a blind eye, putting commercial interests and God knows what else above all else. It only serves to further embolden tyrannical behaviour of the likes of President Xi Jinping and President Erdogan. That's what we're seeing here, around the world — tyrants and aggressors who constantly use economic leverage to get away with what should be crimes against humanity.

The Armenian people have suffered far too long under the Turkish-Azerbaijani yoke, and we as leaders of the Western world, and guardians of our shared values of democracy, justice and human rights, cannot sit idly by and allow murderous dictatorships to commit yet another genocide, right before our eyes. It has happened too many times in the past that democracies have stayed silent and parliaments of democracies have turned a blind eye.

For thousands of years, the Republic of Artsakh has been an integral part of historical Armenia and has never been a part of independent Azerbaijan. Azerbaijan's only claim to Artsakh is the fact that Soviet dictator Joseph Stalin stole it from the Armenians and gave it to the Azerbaijanis, just like he did with Nakhchivan, the other landlocked Armenian enclave to the west, as part of the U.S.S.R.'s communist divide-and-conquer strategy.

During the waning days of the Soviet Union, peaceful Armenians in Armenia and Artsakh demanded reunification with Armenia, and later their fundamental right to self-determination and independence. They achieved this through a democratic, legal referendum that was in accordance with international law. As a response, Azeri nationalists carried out gross massacres and pogroms in the Azerbaijani city of Sumqayıt, claiming the lives of innocent Armenian men, women and children. This ethnic cleansing campaign committed by Azeri forces against the Armenians set a haunting precedent for further crimes against humanity, including the Baku pogrom committed in 1990 and the ongoing state-sponsored anti-Armenian ethnic cleansing hate campaign in Azerbaijan.

Make no mistake: If the ongoing war continues and the Turkish-backed Azerbaijani forces and foreign jihadist mercenaries enter the Republic of Artsakh, a second genocide of the Armenian people will take place.

These are facts, not assumptions or speculation. These are alarmed reactions and warnings to the international community. President Erdogan of Turkey and President Aliyev of Azerbaijan have long used such toxic rhetoric, vowing that they are committed to finishing the unfinished genocide perpetrated by their pan-Turkish Ottoman ancestors against the Armenians, Greeks, Pontians and Assyrian peoples. This is not my language; this is language used by today's ministers of the Erdogan government in Turkey. It's abhorrent and disgusting in 2020.

Canada's actions on the global stage must be guided by our strong adherence to our values and principles, not by double standards, political expediency or corporate pressure or profits. We cannot allow the economic interests and influence of foreign powers to dictate how we react to issues of such grave danger.

Canada's actions and words must be reflective of our long-standing reputation as peacekeepers and peacemakers, and the first step in doing that must be to have the ability to distinguish between the aggressor and the innocent peaceful victims.

Since the internationally brokered ceasefire of 1994, Azerbaijan has continuously violated that regime, raising serious concerns towards its commitment to peace and stability in the region. Furthermore, official Baku has continuously turned down international calls to allow internationally operated monitoring mechanisms to be installed along its line of contact with the Republic of Artsakh.

On the other hand, Armenia and Artsakh have always advocated for the installation of these gunfire locators to increase confidence-building measures to deter further violence.

• (1520)

There is absolutely no doubt as to who is the aggressor in this conflict. As President Macron of France said just a few weeks ago, there are no justifications for Azerbaijan's actions. Our governments must realize that issuing neutral and manicured statements calling on the sides to refrain from the use of force will only embolden Azerbaijan to continue its barbaric aggression.

Let us be clear and not mince our words, and set the course for decisive action. While our government is taking certain steps to do the right thing, I cannot stress enough the importance for them to stand on the right side of history on this issue and all other issues facing humanity and the rights of nations for self-determination.

The ban on military exports to Turkey must be upheld at all costs. Canada must do everything in its power to work with international partners and organizations to condemn and contain the aggressors and to bring lasting peace to the region. Otherwise, Turkey and Azerbaijan will most certainly continue their aggression and instigate a regional war that will undoubtedly have dire consequences for the international community.

We must commit to protecting the inalienable rights of peaceful and peace-loving Armenian people in the Republic of Artsakh and protect their right to self-determination, allowing them to chart their own course. Upholding the right to self-determination and recognizing the Republic of Artsakh as a free, sovereign state are the only viable and long-lasting solutions to this conflict. It is the only way we will be able to deter further violence in the region and prevent other conflicts from happening in other parts of the world.

This is the time for Canada to stand up and act. This is the time for Canadian parliamentarians to pay attention because if we don't pay attention at the early stages of conflicts, that's how we get another Kosovo. That's how we get more ethnic cleansing horror stories written into the history of mankind. It will be because we did not pay attention. Middle powers, like Canada, and superpowers may bury their heads in the sand trying to pursue some commercial deal at the expense of incurring tremendous human atrocities.

Honourable colleagues, Artsakh — or as the Azerbaijanis call it, Nagorno-Karabakh — is a region of 150,000 people. Christian Armenian-speaking people have been living there for centuries. They recently held a legally recognized referendum, as I said earlier on, by which they called overwhelmingly for self-determination and independence. There's nothing more important in our existence, in humanity, than democracy, and we have to stand up for it.

In this particular instance, we have a case of David versus Goliath. You have 10 million Azerbaijanis trying to crush 150,000 Armenians with the backing of a superpower in the region, like Turkey, with full military power and full political power. It is nothing more than pushing out the Armenians as the Turks have done now for centuries, just because.

I think this is our opportunity as a chamber to stand upon principle to defend these values of democracy, human rights and the rule of law and to basically send a message that the Republic of Artsakh — Nagorno-Karabakh — should have the right to self-determination without encroachment from Azerbaijan or Turkey, no encroachment from Russia and no encroachment from anybody because democracy must reign and it must rule.

I think this is important, colleagues. We need to address it over the next few weeks, because if we don't speak up as certain parliamentarians are doing in France, in the United States and if Canada isn't part of that debate and if we are not on the right side of history, there will be an ethnic cleansing there that we will be talking about a few years from now with a great deal of shame. Thank you so much, colleagues.

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

Senator Housakos: Absolutely.

Hon. Mobina S. B. Jaffer: Senator Housakos, thank you very much for your presentation. I appreciated hearing what you had to say about this issue.

I have two questions for you. First, you spoke about civilian casualties. You know this issue so well. Can you give us a better idea of what kind of casualties? I'm not trying to make light of it, but what kind of casualties were you talking about?

The Hon. the Acting Speaker: Senator Housakos, before you answer this question, your time is almost up. Are you requesting five more minutes?

Senator Housakos: I would request from the chamber five additional minutes.

The Hon. the Acting Speaker: Is it agreed?

Hon. Senators: Agreed.

Senator Housakos: Senator Jaffer, in a conflict of this nature, the media tends to focus on civilian casualties over militarily engaged casualties. To me, all casualties of war are a sad thing — men, women, children, all types.

Obviously both sides are making claims that are very difficult for us to substantiate from a distance, but we know one thing. The Azerbaijani side has taken grave steps to make sure that the media does not have open access to the conflict region. The Armenian side has done everything they can to protect the media, to have access to these conflict zones and to basically try as much as possible to open up to the world the various attacks that are coming from the Azerbaijani side, in terms of technology, location and the number of casualties.

It is hard, as I said, to substantiate the exact amount and how many are civilians versus combatants. But the area of conflict we're talking about is an area with a population of 150,000, and 97% or 98% are ethnic Armenians. It's absurd for Azerbaijan, an independent country of 10 million people, to be making a claim on a territory where the vast majority of people have made it clear they want independence. They don't want to be part of Azerbaijan. They don't want to be part of Armenia. They want their independence. I find this a very simple thing for democratic parliamentarians to understand. This is not a conflict between a multitude of ethnic communities living in a region together and having difficulty getting along. This is a question of a foreign power who, with the support of a couple of other foreign powers, is encroaching on that entity's desire for self-determination.

Senator Jaffer: May I ask you another question?

Senator Housakos: Sure.

Senator Jaffer: Senator, one of the things that Canada is well-known for is peaceful resolution. I was myself a peace envoy for Canada. In all your discussions, do you not think that one of the things we could suggest in such a dispute is for Canada to intervene and bring people to a peace table?

Senator Housakos: There is no doubt. But in order to have peace, you need two entities who are willing to have peace. We've had three opportunities, just over the last few weeks, in negotiated ceasefire agreements that were led by the United States, Russia and other international leaders. It has been Azerbaijan that does not want to respect that particular call for peace and ceasefire.

Furthermore, if you look at the overwhelming capacity that Azerbaijan has in this particular conflict, in terms of military capability and drone capability, these are things that Armenia doesn't have. They can't defend themselves. These 150,000 individuals who are there calling for independence cannot defend themselves. They don't have the capacity to do so.

Are we going to take a stand? Russia, for example, and Turkey are involved for geopolitical reasons, engaging on one side and arming and supporting them. Meanwhile, we are on the other side in an appeasement mode trying to say that we have to find a peaceful agreement. There were a lot of people who thought they could appease Hitler during World War II, but you can only achieve peace through negotiations and dialogue with people who are not tyrants and who are reasonable. In this particular instance, everything we have seen from the Azerbaijani-Turkish side has not been reasonable. If anything, it has been very aggressive. Their military ramp-up continues. Now we have

evidence from the media and from our allies that Turkey has sent jihadist mercenaries to that conflict zone from Syria and Libya. That is abhorrent and unacceptable, and we need to call it out.

(On motion of Senator Boehm, debate adjourned.)

[*Translation*]

THE SENATE

MOTION TO AFFECT COMMITTEE MEMBERSHIP—DEBATE

Hon. Raymonde Saint-Germain, pursuant to notice of October 27, 2020, moved:

That, for the remainder of the session, and notwithstanding any provision of the Rules, usual practice or previous order:

1. the Standing Committee on National Security and Defence be composed of twelve senators, other than the ex officio members;
2. the Committee of Selection; the Standing Committee on Rules, Procedures and the Rights of Parliament; and the Standing Committee on Internal Economy, Budgets and Administration be empowered to elect up to three deputy chairs;
3. all other committees, except the Standing Committee on Ethics and Conflict of Interest for Senators and the joint committees, be empowered to elect up to two deputy chairs;
4. if a committee has elected more than one deputy chair:
 - (a) the reference to the deputy chair in rule 12-18(2)(b)(ii) be understood as referring to all deputy chairs of the committee acting together;
 - (b) the reference to the deputy chair in rule 12-23(6) be understood as referring to any deputy chair of the committee acting alone; and
 - (c) any reference to the deputy chair of a committee in any policy or guideline adopted by the Standing Committee on Internal Economy, Budgets and Administration be understood as referring to all deputy chairs acting together, until the Standing Committee on Internal Economy, Budgets and Administration decides otherwise;
5. the Committee of Selection be a standing committee;
6. the Committee of Selection have power to make recommendations to the Senate on issues relating to meetings of either the Senate or committees by

videoconference or teleconference, to the coordination of such meetings and to measures that would facilitate or enhance their operations;

7. if a Senate committee establishes a Subcommittee on Agenda and Procedure, any two members of the subcommittee be authorized to direct the clerk of the committee to convene a meeting of the committee for the purposes of considering a draft agenda by sending a signed letter to the clerk, upon receipt of which the clerk of the committee shall convene a meeting of the committee at the committee's next meeting time, during a week that the Senate sits, according to the agreed upon schedule for committee meetings that is more than 24 hours after the receipt of the letter;
8. except in the case of the Standing Committee on Ethics and Conflict of Interest for Senators:
 - (a) except as provided in sub-paragraph (b), if a senator ceases to be a member of a particular recognized party or recognized parliamentary group for any reason, he or she simultaneously cease to be a member of any committee of which he or she is then a member, with the resulting vacancy to be filled by the leader or facilitator of the party or group to which the senator had belonged, following the processes established in rule 12-5;
 - (b) if a senator ceases to be a member of a recognized party or recognized parliamentary group because that party or group ceases to exist, he or she remain a member of any committee of which he or she was a member, subject to the provisions of sub-paragraph (c), but cease to be chair or deputy chair of any committee on which he or she held such a position, and cease to be a member of any Subcommittee on Agenda and Procedure of which he or she was a member; and
 - (c) if a non-affiliated senator becomes a member of a recognized party or recognized parliamentary group, he or she thereby cease to be a member of any committee of which he or she is then a member, with the resulting vacancy to be filled either by order of the Senate or the adoption by the Senate of a report of the Committee of Selection; and
9. any changes to the membership of a committee pursuant to paragraph 8 of this order be recorded in the *Journals of the Senate*.

She said: Honourable senators, I have the privilege today to delve deeper into the motion I tabled yesterday. This motion deals with the sessional order and should finally make it possible for all of us, regardless of which group we are in, to sit on the various committees. This motion would also give each group a representative on the steering committee of each standing committee.

• (1530)

I want to talk about the basic principles of this agreement. The first principle has to do with proportionality. Today, in 2020, there are five groups represented in the Senate. There is obviously the Government Representative's group with three senators, the opposition, and three other groups that are now recognized.

We cannot forget the four senators, excluding the Speaker of the Senate and the Government Representative, who are non-affiliated senators. It is important to ensure that each of these groups and these non-affiliated senators are represented and that they be allowed to sit on the various committees.

We have used the principle of proportionality to determine how many seats each of these groups and caucuses should have, which can then be redistributed to their members, based on the criteria of each of these groups.

The second principle is equality. It is important to ensure that all of the groups could be represented on the steering committees of each committee and that they would also be well represented on the Senate's governance committees.

I want to give a concrete example of a senator who, in my estimation, has been treated unfairly: Senator Munson. He has been a member of the CIBA steering committee for several months now. He never received any compensation for this. Because I'm familiar with the work of his colleagues on the steering committee, I know that he's worked at least as hard as they have. There's an inequity there that this sessional order proposes to correct by ensuring that each member of the four groups represented on the governance committees — namely the Standing Committee on Internal Economy, Budgets and Administration, the Standing Committee on Rules, Procedures and the Rights of Parliament and the Selection Committee — can have one seat with an additional allowance.

The principle of reasonableness applies, however. If we create such a position for a fourth paid member, since we already have three members on steering committees, this could be considered excessive. That is why we proposed, given the impact of proportionality, that the two groups with the fewest senators be allowed to occupy, in rotation, the various third paid positions on the steering committees. Accordingly, a majority of the members of each of these groups could occupy a position on the steering committees and receive an allowance for their work.

This principle of fairness with reasonableness seemed important to us. I now want to talk about non-affiliated senators because that topic is just as important. They must not be left behind. That is why this agreement provided for consulting the four non-affiliated senators about their interests with respect to committees so that they are able to have a seat. Personally, I believe that we in the Independent Senators Group offered seats to two senators who are members of the G3. I believe we managed to reach a very good agreement.

I would now like to talk about how every angle and aspect of this agreement respects the rules. Respecting the rules is extremely important to us.

[Senator Saint-Germain]

[English]

Regarding paragraphs 8 and 9 of the motion, allow me to offer a reflection on the argument that we are not following the Rules. The Senate has, for many years now, treated committee seats as belonging to caucuses or groups. This is not a new proposal. It is consistent with sessional orders adopted unanimously in the past. Some recent examples include December 7, 2016; November 7, 2017; November 20, 2018; and April 11, 2020. So, in 2016, we had three recognized groups. Now we have five including the Government Representative.

In all of these cases, the Senate unanimously set aside rule 12-2(3). I note that then leave was not denied. That is absolutely fair and reasonable. Colleagues, there is nothing extraordinary or inappropriate about the terms of this motion, which reflects an agreement among the facilitators and leaders of three out of four groups in the Senate. We are continuing along the lines of agreements that have facilitated the work of the Senate for the past several years. The current agreement is aimed at further promoting fairness and equality among the groups. Hence, this motion is made in the spirit of that respect for equality of groups.

For a group to lose its entire membership on a committee if a senator decides to change groups would be unfair to all senators of that group. The practical result of a small group no longer having a seat on a committee, no longer having representation on a committee, departs from the fairness principle. Additionally, the departing senator would certainly create an unfair situation for his colleagues. Neither is it an appropriate, logical nor fair approach to allow such a situation to be possible in the chamber.

We have consistently advocated and supported the inclusion of all groups. That would put a group at risk in this way, this portability-of-the-seats option.

[Translation]

I also want to talk to you about the importance of properly interpreting the *Rules of the Senate*. An act or regulation is read in its entirety, not clause by clause.

I refer to rule 12-2(3), which begins with the words “Except as otherwise provided.”

Except as otherwise provided, once the report is adopted by the Senate, Senators appointed to the standing committees and the standing joint committees shall serve for the duration of the session.

Rule 12-5 is an exception since it raises the possibility of replacing a member of a committee and defines the appropriate procedure. Rule 12-5 reads, and I quote:

Changes in the membership of a committee, except for the ex officio members and members of the Standing Committee on Ethics and Conflict of Interest for Senators, may be made by notice filed with the Clerk, who shall have the notice recorded in the Journals of the Senate. The notice shall be signed by:

- (a) the Leader of the Government or a designate for a change of government members;
- (b) the Leader of the Opposition or a designate for a change of opposition members; or
- (c) the leader or facilitator of any other recognized party or recognized parliamentary group, or a designate, for a change of members of that party or group.

Furthermore, *Senate Procedure in Practice*, which is the authority on this matter that was written by our parliamentary experts — whom I would like to thank for their excellent work — deals with the possibility of making changes to the composition of committees in chapter 9, at page 177, where it states:

Once senators are appointed to committees, rule 12-2(3) provides that their membership continues for the duration of the session. Notwithstanding this, membership changes can be made during the course of a session, except in the case of the Ethics and Conflict of Interest Committee, by the . . . leader . . .

I named them earlier.

It then adds:

Membership changes are not time-limited. They result in the permanent removal and replacement of a senator from the membership of a committee. The senator removed in this way is no longer a member of the committee unless another notice is submitted reinstating the senator's membership on the committee. Once replaced, the senator loses all privileges of membership, including the right to vote, to move a motion in committee and to be counted as part of quorum.

• (1540)

Rule 12-2(3) notwithstanding, current practice in the Senate as per a number of sessional orders requires senators who change their affiliation to give up their committee seats. In my view, this is a matter of equity, respect for negotiations among groups in the Senate, and upholding proportionality.

Now that we have five recognized groups in the Senate, I think we also need more clarity around the responsibility undertaken by a caucus or group. If a caucus or group admits one or more senators, it must offer them committee membership. I think that is extremely important. It is even more important to make sure that senators who join a group leave it up to that group, which may have brought in one or more new members on the basis of proportionality, to decide who is going to represent it on the steering committee. To do otherwise would result in obvious inequity. A group or caucus could end up with two members on the steering committee of a standing committee, leaving another group or caucus with no representation on the steering committee. It think that is obvious.

In my opinion, when it comes to leaving a group or joining a new group, the senator who makes that perfectly legitimate decision must act with honesty and integrity, as must all senators.

I will conclude by emphasizing the importance of ensuring that this motion now becomes a reality. Five bills are expected in the coming weeks and possibly even the coming week. One of them must be passed before the December 18 deadline and that is the bill on medical assistance in dying, a very complex and extremely important bill. It is up to us to ensure that these bills can be examined intelligently, to ensure that the Senate committees can give them an expert and attentive second look. I think it is our duty and responsibility to adopt, as soon as possible, this sessional order, which will enable us to do our work carefully and prevent us from just quickly rubber-stamping these bills, something that I personally could not bring myself to do.

Hon. Senators: Hear, hear!

[*English*]

Hon. Diane Bellemare: Honourable senators, I'll speak mostly in French. However, I would like to summarize my arguments, which I will propose to you. First, I want this motion that the committee resume. That is for sure. I don't want to delay any work. And all of you also know the modernization of the Senate is dear to me, and especially my Conservative colleagues, who were my colleagues and still are, know that I walk the talk also.

In this motion I would like to introduce an amendment, and I think it is a reasonable one. My amendment is based on the argument that dispositions 8 and 9 of the motion contradict the zest of rule 12-2(3), where it says that:

Except as otherwise provided, once the report is adopted by the Senate, Senators appointed to the standing committees and the standing joint committees shall serve for the duration of the session.

This rule has been there for a long time, but we don't know how long. I asked the clerks and they said it has always been there. It has always been respected, except in the Forty-second Parliament, where we had the arrival of new senators. We had sessional orders. And at that time I was in the GRO, so I didn't want to do anything that would be dangerous to the committee formation. Now I'm an independent senator so I can say what I really think about these dispositions and why they should be removed from the sessional order that we have.

It is a dangerous idea to have those dispositions because they ruptured the delicate balance between the influence of a group and a caucus on a senator and their own liberty to do things as they see fit. It was there when we had a duopoly, and I think many of you don't know — but now you do — that I have been with the Conservative caucus and I left the Conservative caucus when I had —

Some Hon. Senators: Oh, oh.

An Hon. Senator: That's now four —

The Hon. the Acting Speaker: Order! Order!

Senator Bellemare: When I left the Conservative caucus, I kept my seats on committees, except for one committee. After a while, a senator in the Conservative caucus wanted to take that seat and he did, through rule 12-5. But otherwise, I sat on the Finance Committee and on the Banking Committee until the end of the session.

[Translation]

In my opinion, paragraphs 8 and 9 are very dangerous because they contradict the fundamental principles of the reform that seeks to establish a less partisan, more independent and more transparent Senate. In fact, paragraphs 8 and 9, which require a senator to abandon their seat if they change party membership, contradict the principle of plurality, which is very important in the Senate to prevent a majority rule that we are attempting to overcome in this chamber, as compared to the other place. I will explain this a little later.

The second principle that contradicts these paragraphs is that of proportionality between groups, for reasons which I will also explain, and the principle of the equality of senators, so that all senators can exercise their constitutional mandate with the same tools and the same participation in committees.

Let me start with the principle of plurality. Paragraphs 8 and 9 eliminate the fluidity of movement between groups. As we know, the plurality of the groups is a major element that must be considered to make the Senate less partisan and more independent.

As honourable senators may know, every senate in the world, with the exception of the United States Senate and, in the past, the Senate of Canada, is made up of several groups so that no one group can count on a majority of the votes. The reason is obvious. A senate has a duty of sober second thought and must prevent the other chamber from using its majority to force the passage of legislation that may, in some way, have an impact on minority groups or on certain regions. If the Senate wants to apply sober second thought, if it wants to be truly objective and impartial and counter majority rule, it can't have a majority itself. No group can have a majority.

The principle of plurality, then, is eminently important, and this fluidity must be respected.

• (1550)

In addition, the proportionality principle, which exists in all senates around the world with respect to the composition of groups, hinges on the portability of committee seats so that it can be upheld throughout a session.

Here's a very simple example. Suppose there's a group made up of 20 senators. It loses two senators, or 10% of its members. Let's say those two senators join another group made up of 20 senators. That group now has 22 senators, having increased its membership by 10%. If the existing rule were properly applied, the group now made up of 18 senators would be able to claim approximately 22% of the seats, and the other group, made up of 22 senators, would be entitled to the same number of committee seats as if it had 18 members.

If the session is very long, that means that if each of those senators belonged to two committees, the group that loses members would have four committee seats to distribute among its 18 senators. Some would join three or even four committees. The committee that gets two senators in a group that now has 22 senators, each member of which sits on two committees, would have to give one seat to the two new members. The senators in question would therefore sit on one committee. Some of them will have that opportunity.

If we want to ensure that the rule on proportionality is always followed, then the committee seats must be portable. That is how we can ensure equality among senators in the performance of their duties. If committee seats are portable and we assign a senator a task at the beginning of the session and they carry out that same task throughout the session, the workload will be fair for all senators under the rule on proportionality. Whether a senator stays or goes, they must transfer their committee seats, otherwise it will create an imbalance in the number of committee seats per group and the rule of proportionality will no longer be respected nor will equality among senators.

A senator who decides to leave a group does not plan to do so, I can tell you that. It is something that can happen in a senator's life. It happens regularly when the sessions are long. If a session lasts a really long time, like the last time, the imbalance between the principles of proportionality and equality will continue.

There are some other little things that bother me about this motion, but paragraphs 8 and 9 are the ones that I find the most troubling.

[English]

MOTION IN AMENDMENT

Hon. Diane Bellemare: Therefore, honourable senators, in amendment, I move:

That the motion be not now adopted, but that it be amended:

- (a) adding the word "and" to the end of paragraph 6 in the English version; and
- (b) replacing paragraphs 8 and 9 by the following:

"8. except in the case of the Standing Committee on Ethics and Conflict of Interest for Senators, a senator who changes their affiliation cease to be chair or deputy chair of any committee on which the Senator held such a position."

[Translation]

In other words, by deleting paragraphs 8 and 9 from the motion, we can uphold rule 12-2(3), which clearly states that a senator must serve for the duration of the session. Plus, there's always rule 12-5, which can be used to remove a senator from a committee.

By deleting paragraphs 8 and 9 while maintaining the exception stating that a senator who leaves a group ceases to be a committee chair or deputy chair, we can maintain proportionality, which doesn't apply to chairs or deputy chairs, and at least we can uphold proportionality with respect to the mandates and equality of senators.

With that, I'm ready for any and all questions. Thank you.

Hon. Senators: Hear, hear!

[English]

The Hon. the Acting Speaker: Honourable senators, in amendment, it was moved by the Honourable Senator Bellemare, seconded by the Honourable Senator Loffreda:

That the motion be not now adopted, but that it be amended:

- (a) adding the word "and" to the end of paragraph 6 in the English version; and

An Hon. Senator: Dispense.

The Hon. the Acting Speaker: Dispense?

Some Hon. Senators: No.

The Hon. the Acting Speaker: I will continue:

- (b) replacing paragraphs 8 and 9 by the following:

"8. except in the case of the Standing Committee on Ethics and Conflict of Interest for Senators, a senator who changes their affiliation cease to be chair or deputy chair of any committee on which the Senator held such a position."

[Translation]

On debate on the amendment.

[English]

Hon. Donald Neil Plett (Leader of the Opposition): I have a question, but I would also like to enter debate.

[Translation]

The Hon. the Acting Speaker: Senator Bellemare, do you wish to answer the question?

Senator Bellemare: Yes, with pleasure.

[English]

Senator Plett: Just for clarification, Senator Bellemare, I didn't want the Speaker to dispense because I wanted to hear the motion again. Maybe I'm not understanding correctly.

I understand where you want the committee seat to go with the senator wherever he or she goes, but are you also saying that if you, for example, are the chair of Finance and you decide in a

great conversion moment that you would like to be part of the Conservatives again — that's, in fact, what you promised you would be when you first came to this place and you've now gone to two other places — would you still keep your position as chair of Finance, or would you give up the chairmanship and remain a member?

[Translation]

The Hon. the Acting Speaker: Senator Bellemare, your time has expired. Would you like to ask for five more minutes?

Senator Bellemare: Yes, please, Madam Speaker. The simple answer is this:

[English]

If I were chair of a committee and I quit the affiliation, I would cease to be chair of that committee. The motion explicitly says that I would still sit on Finance but I would not be chair.

Hon. Marilou McPhedran: Thank you, Senator Bellemare, for this amendment. Could you just confirm for me that it is your intention, with this amendment, not to change 12-5 in any way, or do you expect your amendment to have an impact on the existing wording and effect of 12-5?

• (1600)

Senator Bellemare: No, I don't intend to change anything in the Rules with my amendments. My amendment has the effect of protecting 12-2(3) as it is and to use 12-5 if a group absolutely wants to get a senator off of a committee. It can be done.

Hon. Scott Tannas: I am a little nervous talking numbers with an economist, but you mentioned 20 people and 2 leaving, et cetera. I just wondered if you could frame that against this: On a certain committee, if the CSG lost 8% of its members, one member, they would lose 100% of their seats on that committee. If the PSG loses 9% of their membership, they would lose 100% of their committee. On the other side of the table, on that same committee, if the ISG lost 2% of their members, they would lose 25% of their seats. Can you square that with how you were explaining it?

Senator Bellemare: Absolutely. Senator Tannas, the objective of my motion is in the spirit of a modern Senate where a senator is a senator. A senator has to occupy and exercise his constitutional mandate. The proportionality is a tool to enable senators to have seats.

Remember when the independents arrived? It was very difficult to have them on committees, and it was very hard to have the proportionality confirmed. The proportionality is not the name in itself; the equality of the senator is. If you look at other senates around the world where proportionality is in the rules, there is also this position to ensure that the equality is also there. The proportion is used for an equal mandate and the possibility for each senator to exercise his own constitutional mandate, which is to sit in the Senate and in committees. And in committees where they cannot have value-added, I don't mind if sometimes a Canadian member becomes a Progressive; that's not

the point. A senator is a senator. If it's a good senator, the group is there to help senators to be good senators. It's not there for the group.

This is why I'm so convinced about my amendment, and I hope it's going to pass because it's respecting a rule that has been there for so long. Thank you.

The Hon. the Acting Speaker: Senator Housakos, do you have a question? I believe that the Honourable Senator Bellemare's time has expired. If Senator Bellemare wants to request an additional five minutes, she can make a request.

Some Hon. Senators: No.

Senator Plett: Make the request, by all means.

Senator Housakos: Can I enter debate on her motion?

The Hon. the Acting Speaker: I will enter your name on the debates list.

Hon. Yuen Pau Woo: Honourable senators, I want to thank Senator Bellemare for introducing her amendment, which gives us an opportunity to think more deeply about this long-standing rule and to think clearly about what it really means when we talk about equality of senators, independence of senators and the portability of committee seats.

Honourable colleagues, the motion that she just amended, as you know, is the outcome of a negotiated agreement on committees that the leaderships of three groups representing about 80% of senators have agreed to. I was not part of those negotiations, but I support the original motion. The provisions of the original motion were negotiated as part of what trade negotiators call a "single undertaking," which means all parts of the motion are essential to the integrity of the deal that was reached. I will, however, speak only to one part of the original motion, which, of course, has now been excised by Senator Bellemare. I'm referring to clauses 8 and 9.

Colleagues, the issue at hand is the portability of committee seats, specifically the ability of senators who have left a group from which they derived their committee seats to then take their seats with them. It is not about whether senators have the right to have committee seats regardless of which group they belong to or whether they are affiliated with any group. The last comment we heard from Senator Bellemare is a non sequitur. We're not debating the right of senators to sit on committees. We are debating whether they have the right to take a particular committee seat with them when they leave their group.

The argument for portability has been articulated most recently by Senator Bellemare, but also in a recent op-ed by Senator Cordy in *The Hill Times*. It boils down to four key points. The first is that current rules allow for portability; second, that prohibitions on portability are contrary to the modernization of the Senate; third, that such prohibitions foster caucus-like behaviour and are inimical to senatorial independence; and fourth, that it is the Senate which awards committee seats to members rather than groups. I will take each point in turn, but first let me articulate the case for the original motion and against the amendment.

The starting point in this debate, honourable senators, is to ask where a member's committee seats come from. We are not sworn into the upper house with a committee seat attached to our names. All of us have a right to sit on committees, but nobody has the right to sit on a particular committee. This is not about Senate independence or some other high-minded principle, it is about boring math. On most committees, the number of seats available exceeds the number of senators who want to be on those committees. Every time the Senate has to reconstitute committees, as it does now at the start of the second session of the Forty-third Parliament, we have to devise a way to assign a finite number of seats to a large number of senators who want those seats. It is, quite simply, an old-fashioned allocation puzzle, not unlike assigning friends and relatives to tables at a wedding party.

The current approach to assign committee seats is a two-step process. First, we divvy up the seats by recognized groups in the Senate, and then we have each group allocate specific seats to specific members. The first step is relatively easy because it is guided by proportionality, whereby each group gets committee seats roughly commensurate with its numbers in the chamber. The second step is more complicated, and each group has its own protocol for matching seats with senators.

Now, without going into the gory details, the ISG has devised a process that seeks to give all members their preferred choices on a ranked basis while applying a set of criteria, such as seniority, expertise, diversity and so on. ISG senators were involved in the design of the protocol and they willingly take part in its application, which is part and parcel of being a member of the group. I'm sure other groups have similar processes.

Senators usually get one or more of the choices they picked, but virtually all members don't end up getting all of their choices because of excess demand. It is important to stress here that the difference between a senator who got a seat and another who did not get a seat isn't that the one who got the seat is more intrinsically deserving of the seat. It is simply that the agreed-upon protocol for seat allocation produced a result that was favourable to said senators, which is why the removal of that seat by a senator who subsequently leaves the group is a violation of the protocol that the senator willingly joined in order to get the seat. Let's be very clear: The senator got the seat at the expense of a colleague. Taking the seat away from the group would be an affront to procedural fairness and an insult to colleagues who played by the group's rules.

• (1610)

The underlying point here, colleagues, is that while senators have a right to sit on committees, they do not have an entitlement to any particular committee seat. Seats on particular committees can only be assigned through what is essentially a process of negotiation. For a senator to then assert his or her right to that seat in contravention of the negotiated agreement is a fallacy of logic and an abuse of procedural fairness.

What then, colleagues, do we make of the fact that the current rules allow for portability? This is central to the argument that Senator Bellemare has made and to what Senator Cordy had said in her op-ed. Senator Cordy makes a further point that portability of committee seats is essential for Senate modernization, which is an avowed objective of the Progressive Senate Group.

Well, colleagues, you cannot be for modernization and against rule changes. At the very least, a pro-modernization stance would imply that you are open to some rule changes, including the rule about portability of committee seats. Hence, the argument in favour of portability, based on the fact that it is currently in the rules, isn't really an argument; it is simply a restatement of the status quo.

The real question is whether the status quo is still relevant and if it, in fact, is consistent with our shared objective of modernization. For starters, the original motion, stopping portability, would allow for procedural fairness. To me, that sounds very much in the spirit of Senate modernization.

Now, I can only speculate as to the thinking of senators when the portability rule was introduced many years ago. At the time, and indeed for most of the Senate's history, there were, for all intents and purposes, only two groups in the upper house, so the question of Senate seat assignment was less complicated than we have today. There was a great deal less fluidity in the composition of the Senate compared to the last four years, and very little mobility of senators between caucuses. Hence the question of Senate seat portability was very likely a non-issue for most of the Senate's history.

In any event, in the old world of whipped caucuses, the portability rule we're talking about here, 12-2(3), was usually trumped by rule 12-5, which Senator Bellemare and Senator Cordy both support. Rule 12-5, you will recall from Senator Saint-Germain's description, allows the leadership of a caucus or group to replace a senator on a committee with the stroke of a pen. A recalcitrant senator in a whipped, partisan caucus would very likely have been stripped of his or her seat long before the decision was made to leave the caucus, hence rendering moot the question of portability.

It is in this context that it is very curious that Senators Bellemare and Cordy would defend rule 12-5 at the same time as advocating for portability. Insofar as they are for senators keeping their seats permanently, by far the bigger threat is rule 12-5 than 12-2(3), because the former, rule 12-5, can be used at any time during a senator's membership in a group or caucus. While the intent of rule 12-5 is to make temporary changes, there is nothing preventing a temporary change from becoming a permanent one.

We're not debating rule 12-5 here, but there is a glaring inconsistency in any argument that relies on rule 12-5 as a reason to keep rule 12-2(3).

This raises the third of the arguments put forward in favour of portability, which is that the original motion encourages caucus-like behaviour. An assertion is not a fact. Respect for and adherence to an agreed-upon procedure to allocate scarce

committee seats is not the same as being whipped. Procedural fairness is about decency; it is not about the arbitrary powers of group leaders.

Proponents of portability would like us to think that the issue is one of senatorial independence. This is a red herring. It is an issue of independence only in the sense that a senator wants to be liberated from any responsibility he or she may have to the group from which the seat was obtained. In effect, to do as they please in the belief that they have an absolute right to that particular seat on the committee, regardless of how the seat was obtained. Never mind that other senators were deprived of that very seat because they, too, followed the agreed-upon protocol for seat assignment.

Now, colleagues, I understand that nobody likes to have something taken away from them that was previously in their possession. To use a technical term, that "sucks," but how much it "sucks" should depend on your entitlement to the item in the first place. If you were bequeathed a treasure and the treasure was expropriated by decree, it should "suck" a lot. But if you received this item at the expense of someone else because you were the lucky beneficiary of a negotiated process, it shouldn't "suck" very much, especially not if you willingly participated in the process along with other members of the group and then chose to leave that group.

Senator Cordy has given yet another argument that Senator Bellemare did not raise, so I will only attribute this to Senator Cordy, and it is that the Senate ultimately assigns committee seats rather than groups. She is referring, of course, to the fact that it is the report of the Selection Committee that details the allocation of seats to members that is then voted upon by the Senate as a whole.

I believe her point is that any need to respect a group process for assigning seats is nullified by the fact that the Senate as a whole makes the final decision on who sits on what committee. But this is a deflection, because the Senate as a whole played zero role in brokering the allocation of seats or in coming up with the precise configuration of committee memberships. That painstaking work took place at the group level, and it involved a process of negotiation based on internal protocols that were agreed upon by the respective memberships.

The fact that the Senate blesses the work of the groups does not take away the obligation and responsibility for procedural fairness at the group level.

I will say, though, that Senator Cordy's invocation of the Senate's role in blessing committee seat negotiations raises an interesting point: there may be a different way of organizing the Senate seat assignment process so that there can be portability. Indeed, if senators were assigned their seats through an all-Senate process rather than by group negotiations, a case could be made that seats belong to individual senators, at least for the duration of the session.

In that scenario — this is where the entire Senate comes to a decision on how seats are allocated — there would be no violation of the seat-assignment process if senators choose to change groups and, therefore, portability would not be a problem.

But just think about the scenario I painted, and good luck to anyone trying to come up with a Senate-wide system of assigning committee seats by individual member.

Now, colleagues, it may well be that Senator Cordy and other senators in favour of portability are fundamentally against the process of committee assignment via caucuses and groups, and maybe they would like to see a Senate-wide selection process. This is a respectable position, but it is not the one we are currently debating. As it stands, advocates of portability want to have it both ways: allocation of seats by group as well as portability. From the perspective of procedural integrity, this position is not coherent.

• (1620)

Before I sum up, I want to talk about math again because it has come up a number of times and Senator Tannas brought it up as well. Senator Bellemare gave us the hypothetical situation of the 20 plus 2 and the 20 minus 2, creating a situation where you go up 10% and you go down 10%. Her case is that that changes the fundamental proportionality on a given committee.

Let's work through the math. In a realistic situation, it's not just two groups. It's three or four, as we know. All you have to do is imagine a third group with 10 members. The 10-member group stays unchanged. We're talking about 50 members in total. The first group of 20 goes up 2, and the second group of 20 goes down 2 to 18. The proportionality numbers in that scenario for a committee of 9 or 12 do not change even with the movement of 2 members from one group to another. Take my word for it. You can do the math yourself.

The fact is, a simple change of numbers within a group does not translate in the same way and with the same power to a small committee of 9 or 12 or 15. Again, do the math yourselves.

This argument that somehow proportionality is violated because one or two members leave is not sustained. Again, don't take my word for it. Do the math.

Colleagues, to sum up, much as some would like to make this motion a debate about Senate independence and senatorial autonomy, the less-glamorous reality is that committee seat assignment is a routine allocation puzzle that has to be solved through negotiations. Negotiations only work if the parties subject themselves to the rules of the negotiated agreement and respect both the outcomes and the procedures that led to those outcomes. If there is a principle at stake in this motion, it is that of procedural fairness. Senators do not have a divine right to a given committee seat. They receive the seat on a particular committee by willingly participating in a group process that resulted in a favourable outcome for them, but at the expense of other senators. If they leave that group, the seat should not go with them. That is the intent of the original motion, and that is why I do not support the amendment. I hope you will vote against it, and I hope we can quickly go to the main motion and vote for it so that we can quickly form our committees and get on with the work of the upper house.

The Hon. the Acting Speaker: Everyone wants to question you, Senator Woo.

[Senator Woo]

Senator McPhedran: I want to thank the honourable senators who brought forward Motion No. 37, and Senator Bellemare for giving us the opportunity to look closely.

Senator Woo, to the extent that you can indicate to us in the negotiations and in the discussions about changing the rule with regard to portability, was there any consideration given to a Senate-wide process that could be based on a degree of proportional representation but following something similar to what the ISG does, which is allowing each senator to indicate preferences and to have chairs and deputy chairs elected?

Senator Woo: I was not part of the negotiations. I should not comment on them. All I can say is what you just described, which is a Senate-wide process that allocates seats based on some degree of proportionality, is exactly the way the process was conducted, because proportionality determines how many seats each group gets. The only variant there is that then each group has its own internal process for deciding how they divvy up the seats.

Hon. Leo Housakos: Senator Woo, this is really an interesting and perplexing debate. I come from an old era. I've only been here for 12 years, but I was here at the time this place was partisan and terrible and badly needed reform.

I'll tell you this: at least for the first few years that I was here, all our time in this chamber was spent debating government legislation, motions and holding the government to account, and not spending all this time worrying about procedure and infrastructure. In the 12 years I've been here, I've never seen the number of hours and days we spent, considering the remuneration we get from Canadians and considering the limited time we sit.

My question is a simple one, Senator Woo. I have a hard time keeping track of who is in which caucus. My most recent understanding is Senator Bellemare is in the ISG, and my understanding is you're still leader of the ISG. Once upon a time, when this place was terribly run and very partisan and horrible, we dealt with these issues within our caucus. Why are we independent senators and Conservatives and ISGs and CSGs being engaged by your caucus when this should be debated amongst yourselves? In this chamber, every committee member is elected. That's the rule. Sometimes it's bypassed, and there's a negotiation between the leadership and we come to an accommodation. In the parliaments I've been here, sometimes the seats belong to the senators *in perpetuitas* for the parliament. Other times, the agreement was the caucuses would control those seats. Can't you guys get your act together?

Senator Woo: Colleagues, I'm very proud of the fact that ISG senators feel free to take views that are different from their colleagues, and I look forward to getting to a vote quickly on this issue.

The Hon. the Acting Speaker: Senator Mercer, do you have a question?

Hon. Terry M. Mercer: Yes, honourable senators, I do have a question that I'd like to ask. Senator Woo says you can't be for modernization and against rule changes. We aren't against rule changes; we are against changes that would shift the power away from individual senators and instead give the power to the leaders.

The ISG principles indicate:

. . . the ISG will actively promote changes in Senate rules and practices that improve the functioning of the Chamber and the work of committees.

He himself indicates that 12-5 is more egregious than 12-3, so why impose a change on 12-3 without addressing 12-5? Can he explain how this change will see senators held hostage by leaders while achieving that goal?

Can he explain why this change is part of this motion at all, rather than a separate motion that could be fairly debated while also allowing committees to get up and running in the meantime?

Senator Woo: The answer to your question is my speech, and I won't read it again. I'll just very quickly say that the issue of modernization and rule changes is quite simply this: You and some of your colleagues, and others in this room, who argue for portability, use the current rule as a kind of totem, as if that is the reason why we should have portability. All I am saying is that in itself doesn't tell us anything, particularly not if you also claim to be in favour of modernization. Being in favour of modernization doesn't mean we change all the rules, but at the very least, it should mean you are open to the principle of changing some rules, which therefore by logic means that citing a rule in defence of a particular practice doesn't do anything in terms of the debate. It simply says you are restating the status quo. That's fine, but it's not an argument in favour of portability as such.

I want to hear why portability is consistent with modernization, and that is what my speech tried to do. I'd be happy to speak with you privately and go over the speech again if you like, to address the other items in your question.

[Translation]

Senator Bellemare: Would Senator Woo agree to answer a question?

Senator Woo: Yes.

Senator Bellemare: Senator, when you were called to the Senate were you appointed to a group or were you appointed to defend the interests of your region and the interests of Canadians? Do you believe that the individual senators or that the groups are the foundation of the Senate?

In terms of your reasoning, you have quite a way with words. It's wonderful; you're like a magician. However, there is a problem of vision because you put the groups at the centre of everything when it is senators who should be at the centre of the Senate and the groups should be there to help the senators. Do you not agree?

• (1630)

[English]

Senator Woo: Not at all. When I was appointed to the Senate, I was not appointed to a particular committee seat. So when I got to the Senate, I learned that we are entitled to sit on committees. I quickly found out that the way to get on a committee was to join a group, because that was the way seats were assigned. When I got to the group, I learned there was a process for assigning seats. It seemed pretty fair and transparent. By the way, I never got the seats I choose, and I'm the facilitator. It's true. I'll live with it.

So it's not that the group is more important than the senator. It's that insofar as committee seats are concerned, there has to be a way to allocate them, and the way I chose to subject myself was to the group that had a process that I felt was pretty decent. I subjected myself to it and I lost. Too bad for me.

Hon. Peter Harder: Colleagues, I'm happy to enter the debate, although briefly, to make a couple of remarks in support of Senator Bellemare's amendment to this motion.

Let me start by saying that I really do admire the leadership in this place. They have a very difficult task, and the negotiations are made more complex with the number of groups. Therefore, it is my institutional bias to support agreements that have been reached amongst leaders.

Senator Plett: Hear, hear.

Senator Harder: However, let me underscore that this is not one, because one leader did not agree. It is very important when Senator Plett agrees to something, but he doesn't run the show alone.

Let me say at the start that I respect the attempt by leaders to reach a compromise. I can't speak for Senator Cordy, but I do believe a compromise could have been reached on all of the matters before us, save this one. It astounds me that the leadership chose to bring it to debate here, in a rather divisive fashion, rather than seek to accommodate all the views and separate this issue, particularly with the amendment that does not bring into contention chairs, deputy chairs and other leadership roles on committees.

Senator Woo says we shouldn't be devoted to the Rules as they exist. I totally agree with that. However, I find it the height of irony that the first rule we want to get to is the one that underlines and strengthens the individual senator's role and gives the power to the leaders.

This is a debate about power. I understand that leaders find it easier to manage things if they have the power. My position is that the power comes from the senator and that the senator should, once appointed to a committee, continue to sit on that committee. I acknowledge that if they left a leadership role, it should not be taken with them, but it underscores our equality in terms of how we came here and what our area of focus ought to be. I would wish you not to underscore, by reinforcing leadership strength, grace and favour over the independence of senators.

So wouldn't it be wise to encourage in the discussion in your groups and caucuses to just take that out and move forward quickly, as we should, and let the existing process be followed with the Rules as they existed?

I also want to pay tribute to the fact that in the last Parliament we accepted that rule; that is to say we made a temporary adjustment to ignore the portability. That was done, I want to remind everybody, with all-leader agreement. This is being done without all-leader agreement, and therefore undermining and altering the power balance in the Senate. I think it would be very distasteful.

I do understand that the leadership wishes this matter to be debated — if at all — quickly and have this motion passed quickly. I think we all want to get on with our committees. I am not here to suggest that we delay, but I am here to suggest that we do not have the vote on this until we have a virtual sitting next week, so that all senators, including those who aren't here, are able to vote. I don't mean that as a delaying tactic; I mean that as a respectful tactic.

We have talked about the importance of involving those who, for various reasons related to COVID, are unable to be here. Let's hear from them too. Again, I do respect the leadership, but I do think it's time, every once in a while, for the membership to say, "Hold on now; we want every group to be part of this and feel comfortable with the motion" — particularly when you're reversing the existing Rules.

With that, colleagues, I hope that you will support Senator Bellemare's proposal. I think it's creative, it's meant in the spirit of compromise, and I hope that it can be accepted as such.

Senator Plett: Oh, that we had the days of old. It was so much easier. You could look across the aisle at a Liberal and you knew he was a Liberal, and a Liberal is a Liberal is a Liberal. We knew who we were and why we were here. We knew who had appointed us, and we had promised the person who appointed us that we would stay true to our beliefs. Of course, Senator Bellemare is one of those who were appointed to a particular group; and she committed to that group, as have others.

I find myself in a unique position today, and I say this with respect, some admiration and, indeed, a lot of humour. This is the first time I have ever been able to say a hearty "amen" to everything Senator Woo has said. That in itself is cause for praise and some celebration.

Senator Harder and I used to agree on issues. As a matter of fact, Senator Harder was quite happy when I, as the whip, and later on as the leader of this caucus, would work with him.

An Hon. Senator: And your cousin, I think.

Senator Plett: Yes, and my cousin. He was happy when I would work with him. He knows very well that many of the agreements we made were not always unanimous among the leaders.

Colleagues, we still live in a democratic society, and when we appoint or elect people to do certain things, we give them a certain amount of responsibility to negotiate on our behalf. I

really appreciate my caucus — and I say this sincerely — for the confidence they have placed in me to negotiate on behalf of our Conservative caucus. They trust me and then they support me. That does not mean they always agree with me, and we have many battles behind closed doors, as do all other groups. Overall, when we're in public, we do not have battles. That does not mean they always vote the way I would prefer. We have had votes in this chamber where I have not agreed with my caucus colleagues and we have voted differently. I know we have some coming up in the very near future. I'm not looking forward to those.

I want to say a few words, because there's not much I can add to what Senator Woo said. Senator Woo clearly prepared his notes. I did not. I scratched out some notes as people were speaking. I think I heard Senator Mercer talk about why was there not a separate motion on this particular issue. In fact, we tried to get one. It was my suggestion that we have a separate motion, and there was some agreement on that. That agreement then fell apart because the smallest group couldn't agree with that and the way that separate motion would be handled.

• (1640)

It was clearly agreed to. The composition of the committees was agreed to by all four leaders, and those were very amicable discussions as far as the proportionality of seats was concerned. We all had a calculator, and we all decided what our percentage was.

It's clearly not what the Conservatives want, and we came into this kicking and screaming for a few years that proportionality was the wrong way to go and we should have more seats, but we finally relented. Well, we got beaten into submission. We now accept that there is proportionality, so the committee seats were decided in proportionality and agreed to, Senator Harder, by all four leaders.

Every senator has the right to a committee, nobody's arguing that, but not even in my caucus does every senator have a right to the committee that they want. Senator Woo made the distinction on how the ISG sets their appointments.

Terry Stratton was the whip when I first came into this august chamber. Terry was from Winnipeg, and we were long-time friends and colleagues. He was the hardest whip that I had the pleasure of working under, but there are some who say I cut my teeth on the way he was the whip and maybe I did. I respected Terry. He came to me when I first came here and he said, "Don, I want three committee choices from you on a piece of paper. That's what we ask everybody, to give us three choices. You're probably going to get one of your three choices, but you will not get two." He had a rule that you would not get two. I asked him, "What if no one wants all three of the ones I'm asking for?" He said, "You're not going to get them. You're going to get one." That's what I got. That was his way of operating.

We ask all of our senators to give us a list of committees they want. As a leadership team, we then decide where they go, and they all get one. Every senator deserves to have one.

Senator Saint-Germain said that they had agreed to give the GRO two committee seats. We have agreed to give a non-affiliated senator one committee seat. If that senator leaves that position, that senator will not take the committee seat with her.

We have had senators leave our caucus. Senator Bellemare said no one does this intentionally; no one plans this. That is the furthest thing from being accurate. Of course they plan this. We have had people leave our caucus that absolutely planned to leave and took their committee seat with them. Then we had people that we thought might leave, and we made sure that we had the committee seat.

I know Senator Woo can attest to one that left his group and took the committee seat with them at their expense and to our delight because that particular senator mostly voted the way we voted in that committee. We were quite happy with that. I may have even been a little instrumental in saying, “Don’t tell them you’re leaving, just leave first.” We all do this.

Crossing the floor has repercussions. Senator Bellemare used the example of the U.S. Senate. I’m not sure why she used the U.S. Senate, but I made a note. I’m not sure where the comparison is. She said they don’t have majorities. Of course they have majorities. Two parties are fighting for a majority in the Senate right now. We can all hope that the right side will win that, and we will all send President Trump our congratulations when they do.

Every senator deserves to have a seat and should have one. However, colleagues, when a senator makes a commitment to serve, especially in a small group, for the life of me, I can’t understand why the Liberals or the Progressives would not want this. If they lose a member, they lose the committee; they have nobody.

An Hon. Senator: In principle.

Senator Plett: That is not right if any one of their senators leaves and they no longer are represented on a committee, because the first thing they will say, and rightfully so, is, “We have this number of people, and we deserve a committee seat.” This is what this does. It doesn’t require you to vote the way your group wants you to vote. It requires you to sit there as a member of the ISG, PSG or the CSG.

We are all honourable, at least we all have the title, but people use this and will continue to use this. As I said, there were senators who left our caucus that clearly knew they were leaving, and they left and took it with them.

Senator Tannas was a member of the Conservative caucus and should still be. He was elected as a Conservative. However, Senator Tannas did one thing that I really appreciated. On the Friday before he was part of forming the CSG, Senator Tannas and I had a telephone conversation. I was running for the leadership the next week, and Senator Tannas said, “Don, if I leave, I will leave before that vote because I should not come to that vote, have influence on that decision, and then leave days later.” He let me know. Right then we were on a break. We didn’t have a committee, so a committee wasn’t an issue.

An Hon. Senator: CIBA, right?

Senator Plett: That’s right. Senator Tannas lost that seat.

Colleagues, I don’t want to start repeating myself or repeating what Senator Woo said, but this whole deal was negotiated. We wanted to do a separate motion. All we wanted, colleagues, was a commitment. Senator Harder said, “Let’s not delay this.” We wanted a commitment that there would be a vote.

Committees need to start running. We have legislation coming. Why is the opposition standing here and asking that we form committees? It’s not the opposition’s role to make sure the committees are operating. It’s the Leader of the Government’s role.

The reason I’m doing this is because I told the Leader of the Government, “If you want Conservative caucus support for any legislation moving forward, legislation will go to committees. We will not fast track anymore legislation the way we have done.” If I say that to the government leader, then I also have to say I’m not going to stand in the way of these committees getting formed and moving forward. There is urgency.

With the highest degree of respect, yes, we might have a hybrid sitting. They’re going to try. The motion has passed.

We have Zoom calls. Yesterday, I had a Zoom call where we had issues. Anyone who thinks we will not have issues in the coming days and weeks, we will.

As I said when I spoke yesterday about the hybrid motion, with the highest respect, every senator was able — unless it was because of COVID, unless they were personally ill — to have been here this week to vote on this motion, but they have given us the right to vote on their behalf. That is what we need to do. We need to vote with some degree of urgency on this amendment. We need to vote on the main motion so we can get our selection committee up and running and they can populate the committees, they can constitute the committees, and we can move forward with the government legislation that is coming. There are many colleagues here that will want to send their private members’ bills to committees. They can only go to committees if we start the committees.

• (1650)

Colleagues, we have been told in the past not to delay. We’re trying to move forward, and I trust that all colleagues will at least do what many colleagues have said. Senator Dalphond has repeatedly said to me, “All I ask is that you allow it to come to a vote. Don’t call dinner breaks, don’t have bells, don’t filibuster. Let it go to a vote.” So I agree in this case today with Senator Dalphond; let’s go to a vote. Thank you, colleagues.

An Hon. Senator: Question.

The Hon. the Speaker: Senator McPhedran, do you have a question?

Senator McPhedran: Yes.

Senator Plett, would you take a question?

Senator Plett: Yes.

Senator McPhedran: This question relates to terminology you just used in your speech, and it picks up on terminology you used yesterday as well. Particularly you are talking about senators who are not able to be with us. It is a very good thing, Senator Plett, that today you actually acknowledged there are some senators who cannot be with us. They cannot be with us because this is a super-spreader environment and they are in genuine personal health risks or under legal impediments.

The second part of my question relates to you talking about how senators not here are allowing us to vote on their behalf. Senator Plett, would it not be more accurate to acknowledge that the senators who are not able to be with us are actually sacrificing their right to be here? They are not allowing us to vote on their behalf. Are they not sacrificing their right to be here precisely because of the dedication that we get on with the urgent business we need to undertake, and at this point we can only do it in this chamber?

Senator Plett: Well, first of all, Senator McPhedran, in regard to your terminology and your accusations that I had said something, Senator Moodie asked me a question yesterday about whether I did not agree that people who had a compromised immune system, had any issues such as that, that they shouldn't be able to be on Zoom or some other mechanism — and it's not Zoom when we do it in hybrid — and I emphatically said, "yes." I agreed with her and I agree with her today, and I take exception that you would suggest anything else.

As far as senators allowing us to vote for them, I'm speaking on behalf of my caucus. Nobody sacrificed their right to be here. They are not here for a number of different issues, but they would be able to be here if they had decided to. But they have allowed us, as their caucus colleagues, to vote on their behalf.

Senator McPhedran: Thank you, Your Honour. Can I ask Senator Plett — this is according to the transcript made available to us — did you not say, "There is nothing preventing any senator from coming here to debate and take part"?

Senator Plett: It has nothing to do with the debate here. Since you're trying to put words in my mouth, I probably said it. When Senator Moodie asked me the question, I clearly corrected that in my answer to her.

Senator Housakos: Thank you, Your Honour. I'm going to try to be brief on this issue, on the amendment from Senator Bellemare.

For me, I can vote on both sides of these equations and feel comfortable. What I'm not comfortable with is the amount of time we've spent on process in this new Trudeau-reformed

Senate. It is unprecedented and extraordinary. We have been summoned here to do work on government legislation, to hold the government to account and to debate motions and inquiries that are important to the regions of the country we represent. That's why we came here.

We didn't come here to spend hours and days on the process. These are things that were resolved in the Westminster parliamentary system. I've talked about it in the past. It is designed and functions very well. Each of us go back to our respective caucuses and iron out these issues. Then the leadership gets together, and that's why they get paid.

No, a senator is not a senator. Sorry, Senator Bellemare. You were not just a senator who was a senator who was a senator. You were Deputy Leader of the Government. Senator Gold is not just a senator who is a senator who is a senator. He represents the government in this chamber.

Senator Plett is not just any other senator, he represents the official opposition in this Parliament. That's who they are. The Speaker is one amongst equals in terms of process in this place, but he has a status that is different, both diplomatically, representing the chamber and appointed by the government.

The other thing I highlight, colleagues; this is not an elected body, it is a hybrid of the House of Commons and Westminster and the upper chamber. It was designed to be an appointed body. That is why the Speaker is not elected, for example. It's one of the few Westminster Parliaments where the Speaker is not elected by this institution because it is not an elected body.

We are a political body, even though today's government doesn't want to recognize it. We have leadership in this place, and despite this charade and facade of independence, no, this place has not become any more independent. The Westminster definition of independence — independent parliamentarians don't sit in a caucus group. It doesn't matter if it has a political title, it doesn't matter if it's called CSG or PSG, it's a caucus group. You're not independent, you're reliant on that particular caucus group.

That's why I don't have any philosophical problem with your proposal, but by the same token, I understand Senator Woo and Senator Plett, because we have given our caucuses, when we signed up with our caucuses, certain privileges. Senator Tannas and Senator Plett and Senator Woo have certain privileges when they sit down and negotiate on the basis of proportionality.

Committees have always been set up in this place by proportionality. It's not an elected body. We have a history of being appointed. We ourselves are appointed by prime ministers. There is the principle, if we want to exercise it, of electing positions on committees, but that means becoming truly independent, not in theory; scrapping caucuses and leadership. Do you want to try that, Senator Bellemare? We already have four caucuses amongst ourselves. Members of the CSG with their leadership can't come to terms with certain things because you don't accept the majority decision.

I know in our caucus we have it out. We have debates and discussions, and in the end the leader takes a decision, and he is in power because he has the support of the majority of his caucus.

Now, if the minority are upset, you can pout, or leave and join the CSG or the PSG. That's how this place works. Let's stop wasting time.

When I've been speaking to former senators — giants of this place when I came here — Senator Cowan and Senator Joyal and Senator Tkachuk. They are telling me, "Guys, do you do any work on behalf of taxpayers?"

The energy sector in Western Canada is suffering. COVID is eating up our economy. We sent out half a trillion dollars through this door with no parliamentary oversight. None. Not in this chamber or in the other. We have an excuse, we're in a pandemic, but nonetheless Canadians will have it wrapped around their neck over the next 20 years.

There are things going on around the world in Artsakh, in Hong Kong. We don't debate these things, we let them go by quickly, but we're going to spend three or four hours and have bells and votes on issues that are just logistics in this place.

Colleagues, we get appointed to this place. You get to choose the party or the caucus you want to serve in, and you have your debates amongst the caucus members, and you live with "Some days you win and some days you lose." That's the process. That's not our main, core job here. Our main, core job is to represent our provinces, minority voices, Indigenous people, issues like autism. That's what used to be done in this place. This place used to have historic reports, historic inquiries, historic debates on things that governments listened to 15 or 20 years ago. When is the last time we had an inquiry or a motion in this place where the Prime Minister or the ministers of the Crown stood up and listened to this place?

If we continue to navel gaze, if we continue to have these false debates that should be done behind the scenes — and the Westminster model was designed to be very British and very proper, the garbage was done in caucus behind the scenes, not on the floor of the institution that Canadians are watching and paying for. This place should have substantive debates on substantive issues.

Again, I implore all of you to go back and look at some of the things that worked before we embarked on this reform process, and not change things that aren't broken. Let's change things that need to be fixed. But let's not change things that don't need to be fixed just because a politician decided to make it part of his political agenda because it served his purposes at that particular point in time.

• (1700)

Colleagues, let's have this vote. Let's have this decision taken and let's move on because, either way, it's not going to change a lot of things except for a number of senators who will feel more secure to speak more freely when they are sitting around those committee tables.

Colleagues, I keep reminding everyone, your independence comes from your tenure: the fact that you're here until the age of 75. If your leadership decides to push you to support something you're not comfortable with, you can sit as a true independent. People have done it in this chamber for years. Not many are really independent right now. I don't know the status of everyone, but my understanding is there are three or four independent senators. Everybody else is sitting in a caucus or group. You have to accept, Senator Bellemare, that sometimes your caucus as a collective will take a decision you like, and sometimes they will take a decision you don't. Don't think that every time Senator Plett and my caucus takes a decision that I'm happy about it. But I take a decision to make my compromises, and I take a decision about where I push my caucus and say, "I'm not in agreement." But we don't do that on the Senate floor. Thank you, colleagues.

[Translation]

Hon. Dennis Dawson: As you know, senator, together, we've been able to reach agreements to solve problems through negotiation. We want to negotiate. We're not asking for much. We're asking to have a vote next Tuesday, with all honourable senators participating, on hybrid sittings. Nobody thought we'd get to that today. There's no hurry. There's no bill before the chamber. I don't want you to give Canadians the impression that we're delaying the passage of legislation. We can blame the other place for the delay, but I don't think anyone here has done anything to cause a delay.

I'd like you to correct one thing. We didn't delay the passage of bills. Don't you believe that it would be normal to accept that all senators, during the hybrid session next Tuesday, be able to speak in order to state their views? Earlier, you said that "a senator is a senator," but the only time they truly are a senator is when they vote. Furthermore, they aren't here. Next Tuesday, during the hybrid session, they will have the right to vote on a motion that we deem to be vital and concerns the freedom of "portability" of a senator's position. I support the senator's motion that the leadership positions must be controlled by the leadership. At the time, I was part of the leadership of a caucus and I participated, but I believe that "portability" is a principle.

Do you have an example of a bill that was delayed? Don't you believe that it would be normal to give absent senators the opportunity to vote next Tuesday?

Senator Housakos: Senator Dawson, I didn't say that passage of government bills was delayed, but we're making the Senate look bad to Canadians on substantive issues. For example, over the past few months, we've spent \$353 billion and we haven't carried out the appropriate verifications. This is about process, and we're spending hours debating a process that was better managed by each caucus. That was the only argument that I defended. I completely agree with you, Senator Dawson, we've been working together for years and this chamber has a long history as a chamber of consensus.

I completely agree that if, for example, there's no consensus, we can delay the decision by one week. That wouldn't be the end of the world. I agree more with you than with the leaders. Furthermore, if the leaders have come to an agreement that has the support of their caucuses, we need to respect that. Otherwise,

we will keep getting caught up in arguments that go nowhere. Aside from government bills, there's something else we can do to oversee the government. We're in the middle of a pandemic, a massive crisis in Canada. Have we done anything in the past six months to see whether the government had an adequate response to the pandemic? Are there things that could be improved? Were the \$350 billion of taxpayer money well spent by the government? Is there anything this chamber could have done to ensure that the money was spent properly? We didn't do that, but now we're spending hours on this. We're here tonight. We don't sit often. Senator Pate and Senator Moodie have worthwhile motions on the agenda. We need to do our job. That is my only argument.

Senator Dawson: I agree. However, you said the decision could be delayed by one week. If that's the case, why not put the question back on the agenda for next Tuesday and get a consensus so we can settle the issue? To us, this is a matter of principle. This isn't a case of proceduritis or dilly-dallying. It's a matter of principle. As Senator Bellemare proposed, we think senators should have the option of leaving a committee. People have left a caucus and kept a committee seat, and nobody has died as a result. We want to keep that provision, and we think those who are absent should have the right to speak.

Senator Housakos: Senator Dawson, I never said I was against Senator Bellemare's amendment.

I believe your argument makes sense. At the same time, all I am saying is that we gave the power to our leaders. When we become members of a caucus, we allow our leaders to negotiate on behalf of each member, and you did the same thing. As I say, I personally have no problem delaying all this for a week. We can even put it off for three weeks. It's not the end of the world. We have more important things to do here. At the same time, I am saying that I delegated my leader to negotiate on my behalf, and I think everyone did the same. I think it is odd that a member of the ISG is completely against his own caucus, because if I understand correctly, this entire discussion took place in caucus several days before we came here. That is the only argument I wanted to make.

[*English*]

Hon. Patricia Bovey: Honourable senators, I hesitate to jump into this debate because so much has been said already. I agree with much of what has been said in every quarter of this august chamber.

I want to say that we all, every single one of us, represent Canadians. We represent our regions. We are here to do work on behalf of Canadians and on behalf of our regions.

Senator Housakos, I agree with you; we've completed some amazing inquiries. I've been privileged to be part of a number of them, and it has been very rewarding work.

I feel very strongly — and I'm in agreement with Senator Bellemare's amendment to the motion — that if members of this chamber move from one group to another, they should be able to take their committee seats with them. We've had rulings from

prior Speakers on this. I go back to June 9, 2007, long before I was in this chamber, where that was upheld by the Speaker in a ruling.

I do feel very strongly, though, that every senator in this chamber has a right to speak their mind and have a vote. With that, Your Honour, I hope we can have this vote next week when the hybrid model is up. I appreciate that some of our colleagues are not able to be here because of health concerns or health concerns in their communities or rules in their communities, and we should give them the opportunity to participate.

Senator Saint-Germain spoke of the principle of fairness, and I applaud the principle of fairness. I think this enhances the principle of fairness. We've talked about the principle of equality. I believe having the vote when everybody has an opportunity to speak and to vote is that equality.

I do not accept this motion, as originally presented, as one of equality, and I do not happen to see the motion, as originally put forward before the amendment, as one of modernization. Quite frankly, I see it as regression. I don't understand how denying individual senators their right of individuality is constructive reform. If we're really talking about reform, we have to talk about what the roles of senators are. So I can't accept the original motion, but I certainly accept the amendment.

• (1710)

Some countries are building walls. Let's take a look at those walls. I don't believe walls encourage debate. I don't believe that walls encourage understanding. I don't believe that walls encourage arms out around the world to make this place a better place. In fact, for me, walls do not conjure positive meaning at all.

I worry that, without Senator Bellemare's amendment, we're beginning to build walls in this place, and I don't think that helps us do the work of Canadians. I would hope that the Senate of Canada would not consider building this wall but would instead consider building a positive environment in which we all can do our work constructively.

I came here to work across the aisle. We've managed to do so. I'm proud of the ad hoc groups we've had during the pandemic and I think that has shown the collegiality in this place. At the same time, groups of us from all over have been able to draw attention to regional and sectoral challenges during the pandemic we face.

Colleagues, I feel now is the time to underline the principle of fairness, equality and the freedom of association enshrined in our Canadian Charter of Rights and Freedoms. It's a fundamental right for all of us to be able to have freedom of movement, and if we as a chamber can't enhance and live up to that freedom of movement, I don't think we're giving the proper tone to our colleague Canadians.

I agree with the words that Senator Cordy wrote in *The Hill Times* article, and I do feel that Senator Bellemare's amendment will help us and will ensure modernization underlining equality, fairness and proportionality. Thank you.

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

Some Hon. Senators: Question!

Senator Mercer: Would you accept a question?

Senator Bovey: Yes.

Senator Mercer: Everyone talks about fairness and representation. I look around here. I'm from Nova Scotia. We have 10 senators from Nova Scotia. How many people here are from Nova Scotia? One. How many people are here from New Brunswick? I see two. How many people are here from Prince Edward Island? Three. And how many people from Newfoundland and Labrador? Three. We have about seven or eight from Atlantic Canada.

One of the frustrations I had by not being here was for the first while, I was in isolation in Nova Scotia. When I returned, I had to go into isolation for two weeks. I'm going to stay this week and be here next week, but when I go back, I have to spend two weeks in isolation there. It was okay to be in isolation in the summertime. I live in a nice area on a nice lake, and I could isolate in a boat in the middle of the lake if I wanted. That was fine.

Is it really fair that we have a group of people here voting, on a regular basis, on rules and laws that affect all Canadians when certain regions, because of geography and local rules in provinces where isolation is required, are disadvantaged by not having people here to vote? The reason the hybrid version that we'll have next Tuesday is a big deal for us is that instead of having one Nova Scotian voting here on Tuesday, I suspect that we'll have seven or eight, and that means that my province is going to be much better represented via hybrid. That applies to the other Atlantic provinces as well. I didn't do the numbers for all of them.

Senator Bovey: I agree with you, and I think we have to realize our senator from the Yukon is not here and the difficulty, so I feel very strongly that you are correct. For fairness, we need to give everybody the opportunity to vote, and hence the hybrid model that we've agreed to.

[*Translation*]

Hon. Pierre J. Dalfond: Honourable senators, I did not intend to speak to this subject today, but a lot of things have been said, and I have really enjoyed hearing the comments on both sides of the issue. I noticed that all of this can be summarized quite easily. On the one hand, we are talking about principles of interpretation.

Some people, who are not legal experts, are saying that under the principles of interpretation, the exception takes precedence over the rule. Honourable colleagues, I would like to remind you that rule 12-2, which is based on rule 60, was adopted in 1982, over 40 years ago. That rule is clear. Rule 12-5, which Senator Woo is hoping to use to remove senators that he doesn't want from his committee, was not adopted until 1983, 18 months after the main rule.

The main rule is the one that must guide us. Why is it the main rule? Because the mission of the Selection Committee, once it is appointed, is to recommend men and women from this chamber to sit on the various Senate committees, once they have been appointed, that is. They are not appointed by the Selection Committee or by the groups that made representations to the Selection Committee. They are appointed because the Selection Committee's report was tabled here in this chamber and adopted by the Senate. Rule 12-2 is very explicit about that.

[*English*]

Senators shall serve for the remainder of the session. You are appointed by the Senate because the Senate trusts you are able to do the job on the following committees. Then you are appointed to serve until the end of this session. Normally, sessions don't last four years as in the previous Parliament, but that's the rule.

You're not appointed by your group to a committee. That's something I'm shocked to hear, as a matter of fact. Senator Woo said that seats are obtained from the groups. No, Senator Woo, they're not obtained from the groups. They might be obtained through the mechanism of the groups, but they are not obtained from you and they are not obtained from your group. They are obtained from the Senate as a whole, the Senate as an institution. And the Senate vests the trust and the Senate can remove the trust, not the leaders. That's the basic principle of rule 12-2.

As a matter of fact, we can look at the practice in the other place and, yes, there are many parties in the other place. Do you know that in the other place, once you have been appointed to a committee by the House of Commons, you cannot be removed by your leader? You can be replaced, but it's meant to be a temporary replacement, and once you are able to resume your function because you were out of town, you were sick or otherwise, you resume your seat. Only the House of Commons can replace you, and that means a report from the appropriate committee will come back to the floor, and then the House of Commons will vote on it. We know this.

We saw some members from the other place cross the floor. One crossed from the Liberal to the Conservative side. I'm sure they were very happy. In the Martin times, we saw one leaving the Conservative side to go to the Liberal side, and I guess some other people were happy that day. I can give you the name of an NDP member from Repentigny who crossed the floor to join the Bloc. They have remained on their committees — for six weeks, a month or three months — until there was a report from the select committee of the House of Commons proposing they be replaced. And until this report was voted on and adopted by the House of Commons, these people remained on their committees. This is the principle.

But here, through a desire to grab power to the ultimate limit, some leaders are seeing the exception in the rules as being the guiding principle. This is a complete perversion of the text.

Rule 12-2(3) is the principle, and that is the principle I'm standing up and speaking for today. This principle rests on the thinking that this place has invested its confidence in a person, when that place has appointed that person on a committee, and that place is the one that can remove the trust — not the leaders, not the groups.

• (1720)

I think if we are going to move forward in a reformed Senate, it's a Senate where there should be more independence. I was asked to come here. I took time before accepting the appointment because I wasn't sure about this place. I wasn't sure about the old practices, the old duopoly and if the time had come to reform the Senate. I took a week before I said yes to the Prime Minister. I don't know how many of you took a week before answering, but I did. Finally, I said yes, I am going because I believe this place can be reformed, because it has a role to play that it didn't play in the past because it was under the duopoly, under the dictatorship of the parties.

This should stop. This must stop. The independence of each of us is critical for our future as an institution. What has been proposed by the leadership of the ISG runs exactly contrary to what we are trying to do in reform.

I'm so disappointed to see that the leadership of the ISG is like the leadership of the old Conservatives. So this is moving, transforming that group into another group that defines itself as opposing the Conservatives but being similar in functioning.

The time has come for all of us to make a choice. Do we believe in the reforms? If we do, we have to support the amendment proposed by Senator Bellemare. Thank you.

The Hon. the Speaker: Senator Plett, do you have a question?

Senator Plett: Senator Dalphond, you were quite clear that nobody appointed you to any seat when you were a member of the ISG, that Senator Woo did not. Indeed, Senator Woo said you ran elections. So I guess that's a valid argument there.

Does the PSG have elections to see what committee you may or may not serve on, when all of this is done, to start with? We know you want the right to take it with you, but how about the first time around? Do you have the right to demand one as well? Or will somebody suggest that you serve on a particular committee? I'm assuming it may be Legal; maybe not. Would that be appointed? How would you get that position?

Senator Dalphond: Thank you, Senator Plett, for the questions. I'm sorry to realize you didn't read the op-ed written by Jane Cordy, our leader. She has explained clearly that we have, as all the groups should have, some kind of mechanism to find out who is interested in what and to go along with the short list when they go to the Selection Committee. But this is not selecting people. We have the advantage of being a small group, so we can collegially decide who wants to go on which committee. Perhaps it's more difficult when you're 20 in number; maybe it's more difficult when you're 44. I understand it's part of the internal mechanism, but the fact remains that it is only an internal mechanism. It's not appointing people. It's really making some recommendations. The Senate makes the appointment.

Senator Plett: You also made it clear that you want complete autonomy. You don't want to be beholden to anybody. You don't want to be told what to do by anybody. Yet you chose to go and sit in a group. If you couldn't get along with the ISG, why didn't you do what you claimed you wanted to do and sit as non-affiliated? But you decided to join a group.

Again, when there is a group, there's a certain amount of — I don't know; more than camaraderie — order that needs to be in any organization. Surely you, as a jurist, as a judge, would most certainly agree on some order. I'm assuming that may be why you wanted to join the PSG. But if you want complete and total autonomy, why would you not just sit as non-affiliated? Then nobody would be able to give you any direction.

Senator Dalphond: I don't know if this is really linked to the motion in the amendment we have before us, but I can tell you that, in our group, it's not a problem. I feel quite comfortable to share my views with my colleagues, and they share their views with me. We're not whipped in any way, and it's no problem.

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

Some Hon. Senators: Question!

Senator Dawson: Honourable senators, I move the adjournment of the debate in my name. If I may, my leader is not here, and a lot of things were said about her. I will read a speech from her tomorrow on this issue. I think it's important that she gets her voice. Since you don't want her to vote next Tuesday, she could at least be heard tomorrow, so I move that the debate be adjourned in my name.

The Hon. the Speaker: Honourable senators, it is moved by the Senator Dawson that further debate be adjourned until the next sitting of the Senate.

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

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

Honourable senators, according to rule 9-5, I can ask the Government Representative and the opposition whip if there is an agreement on a time shorter than one hour. Is there agreement?

There is agreement on a 30-minute bell. However, it requires the consent of senators.

Honourable senators, is it agreed?

Some Hon. Senators: No.

The Hon. the Speaker: I hear a “no.” The vote will take place at 6:25.

Call in the senators.

• (1820)

Motion negated on the following division:

YEAS
THE HONOURABLE SENATORS

Bellemare	Dawson
Bovey	Harder
Dalphond	Mercer—6

NAYS
THE HONOURABLE SENATORS

Anderson	Martin
Ataullahjan	Marwah
Batters	McPhedran
Black (<i>Ontario</i>)	Mégie
Boehm	Moncion
Boisvenu	Ngo
Boniface	Oh
Busson	Omidvar
Carignan	Pate
Cormier	Patterson
Cotter	Petitclerc
Dagenais	Plett
Dasko	Ringuette
Deacon (<i>Ontario</i>)	Saint-Germain
Dean	Seidman
Galvez	Smith
Housakos	Tannas
Jaffer	Wallin
Keating	Woo—39
Loffreda	

ABSTENTIONS
THE HONOURABLE SENATORS

Gagné	McCallum
Gold	Moodie—5
LaBoucane-Benson	

• (1830)

The Hon. the Speaker: Honourable senators, pursuant to rule 3-3(1), I am required to leave the chair now until 8 p.m. unless it is agreed that we not see the clock.

Is it agreed, honourable senators?

Hon. Senators: Agreed.

MOTION TO AFFECT COMMITTEE MEMBERSHIP—
MOTION IN AMENDMENT NEGATIVED—
DEBATE

On the Order:

Resuming debate on the motion of the Honourable Senator Saint-Germain, seconded by the Honourable Senator Oh:

That, for the remainder of the session, and notwithstanding any provision of the Rules, usual practice or previous order:

1. the Standing Committee on National Security and Defence be composed of twelve senators, other than the ex officio members;
2. the Committee of Selection; the Standing Committee on Rules, Procedures and the Rights of Parliament; and the Standing Committee on Internal Economy, Budgets and Administration be empowered to elect up to three deputy chairs;
3. all other committees, except the Standing Committee on Ethics and Conflict of Interest for Senators and the joint committees, be empowered to elect up to two deputy chairs;
4. if a committee has elected more than one deputy chair:
 - (a) the reference to the deputy chair in rule 12-18(2)(b)(ii) be understood as referring to all deputy chairs of the committee acting together;
 - (b) the reference to the deputy chair in rule 12-23(6) be understood as referring to any deputy chair of the committee acting alone; and
 - (c) any reference to the deputy chair of a committee in any policy or guideline adopted by the Standing Committee on Internal Economy, Budgets and Administration be understood as referring to all deputy chairs acting together, until the Standing Committee on Internal Economy, Budgets and Administration decides otherwise;
5. the Committee of Selection be a standing committee;

6. the Committee of Selection have power to make recommendations to the Senate on issues relating to meetings of either the Senate or committees by videoconference or teleconference, to the coordination of such meetings and to measures that would facilitate or enhance their operations;
7. if a Senate committee establishes a Subcommittee on Agenda and Procedure, any two members of the subcommittee be authorized to direct the clerk of the committee to convene a meeting of the committee for the purposes of considering a draft agenda by sending a signed letter to the clerk, upon receipt of which the clerk of the committee shall convene a meeting of the committee at the committee's next meeting time, during a week that the Senate sits, according to the agreed upon schedule for committee meetings that is more than 24 hours after the receipt of the letter;
8. except in the case of the Standing Committee on Ethics and Conflict of Interest for Senators:
 - (a) except as provided in sub-paragraph (b), if a senator ceases to be a member of a particular recognized party or recognized parliamentary group for any reason, he or she simultaneously cease to be a member of any committee of which he or she is then a member, with the resulting vacancy to be filled by the leader or facilitator of the party or group to which the senator had belonged, following the processes established in rule 12-5;
 - (b) if a senator ceases to be a member of a recognized party or recognized parliamentary group because that party or group ceases to exist, he or she remain a member of any committee of which he or she was a member, subject to the provisions of sub-paragraph (c), but cease to be chair or deputy chair of any committee on which he or she held such a position, and cease to be a member of any Subcommittee on Agenda and Procedure of which he or she was a member; and
 - (c) if a non-affiliated senator becomes a member of a recognized party or recognized parliamentary group, he or she thereby cease to be a member of any committee of which he or she is then a member, with the resulting vacancy to be filled either by order of the Senate or the adoption by the Senate of a report of the Committee of Selection; and
9. any changes to the membership of a committee pursuant to paragraph 8 of this order be recorded in the *Journals of the Senate*.

And on the motion in amendment of the Honourable Senator Bellemare, seconded by the Honourable Senator Loffreda:

That the motion be not now adopted, but that it be amended:

(a) adding the word "and" to the end of paragraph 6 in the English version; and

(b) replacing paragraphs 8 and 9 by the following:

"8. except in the case of the Standing Committee on Ethics and Conflict of Interest for Senators, a senator who changes their affiliation cease to be chair or deputy chair of any committee on which the Senator held such a position."

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

Some Hon. Senators: Question!

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

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

Senator Plett: Right away.

Some Hon. Senators: Now.

The Hon. the Speaker: Honourable senators, do we have agreement on a bell?

Hon. Senators: Yes.

The Hon. the Speaker: Is it agreed, honourable senators?

QUESTION OF PRIVILEGE

Hon. Senators: Agreed.

SPEAKER'S RULING RESERVED

The Hon. the Speaker: The vote will take place now.

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

Hon. Pierre J. Dalphond: Your Honour, I have a question of privilege.

YEAS THE HONOURABLE SENATORS

Bellemare	Housakos
Bovey	McPhedran
Dalphond	Mercer
Dawson	Moodie—9
Harder	

Honourable senators, I rise to raise a question of privilege without notice, pursuant to rule 13-4. I do so because the motion before us, brought in this way at this time, would breach the privilege of senators not in attendance due to the circumstances of the COVID-19 pandemic. With the amendment defeated, we resume debate, and we are preventing people from participating. Specifically, this motion will deprive these senators of their rights under rule 12-2(3). That rule provides that senators appointed to the standing committees and standing joint committees shall serve for the duration of the session. The motion before us would suspend this long-standing rule of the Senate, established many years ago.

NAYS THE HONOURABLE SENATORS

Anderson	Marwah
Ataullahjan	McCallum
Batters	Moncion
Boehm	Ngo
Boisvenu	Oh
Boniface	Omidvar
Busson	Pate
Carignan	Patterson
Cotter	Petitclerc
Dagenais	Plett
Dasko	Ringuette
Deacon (<i>Ontario</i>)	Saint-Germain
Dean	Seidman
Jaffer	Smith
Keating	Tannas
Loffreda	Wallin
Martin	Woo—34

The change contained in this motion would be concerning at any time because it reduces the structural independence of senators, with the effect of centralizing power among leadership. However, under the circumstances of the pandemic, this change brought in this way, at this time, reduces the privilege of senators.

With hybrid sittings not beginning until next week, many senators are unable to attend these sittings due to the very serious — and during travel, potentially unavoidable — risk of COVID-19. These senators find themselves in the situation of being unable to intervene, as their right may be removed by the motion being contemplated now. These senators can neither enter debate nor vote on this motion at this time. Nor can these senators prevent the Senate from sitting, from considering this motion or from voting to remove their individual rights as senators.

ABSTENTIONS THE HONOURABLE SENATORS

Black (<i>Ontario</i>)	Gold
Cormier	LaBoucane-Benson
Gagné	Mégic—7
Galvez	

A Senator may raise a question of privilege relating to:

(a) a notice given during Routine Proceedings only at the time the order is first called for consideration

The Hon. the Speaker: Resuming debate on the question. Are honourable senators ready for the question?

It was called for consideration for the first time today.

Second, a question of privilege must be “be a matter that directly concerns the privileges of the Senate, any of its committees or any Senator.” As noted on page 223 of *Senate Procedure in Practice*:

The standard definition of parliamentary privilege, which is still used today, was first formulated in 1946, in the 14th edition of the *Treatise on the Law, Privileges, Proceedings and Usage of Parliament* of Erskine May, and reads as follows:

Parliamentary privilege is the sum of certain rights enjoyed by each House collectively ... and by Members of each House individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals. Some privileges rest solely on the law and custom of Parliament, while others have been defined by statute.

And, I could add, by the *Rules of the Senate*.

• (1840)

Further, *Senate Procedure in Practice* continues:

The purpose of privilege is to enable Parliament and, by extension, its members to fulfill their functions without undue interference or obstruction. Privilege belongs properly to the assembly or house as a collective. Individual members can only claim privilege if “any denial of their rights, or threat made to them, would impede the functioning of the House.” In addition, members cannot claim any privileges rights or immunities that are unrelated to their functions in the house.

In this instance, during the second wave of COVID-19, many senators are unable to attend in Ottawa in compliance with public health advice, emergency measures and necessary precautions. Yet, the Senate will and perhaps must sit in any event, including to play its role in the emergency response such as by passing the COVID relief measures. During this time, many senators are unable to participate in debate, to propose amendments or to vote on amendments or on motions. If the Senate were to debate or vote on this motion at this time — it’s not a government bill or an urgent matter — senators may incur a long-term denial of their individual rights under the Rules without any reasonable ability or opportunity to intervene.

In contrast, next week, when hybrid sittings commence, the situation will be such that dealing with this motion would not be a breach of privilege, as senators may reasonably participate in proceedings unimpeded. There is a broader collective issue of privilege at play. As noted on page 368 in the *Companion to the Rules of the Senate*, in discussing the second criterion, the matter directly concerns the privilege of the Senate if interfering with “. . . the rights of the Senate to the presence of its members”

On this point, we now have large numbers of senators who cannot attend in person. If we proceed with this motion at this time, we will compound what may well be this larger issue of privilege through an undermining of individual rights when parliamentarians are trying to make the place function for Canadians, albeit imperfectly. It is not my intention in raising

this question of privilege to seek to invalidate Senate proceedings that have taken place under COVID-19 circumstances. Perfection must not be the enemy of governments during an emergency, and COVID sets its own rules. However, I do think that taking away individual rights under these circumstances crosses the line.

With this motion at this time, senators will lose their rights under the Rules for the remainder of the session, potentially for some years — though I’m not sure — impeding the functioning of this house by undermining the independence of senators from leadership as protected by rule 12-2(3). This includes the performance of committee work. As well, committee membership may be called into question with the problematic removal of this rule. The second criterion is therefore met with this matter directly concerning the privileges of the Senate, its committees and individual senators.

The third criteria for a prima facie question of privilege is that it is raised to correct a grave and serious breach. Again, citing the *Companion to the Rules of the Senate*, this means something that for example “. . . would seriously undermine the ability of committees to function and would even jeopardize the work of the Senate itself.”

If, in the present circumstances, many senators lose their right to hold committee seats for the duration of the session through this motion, the result will seriously undermine the ability of committees to function. We have a recent example of this kind of uncertainty resulting from the suspension of rule 12-2(3) by the March 11 motion of Senator Woo. Unlike in this situation, I will note that the motion that was adopted then created problems.

In May of this year when the Progressive Senate Group gained recognition, Senator Munson was removed from the Social Affairs and Internal Economy Committees despite having been designated as a member of both committees in a specific order of the Senate on April 11 made subsequent to the motion of March 11.

As well, Senator Harder was removed from the Finance Committee. The result was that these senators’ memberships of these committees were subject to interpretation and doubt. For that reason, on June 16 of this year, Government Representative Senator Gold moved that the motion adopted by the Senate that, for greater certainty, clarified that Senator Munson and Senator Harder continue to hold their seats.

The third condition is met as contested committee membership is a grave and serious matter for the proper functioning of the Senate.

Fourth, the question of privilege must be “. . . be raised to seek a genuine remedy, which is in the Senate’s power to provide, and for which no other parliamentary process is reasonably available.”

In the situation before us, a genuine remedy will be, by agreement or by motion, including pursuant to a prima facie finding of privilege, to hold off any votes on amendments or on the main motion until hybrid sittings commence in less than six days from now. Not only will this be a genuine remedy to this problem of circumstances, but only the Senate can provide such a remedy. Moreover, other parliamentary processes will be

unavailable. As noted in the Speaker's ruling on March 22, 2018, such processions may be ". . . debate, amendments, referral to committee, and, eventually, defeat or adoption of the motion."

These are the matters at stake now. In this case, these processes are unavailable for senators who are unable to attend the Senate and who cannot participate in this debate, including proposing amendments and voting. The fourth criterion is therefore met.

Honourable senators, with the four criteria satisfied, I submit that we have a prima facie question of privilege, including a suitable remedy easily at hand.

As 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 privileges of the Senate is the duty of every Senator and has priority over every other matter before the Senate.

Colleagues, I hope we will find, together, a path that protects the rights of all senators, as well as, perhaps, the collective rights of the Senate to consist of senators with individual rights until all senators may participate in deciding upon the motion which is bearing in consequences for all of them. Thank you.

Hon. Donald Neil Plett (Leader of the Opposition): I will be very brief, and I will let my colleague and legal mind Senator Carignan make some of the arguments. But I do want to say this, Your Honour, and you know this very well. There isn't any parliamentary privilege taken away from any senator because there may be restrictions on what a senator does when they travel home from here. There is no restriction in a senator coming here, as has been evidenced today by Senator Mercer when he told us how many people were here from Nova Scotia, how many people were here from New Brunswick and how many people were here from Newfoundland and Labrador, including yourself, Your Honour, and we know you have to isolate when you go back home, but you are here today doing your duty as the Speaker.

This is frivolous. We have, since the beginning of the year, passed legislation here to the tune of almost \$500 billion. Senator Dalphond must have been asleep during that time, because he never raised the question of privilege when we were restricted to 15 members in the Senate or whatever the number was. I will try not to use the wrong number. It might have been 25. But we were restricted. I think the Conservatives could have six senators here.

• (1850)

Where was the parliamentary privilege for those senators who couldn't be here to support the legislation we were voting on? Senator Dalphond was quite happy to support hundreds of millions of dollars. Now all of a sudden he's woken up because of a committee resolution.

Your Honour, this is an unadulterated delay tactic from a senator who has written letters to our leader in the House of Commons, asking him to interfere with our work here because

we are delaying things. This is the second letter he has written. He wrote to our previous Speaker because he says we are delaying.

Here he is creating a frivolous delay. It is of the utmost importance, Your Honour, that you don't take this under advisement for too long, because then he will have accomplished exactly what he wants. It would be very unfair for one senator to be able to hijack the entire Senate with a frivolous motion with a pure, unadulterated delay tactic, when he has said nothing since March, since we started passing legislation here.

Your Honour, I have the fullest confidence that you will rule on this very quickly. I'm not going to suggest how you should rule. I don't need to do that. But I do ask that your ruling come down. You may need an hour to discuss, but for you to delay this any longer, Senator Dalphond gets exactly what he has very unfairly tried to obtain here.

Hon. Yuen Pau Woo: Let me add my voice to this point of privilege and echo Senator Plett's comments that it's frivolous, unfounded and spurious. With due respect, Your Honour, I hope you can make a quick ruling. It is so patently unfounded that it can be dispensed with, I believe, with haste.

Let me address a few points that Senator Plett has not yet touched on.

On the question of giving notice of a point of privilege as soon as practicable, Senator Dalphond is technically correct that he is giving notice of the point of privilege as soon as the previous amendment was voted down. However, he's being disingenuous because he has known that there were many votes taking place this week, he has participated in many votes, and he's chosen not to raise a point of privilege on any of the other votes that have taken place — not just this week but, of course, in the previous weeks and months that we have been sitting in a reduced fashion.

One can only draw the conclusion that Senator Dalphond is raising a point of privilege on this particular issue because he doesn't like the outcome. That is not a reason for a point of privilege. If you don't like a motion, you vote against it. You don't stand by and vote for a whole bunch of other motions — including the one Senator Plett referred to, involving hundreds of millions of dollars — not raise a point of privilege, and then come to a motion that you vote but lost on, and then raise a point of privilege. That, I might suggest, shows a lack of principle and that in itself, Your Honour, should be a reason to discharge this request.

Let me also address his point, where Senator Dalphond tries to create a distinction between the votes we've had previously on government bills and the vote that we want to have, that we had just recently on the amendment and that we hope to have on the main motion that is currently being debated.

His basic argument is that there is a hierarchy of privilege, that privilege is more important for senators if it applies to a government bill but less important if it comes to other votes. I'm not a legal scholar, but I don't think that's sustainable. Privilege is privilege is privilege; it's indivisible. How dare you tell me that my privilege in voting on one bill is less than my privilege in voting on another? But that's essentially what he's arguing here,

because he's telling us that we can set aside the fact that we violated privilege on billions of dollars of spending. We can set that all aside, but on this one we should ask His Honour to rule that it is a violation of privilege.

Let me finally touch on the assertion that allowing the vote to continue would somehow jeopardize the work of senators and jeopardize the ability of committees to function. He himself gave a colourful example of two senators in the PSG who were removed from their committees because of a sessional order and who were promptly put back on. Why? Because the leaderships discussed it, together with Senator Cordy, and agreed that it should be done. We asked Senator Gold to do exactly what he described, and it happened smoothly and without any disruption.

In fact, as Senator Saint-Germain has mentioned previously, we have been functioning in an environment where the portability rule, 12-2(3), has been suspended, by and large, for the last four years, and we functioned. Can anybody seriously say that it has stopped the ability of the Senate to work properly? Surely not.

Your Honour, I would restate that this is not simply an intellectual discussion or something that needs a huge amount of reflection. With due respect to your decision and how to make the ruling, it is my opinion that it is frivolous and spurious and should be dispensed with as soon as possible.

Hon. Dennis Dawson: As our former colleague Senator Baker would say, I will be brief. But in my case it's going to be true.

If ever there was a case in the last 15 years that I've been here in which privilege of senators — this is not a government bill, an institutional bill or an organizational bill. This is a bill that challenges the rights of senators — senators who are not here and who will be available to be here on Tuesday. That's one point.

Second, there is no haste. There is no timetable that says this has to be done by tomorrow or the day after. There is no haste at all. There is no legislation that needs us. We've always said we will cooperate and create any committee that has legislation in front of it. We did it during the summer.

As far as comparing this to what happened during the last few months, that was done in a spirit of cooperation. All the committees, caucuses, leaders and senators agreed that was the best thing to do, including those who were absent, who gave us the power of authority. They did not give us the power of authority to stop them from having the right to vote on something that concerns them directly — not a government bill, not an institutional bill, not a committee bill, but a senator-driven issue.

[*Translation*]

Hon. Claude Carignan: To answer my friend from Joliette, Senator Dalphond, I'm having trouble understanding his argument that he's raising the issue at the earliest opportunity.

Based on his argument that it was because of COVID-19 that not all senators could be present in the chamber pursuant to your request, by order of the Senate and under the Rules, the earliest opportunity was when the Speech from the Throne was delivered. That was the earliest opportunity.

[Senator Woo]

In response to his argument that the issue wasn't raised at the earliest opportunity because it was impossible for some senators to travel here because of the pandemic, I would say that the matter should have been raised immediately after the Speech from the Throne, during the sitting we had at that time.

His argument that absent senators are having their rights undermined has nothing to do with how to solve the problem, which is really about finding a solution to how committees are organized. That's a decision the Senate will have to make, as other senators have pointed out. The Senate has made a number of decisions since the Throne Speech, even though some senators were absent. These decisions were always in accordance with the Rules of the Senate, we had quorum, and you, Mr. Speaker, sent out notices of the meetings.

• (1900)

The Senate's sittings are not invalid just because some senators are not here because they are afraid of COVID-19 or because they have an illness that is keeping them confined at home. People have different reasons for not being able to be here in the Senate.

I would remind you that, in accordance with the motion on hybrid sittings, you will decide when these sittings will be held. The motion states that it is up to you to determine the date, since the Senate has granted you the power. Until then, all of the sessions that have been held are valid, they have respected senators' rights and privileges, and they have also satisfied the obligation for senators to be present in the chamber.

I was not expecting my colleague from Joliette, a former judge at the Quebec Court of Appeal, to use dilatory measures in an attempt to delay our work here in the Senate.

Some Hon. Senators: Hear, hear.

[*English*]

Hon. Leo Housakos: Your Honour, I have to say, as usual, your level of benevolence is appreciated because I'm actually surprised at the extent of flexibility in listening to this question of privilege.

At the end of the day, Your Honour, we all know a question of privilege can be called upon when a senator is somehow impeded from exercising his obligations, rights and privileges in this chamber. There's nothing in the debate, nothing in the process that was done, nothing leading up to it in terms of the convocation of the issues they're obviously finding problematic that impeded any senator from being here. We all know that over the last few days and weeks that our leadership had engaged in a negotiation. I assume, like our caucus was, we were brief. All of us now for a number of weeks have been carrying on with Zoom and Teams caucus virtual meetings.

If any senator, in any way, shape or form, thought it vitally important to be here for this debate, they could have been. Clearly what we're seeing here is a poor utilization of the question of privilege to try to delay. The question of privilege was never put in place as a process in order to be used as an instrument for delay of the work of this chamber. It's really inappropriate to be using it in that manner and setting up a terrible precedent.

At the end of the day, as my colleague Senator Carignan appropriately pointed out, if somebody falls sick and can't show up, is that a question of privilege? Do we have to stop a vote? That would certainly be unheard of.

In this particular instance, like I said, Your Honour, I'm surprised you have even shown the benevolence in hearing out this question of privilege.

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, just a few points to add. I've been listening very carefully to the interventions of my colleagues, and I guess the timing of this question of privilege raised by our colleague is a little bit curious and suspicious. If he were truly concerned about the question of privilege, it could have been at the start of the debate, and he could have risen to raise his point. But after having faced several votes that he lost, he raises it at this point.

The other thing I was thinking about is how important committee work is to the chamber. I remember when I first arrived in 2009, I was told that committee work is the meat and potatoes of the Senate, that that's where the substantive work gets done. It has been quite some time since we have been able to do the committee work. We have done some on Zoom, but we know the work that has been done and will continue to be done and the incredible time and process that has been undertaken to actually even come to this motion. It was agreed upon by the leadership, who consulted and informed their respective caucuses and groups. So it's not just happening in this moment. I think about the privilege of the majority of senators to be at risk of potentially being further delayed by this question of privilege if we don't get to the main motion, as we should, as soon as we can. I believe that my colleagues have already stated their position. Those are two additional points I wanted to add, Your Honour.

The Hon. the Speaker: Honourable senators, I want to thank all senators who participated in the debate. I understand the importance and sensitivity around timing. I will take the matter under advisement, but I will inform the Senate that I will have a ruling as quickly as possible.

(At 7:06 p.m., the Senate was continued until tomorrow at 2 p.m.)

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