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(HANSARD)

Tuesday, December 8, 2015

The Honourable GEORGE J. FUREY
Speaker

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THE SENATE

Tuesday, December 8, 2015

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

[Translation]

Prayers.

[Translation]

I want to congratulate our colleague, the Honourable George J. Furey, on his appointment as Speaker. The Prime Minister did not consult me on that decision, but if he had I would have told him it was an excellent choice.

FORTY-SECOND PARLIAMENT

WELCOMING AND CONGRATULATORY REMARKS

Hon. Claude Carignan (Leader of the Opposition): Honourable senators, I welcome each and every one of you here.

It is a bit odd to be on this side of the chamber, but it has its benefits. We can see some paintings that we did not have much opportunity to admire before.

It is a privilege for me to be here with all of you again. Many things have changed since the last time we were together, but I am sure that our collective desire to serve the best interests of Canadians remains intact.

[English]

We have a lot of work in front of us. First, we have to continue our hard work toward the modernization of this institution to ensure a more efficient, transparent and accountable Senate that serves Canadians. I have no doubt that together we can succeed in our efforts to improve the perception that Canadians have of this institution.

[Translation]

Obviously we have to deal with the changes the new government intends to make to the way the Senate operates. We can only hope that these changes will be made in cooperation with the members of this chamber and not in a peremptory way.

As well, during this 42nd Parliament, we will be debating a number of different topics that affect Canadians across the country.

[English]

On behalf of my colleagues in the Conservative Senate caucus, we look forward to building a constructive opposition. We also want to respect the will of the population. As the Honourable Dominic LeBlanc and Prime Minister Justin Trudeau have noted, we have all been invited to revise and approve bills, should we feel they merit amendments. I cannot wait to see if this openness is shared by our colleagues on the other side.

We intend to work with you and with all senators to ensure that the Senate works properly, that our debates are carried out respectfully, and that Canadians are served as best as possible.

On behalf of my colleagues, I wish you good luck.

[English]

Hon. James S. Cowan (Leader of the Senate Liberals): Honourable colleagues, I want to welcome all of us back here to the chamber after a rather extended but nonetheless eventful break.

I want to begin by extending my congratulations to our new Prime Minister, the Right Honourable Justin Trudeau, and the members of his government. I know all of us wish them well as they guide our nation over the next four years.

I want to welcome and congratulate our new Speaker, the Honourable George Furey, on his appointment to serve as our new presiding officer.

Over the years that Senator Furey and I have served here together, I've often turned to him for advice. His knowledge, experience and good judgment are matched by his deep respect for this institution.

We all know that the Senate is at a critical juncture, that we have hard work to do together to earn public confidence in this institution and in our work. Leadership matters. I know that our new Speaker brings both the determination and the wisdom necessary to help us in this most important task. All of us wish you every success as you take up your new responsibilities.

Hon. Senators: Hear, hear!

Senator Cowan: May I also thank Senator Housakos for his service as our Speaker.

Hon. Senators: Hear, hear!

Senator Cowan: While his tenure was short, it was eventful, to say the least. In addition to his public role as our spokesman on difficult issues, he played a critical part behind the scenes in the reorganization of this institution and its supporting infrastructure. For that all of us are deeply grateful.

I want to congratulate and perhaps, in a way, commiserate with my friend Senator Carignan, who takes office as Leader of the Opposition. I think he'll find that his position there will be slightly different and perhaps in some ways more challenging than when he was Leader of the Government in the Senate. In any event, I wish him well. He was a diligent and hard-working Leader of the Government in the Senate, and I know he will bring that same dedication to his role as Leader of the Opposition.

I want to congratulate and extend our best wishes to Senator Martin on her election as Deputy Leader of the Opposition and to other members of the leadership team, Senator Plett and Senator Frum.

• (1410)

Our roles in this place have changed. Indeed, some of us on this side are still trying to find out exactly what that role is and how it will all work out. But I think that as we go forward, we'll find that this Senate and the senators who serve in it, and have served in it, are adaptable. We will evolve, the institution will evolve, and it will be a better place if we all concentrate on the ultimate objective and that is to make this institution, which is such an important part of our parliamentary democracy, the very best chamber that it can be. I am sure that there is no disagreement amongst any of us on that.

We may part from time to time on the details, but on the overarching principles, on the overarching goals, I'm sure we all agree. Much good work has been done on Senate renewal, most recently under the leadership of our colleagues Senator Greene and Senator Massicotte, and before that, Senator Joyal led an initiative. Of course, our late Speaker Senator Nolin did much good work, and many of you contributed to the excellent inquiries that he introduced.

However, I think the time has come for us to take our future firmly into our own hands. The fix that needs to come to this place has to come from within. We cannot rely on anybody outside the walls of this chamber to do the work for us. If we succeed, we'll take the credit for it, but if this place does not improve, then the blame will be shared by those of us who are here and who have not taken this opportunity.

I'm confident that we will find the way forward, that we will be able to work together collaboratively and that we will make this a better institution. We have the ability to make it the kind of effective body that Senator Carignan spoke about and that would deliver the value that we know the Senate can have for Canadians.

Finally, I want to thank the Senate staff who worked so hard most recently to prepare the chamber for the Speech from the Throne. It was a huge event attended by many distinguished Canadians and watched from coast to coast to coast.

To the Black Rod and his team who contributed to the success of that event, my congratulations and thanks.

[Senator Cowan]

Colleagues, I look forward to an interesting and a productive session. We will make history together as we reinvent this institution, the Senate of Canada. I wish all of us wisdom and good judgment and a healthy dose of good humour as we set about our tasks in the months ahead.

Hon. Senators: Hear, hear!

[Translation]

SENATORS' STATEMENTS

THE HONOURABLE GEORGE J. FUREY

CONGRATULATIONS ON APPOINTMENT AS SPEAKER OF THE SENATE

Hon. Céline Hervieux-Payette: Honourable senators, if I may, I would like to begin by congratulating our Speaker because I am delighted that he is in the chair. I intend to work just as hard as a senator as I did before.

I also want to reassure the former government leader that I will continue to seek the truth and ensure that the facts presented are always accurate, just as I did under the previous government. He need not worry; if I was a backseat driver before, I will most likely continue to be one under the Liberal government.

QUESTION OF PRIVILEGE

NOTICE

Hon. Céline Hervieux-Payette: Honourable senators, pursuant to rule 13-4(1), I give notice that, later today, I intend to raise a question of privilege regarding the media leaks concerning the Auditor General's report on senators' expenses.

This confidential information, which was not to be made public until June 9, 2015, at 2:05 p.m., according to the Senate Speaker's statement of June 8, 2015, was given full coverage by newspapers, online media and television news programs for at least six days leading up to the public tabling of the report.

The credibility of our institution was seriously undermined in the court of public opinion when senators' names were leaked to the media, which was a violation of their fundamental right to the presumption of innocence and a fair and equitable defence.

Honourable senators, if the Senate finds this to be a *prima facie* question of privilege, I will officially and publicly ask the Speaker to order an inquiry into the source of these leaks.

[English]

THE HONOURABLE GEORGE J. FUREY

CONGRATULATIONS ON APPOINTMENT AS SPEAKER OF THE SENATE

Hon. Leo Housakos: Honourable senators, I would also like to echo my congratulations to the Honourable Speaker Furey for his appointment.

I've had the privilege in the last few months of working with Senator Furey on the Internal Economy Committee and together on some of the reforms and the administrative changes through the last few months.

I'd like to thank Senator Furey for his support and his friendship, and I want to echo in this chamber that he has my 100 per cent support going forward, and I look forward to working with him. No doubt, we have a Speaker who will treat this institution and the chair with the honour and the dignity it merits.

Congratulations, Speaker Furey.

QUESTION OF PRIVILEGE

NOTICE

Hon. Leo Housakos: Honourable senators, pursuant to Senate rules 13-1, 13-2(1), 13-3(1) and 13-3(4), and pursuant to written notice given earlier this day, I rise to give oral notice that I shall raise a question of privilege this day, December 8, 2015, with respect to a question of privilege regarding the government's failure to appoint a government leader in the Senate.

For the first time in 148 years of Confederation, the Senate is without a government leader.

This government's refusal to appoint a government leader is an affront to Canada's parliamentary system and in contempt of the dignity of Parliament, but in particular, it is a violation of all senators' privileges, affecting the ability of the Senate to carry out its functions as stated in Senate rule 13-1.

Perhaps the most obvious breach of our privilege resulting from the government's failure to appoint a government leader is the violation of Senate rule 4-8(1)(a), which says:

... a Senator may, without notice, ask a question of:

(a) the Leader of the Government, on a matter relating to public affairs;

Furthermore, without a government leader, the Senate is left to find alternatives to our established rules and procedures in order to conduct the business of the Senate.

This is, as stated in rule 13-2(1)(c), "a grave and serious breach" of the most fundamental privilege of the Senate, the right to regulate our own affairs by establishing our own rules of procedure and enforcing those rules.

With that said, I am prepared to move a motion seeking genuine remedies should there be a ruling that this constitutes a *prima facie* breach of privilege.

L'ÉCOLE POLYTECHNIQUE DE MONTRÉAL

TWENTY-SIXTH ANNIVERSARY OF TRAGEDY

Hon. Mobina S.B. Jaffer: Honourable senators, on December 6, 1989, 14 women were killed at the engineering school École Polytechnique in Montreal. Sunday marked the twenty-sixth anniversary of the massacre.

Our Prime Minister Trudeau attended the memorial for these tragic events. There he said, "It's a moment to remember and to make promises"

Today, I stand and hope we can make two promises in memory of the victims of those tragic attacks.

We now know the victims were targeted because they were women. The gunman was clear about this before taking his own life. He hated feminists and women's role in society. I am really troubled on this particular anniversary because it reminds me of how much work is yet to be done to elevate our own society to accept women as equal to men.

The women whose lives were taken chose to attend an engineering school, a place not typically seen as a place for women. Twenty-six years later, we see many stories of the rampant sexism that exists in the growing engineering sector.

In an age where technology is our future, we need to educate our society to accept and welcome strong women. Women have a place as leaders in all spheres of society, but it is not enough to encourage women and girls to become leaders to pursue difficult fields and to work hard. We must also create a culture that sees that as the norm, and that is not against their success.

To honour the victims, we must promise to promote gender equality in every sphere and recognize that it is as much a man's responsibility to do this as it is a woman's.

Second, I hope that we take steps necessary to end senseless gun violence. In Canada, possessing and using a firearm is not a right or a freedom under our Charter. It is, instead, a privilege. We must do all we can to ensure that privilege is never used to cause harm to our fellow Canadians.

These are the two promises that I believe we must keep. These are the two responsibilities that we have to honour the memories of the victims of the École Polytechnique massacre. We owe it to the 14 women of École Polytechnique and all the men and women who have been killed by gun violence. It is for them that we have to stay true to our words.

• (1420)

TERRORISM

Hon. Daniel Lang: Colleagues, it's with sadness that I rise again today to draw the attention of this chamber to the jihadist terrorist violence we are facing in the world. I have spoken in the past Parliament about the actions carried out by Boko Haram in Africa; jihadist terrorists in Kuwait, Tunisia and Yemen; and about the January terrorist attack in Paris against the satirical news magazine *Charlie Hebdo*.

Colleagues, radical Islamists have declared war on our democratic values; our respect for the equal treatment of women and members of the gay, lesbian and transgender communities; the right to practise one's religion without fear; and the right of free people to dissent from the mullahs in how they interpret these religious teachings.

While the West is focused on events in Iraq and Syria, Islamist jihadists have attacked travellers on the underground in London and recently murdered over 140 people in Paris. In the past month alone, jihadist terrorists have killed people in Syria, Cameroon, the Congo, Iraq, Pakistan, Nigeria, Mali, Azerbaijan, India, Egypt, Bosnia, Saudi Arabia, the Central African Republic, Thailand, Afghanistan, Tunisia, the Philippines, France, Israel, Yemen, Jordan, Italy, Chad, Turkey, Bangladesh and just recently in San Bernardino, California.

Our condolences go out to those who have suffered as a result of these terrorist attacks.

Colleagues, while the slaughter of Muslims and non-Muslims at the hands of jihadists continues, it is time we in the West acknowledge the threat we face and the ideological religious motivations behind their actions. Let me underscore that this is a movement, and it is not going away. Given our past experience, it cannot and should not be appeased.

In Canada, we already know of over 683 terrorist financing cases in the last five years. Eight charities have lost their status as a result of links to terrorism, and we were told last October that over 318 radicalized Canadians abroad are seeking to join jihadist movements overseas or have returned.

Colleagues, Canadians are concerned about terrorism. It is encouraging that mothers like Michelle Walrond, whose son was radicalized at a mosque in Ottawa, are speaking out. Other members of the Muslim communities like Sohail Raza, Salim Mansur, Tarek Fatah and imams like Syed Soharwardy are raising concerns that young people are being radicalized at some of our mosques, colleges and high schools in Canada.

Colleagues, it is my hope that the Senate will have a frank discussion during the life of this Parliament about the terrorist threats we face. The *Countering the Terrorist Threat in Canada: An Interim Report*, tabled by the Standing Senate Committee on National Security and Defence this past July, can be a good starting point.

THE LATE WINSTON MAXWELL "MAX" KEEPING, CM, O.ONT.

Hon. Jim Munson: Honourable senators, here we are in a room with a view. There's no bad seat in the Senate, I guess. It's a pleasure to be back today.

Since we last gathered in this room an anchorperson and journalist in Ottawa, Max Keeping, my good friend and a friend to thousands in Ottawa and the beautiful surrounding area, passed away.

During the 50 years he lived here, Max was a familiar presence in our daily lives. Although it was through hard work that he achieved his public profile, it actually seemed as though Max gravitated to what he was meant to be: a local news anchor, philanthropist and community leader. From the time Max joined CFRA in 1965, his journalistic abilities and his gift for talking to his audience directly and with a warm resonance set him on a course to success. From CTV National News to CJOH, which eventually became CTV Ottawa, he belonged on television and he made it his home.

The line between a conduit of information and being a personality can be tricky, but Max walked his own line. He was unafraid to stand up for what he cared about, always ending his newscasts with, "Thank you for taking time to make a difference in the life of a child." Max loved children, and the energy he directed to charitable causes and their interests was limitless. CHEO, the United Way, the Children's Wish Foundation, the Salvation Army and food banks were among the countless organizations that Max supported. I must say Max was a great supporter of our National Child Day ceremony each November in the Senate of Canada.

In 1995, Max set up the Max Keeping Foundation to help children who couldn't get help from other organizations. The foundation was like a hand extended to vulnerable children, preventing them from slipping through the cracks of this area's support network.

In 2003, when Max announced he had prostate cancer, he spoke to us as he always spoke to us. He looked directly at us and told us how things were, bringing about another positive development: increased awareness of prostate cancer and the importance of early detection.

Sadly, as we know, Max developed other forms of cancer, and it was cancer that ended his life.

In February of this year, he dissolved his foundation and donated the remaining funds to the CHEO Foundation to create the Max Keeping Fund for Kids. In this way, Max continues to

help those he loved so much. Max brought out the kindness and generosity within everyone he came across, including me.

My sympathies go to Max, his family and his many, many friends. He was one of a kind.

[Translation]

NATIONAL DAY OF REMEMBRANCE AND ACTION ON VIOLENCE AGAINST WOMEN

Hon. Diane Bellemare: Honourable senators, I would first like to congratulate His Honour the Speaker on his appointment.

I am rising today to mark the National Day of Remembrance and Action on Violence Against Women, which took place on Sunday, December 6, 2015.

Every year on December 6, we commemorate the tragic anniversary of the massacre that occurred at the École Polytechnique in Montreal on December 6, 1989, when 14 young women were killed just because they were women. Marc Lépine said so himself in writing.

We might be tempted to believe that violence against women is a distant problem and that it only happens in places like Iraq, Syria, Saudi Arabia and Africa. That is not true. Take for example, the troubling situation of Aboriginal women here in Canada, who are too often the victims of violence. Think too of the women who are trapped in toxic relationships and those who are harassed at work.

The Council of Europe, which is made up of 47 countries, has been proactive in the fight to end violence against women. In fact, on May 11, 2011, it adopted the Istanbul Convention to prevent and combat violence against women and domestic violence. The purpose of this convention, which has been ratified by 19 countries, including France, Italy, Sweden and the Netherlands, is to take real action toward achieving gender equality by putting an end to gender-based violence against women.

Article 3 of the convention defines the term “violence against women,” which is understood as:

... a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

The terms of the convention require the state to effectively fight this violence, in all its forms, by implementing measures to prevent violence, protect victims and prosecute perpetrators. This could definitely be a source of inspiration for Canada.

Lastly, I would like to remind honourable senators that after the École Polytechnique massacre, a group of women got together and worked tirelessly to prevent gun tragedies. One of those

women was Suzanne Laplante-Edward, whom I have met before, the mother of Anne-Marie Edward, who was murdered on December 6, 1989, at École Polytechnique. Ms. Laplante-Edward and all those women will certainly be pleased with the Quebec government, which has introduced a bill concerning firearms registration. Bill 64 provides that any non-restricted firearm must be registered and that the government must assign a unique number to each firearm registered.

Quebec’s Minister of Public Safety, Pierre Moreau, pointed out that this initiative reflects the desire of the vast majority of Quebecers and the unanimous intention of the National Assembly and that it will prevent tragedies involving firearms. From now on, any police officer called to the scene of a domestic dispute will be able to determine whether there could be any firearms at that location.

Honourable senators, I sincerely hope that this type of tragedy will never happen again.

Thank you for listening.

Some Hon. Senators: Hear, hear!

• (1430)

CANADIAN INSTITUTE FOR MILITARY AND VETERAN HEALTH RESEARCH

SIXTH ANNUAL FORUM

Hon. Joseph A. Day: Honourable senators, the Canadian Institute for Military and Veteran Health Research held its sixth annual forum on November 23, 24 and 25.

[English]

I was pleased to have participated in that important forum in Quebec City. The program for this sixth forum was very impressive and provided a platform to discuss and focus on our soldiers’ and veterans’ health and that of their families.

I would like to commend Dr. Alice Aiken of Queen’s University, Dr. Stéphanie Bélanger of the Royal Military College of Canada and their organizing team for putting together this very successful forum.

Honourable senators, in just five years the institute has successfully been able to partner with Veterans Affairs, the Department of National Defence, True Patriot Love, the Royal Canadian Legion, Wounded Warriors Canada and General Dynamics, in addition to 40 different universities across Canada.

In this partnership with Veterans Affairs Canada and the Department of National Defence, the institute assists the departments in better serving our injured heroes and their families. The institute’s role is critical in helping to coordinate, unite and encourage efforts in advancing the health research for our soldiers, veterans and their families.

The forum that is held each year also contributes to breaking taboos and stereotypes. For many years, openly talking about post-traumatic stress disorder and other operational stress injuries was indeed taboo.

But today I'm glad to say that many have come forth and publicly addressed these issues and their injuries and brought to light their struggle, while educating others.

The institute's contribution helps in that aspect as well. It provides a platform to learn and inform our community at large.

Much still needs to be done in health research and in the development of tools and programs that will successfully support, help and heal our wounded veterans and soldiers, but with initiatives like this forum I'm confident that we're moving in the right direction.

[Translation]

I invite all honourable senators to have a look at the work this Canadian institute has done for our soldiers, our veterans and their families.

[English]

ROUTINE PROCEEDINGS

INFORMATION COMMISSIONER

ACCESS TO INFORMATION ACT—
2014-15 ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the 2014-15 annual report of the Information Commissioner, pursuant to section 38 of the Access to Information Act.

PRESIDENT OF THE TREASURY BOARD

PUBLIC ACCOUNTS OF CANADA—
2014-15 REPORT TABLED

Hon. Joan Fraser (Deputy Leader of the Senate Liberals): Honourable senators, pursuant to rule 14-1(3), I ask for leave to table, in both official languages, the Public Accounts of Canada for the year ending March 31, 2015, pursuant to section 64 of the Financial Administration Act.

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

Hon. Senators: Agreed.

[Senator Day]

THE ESTIMATES, 2015-16

SUPPLEMENTARY ESTIMATES (B) TABLED

Hon. Joan Fraser (Deputy Leader of the Senate Liberals): Honourable senators, pursuant to rule 14-1(3), I ask for leave of the Senate to table, in both official languages, the Supplementary Estimates (B), tabled in the House of Commons on Monday, December 7, 2015.

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

Hon. Senators: Agreed.

[Translation]

SENATE ETHICS OFFICER

PRELIMINARY DETERMINATION LETTER TABLED

Hon. Serge Joyal: Honourable senators, pursuant to subsection 47(17) of the *Ethics and Conflict of Interest Code for Senators*, I have the honour to table, in both official languages, a preliminary determination letter from the Senate Ethics Officer that was deposited with the Clerk of the Senate on November 26, 2015.

[English]

GENETIC NON-DISCRIMINATION BILL

FIRST READING

Hon. James S. Cowan (Leader of the Senate Liberals) introduced Bill S-201, An Act to prohibit and prevent genetic discrimination.

(Bill read first time.)

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

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

DIVORCE ACT

BILL TO AMEND—FIRST READING

Hon. Anne C. Cools introduced Bill S-202, An Act to amend the Divorce Act (shared parenting plans).

(Bill read first time.)

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

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

THE HONOURABLE GEORGE J. FUREY

CONGRATULATIONS ON APPOINTMENT AS SPEAKER OF THE SENATE

Hon. Wilfred P. Moore: Your honour, let me personally congratulate you and wish you well as our new presiding officer.

ENDING THE CAPTIVITY OF WHALES AND DOLPHINS BILL

BILL TO AMEND—FIRST READING

Hon. Wilfred P. Moore introduced Bill S-203, An Act to amend the Criminal Code and other Acts (ending the captivity of whales and dolphins).

(Bill read first time.)

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

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

FINANCIAL ADMINISTRATION ACT

BILL TO AMEND—FIRST READING

Hon. Wilfred P. Moore introduced Bill S-204, An Act to amend the Financial Administration Act (borrowing of money).

(Bill read first time.)

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

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

CANADA BORDER SERVICES AGENCY ACT

BILL TO AMEND—FIRST READING

Hon. Wilfred P. Moore introduced Bill S-205, An Act to amend the Canada Border Services Agency Act (Inspector General of the

Canada Border Services Agency) and to make consequential amendments to other Acts.

(Bill read first time.)

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

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

• (1440)

[Translation]

CRIMINAL CODE

BILL TO AMEND—FIRST READING

Hon. Céline Hervieux-Payette introduced Bill S-206, An Act to amend the Criminal Code (protection of children against standard child-rearing violence).

(Bill read first time.)

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

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

BOARDS OF DIRECTORS MODERNIZATION BILL

FIRST READING

Hon. Céline Hervieux-Payette introduced Bill S-207, An Act to modernize the composition of the boards of directors of certain corporations, financial institutions and parent Crown corporations, and in particular to ensure the balanced representation of women and men on those boards.

(Bill read first time.)

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

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

NATIONAL SEAL PRODUCTS DAY BILL

FIRST READING

Hon. Céline Hervieux-Payette introduced Bill S-208, An Act respecting National Seal Products Day.

(Bill read first time.)

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

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

OFFICIAL LANGUAGES ACT

BILL TO AMEND—FIRST READING

Hon. Maria Chaput introduced Bill S-209, An Act to amend the Official Languages Act (communications with and services to the public).

(Bill read first time.)

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

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

[English]

IMMIGRATION AND REFUGEE PROTECTION ACT
CIVIL MARRIAGE ACT
CRIMINAL CODE

BILL TO AMEND A BILL TO AMEND—FIRST READING

Hon. Mobina S.B. Jaffer introduced Bill S-210, An Act to amend An Act to amend the Immigration and Refugee Protection Act, the Civil Marriage Act and the Criminal Code and to make consequential amendments to other Acts.

(Bill read for the 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.)

NATIONAL SICKLE CELL AWARENESS DAY BILL

FIRST READING

Hon. Jane Cordy introduced Bill S-211, An Act respecting National Sickle Cell Awareness Day.

(Bill read first time.)

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

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

[Translation]

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

FOURTH PART, 2015 ORDINARY SESSION OF THE
PARLIAMENTARY ASSEMBLY OF THE COUNCIL
OF EUROPE, SEPTEMBER 28-OCTOBER 2, 2015—
REPORT TABLED

Hon. Ghislain Maltais: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-Europe Parliamentary Association respecting its participation at the fourth part of the 2015 ordinary session of the Parliamentary Assembly of the Council of Europe, held in Strasbourg, France, from September 28 to October 2, 2015.

THE SENATE

NOTICE OF MOTION TO STRIKE A STANDING
COMMITTEE ON NATIONAL FINANCE

Hon. Joan Fraser (Deputy Leader of the Senate Liberals): Honourable senators, with leave of the Senate and notwithstanding rule 5-5(c), I give notice that at the start of the Orders of the Day I shall move:

That, notwithstanding rule 12-2 and usual practice, the Honourable Senators Bellemare, Chaput, Day, Eaton, Gerstein, Hervieux-Payette, P.C., Mockler, Rivard, Smith (*Saurel*) and Wallace be appointed to serve on the Standing Senate Committee on National Finance until the end of 2015, or until a report of the Committee of Selection recommending the senators to serve on the National Finance Committee has been adopted by the Senate, whichever comes first.

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

Hon. Senators: Agreed.

[English]

THE ESTIMATES, 2015-16

NOTICE OF MOTION TO AUTHORIZE NATIONAL FINANCE COMMITTEE TO STUDY SUPPLEMENTARY ESTIMATES (B) AND MEET DURING SITTINGS OF THE SENATE

Hon. Joan Fraser (Deputy Leader of the Senate Liberals): Honourable senators, with leave of the Senate and notwithstanding rule 5-5(j), I give notice that, at the start of the Orders of the Day, I shall move:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (B) for the fiscal year ending March 31, 2016; and

That the committee be authorized to meet on Wednesday, December 9, 2015, Thursday, December 10, 2015 and Friday, December 11, 2015, for the purposes of its study of the expenditures set out in the Supplementary Estimates (B), even though the Senate may then be sitting, with the application of rule 12-18(1) being suspended in relation thereto.

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

Hon. Senators: Agreed.

[Translation]

THE SENATE

NOTICE OF MOTION TO INVITE MINISTERS OF THE CROWN WHO ARE NOT MEMBERS OF THE SENATE TO PARTICIPATE IN QUESTION PERIOD

Hon. Claude Carignan (Leader of the Opposition): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, notwithstanding usual practice, the Senate invite any Minister of the Crown who is not a member of the Senate to enter the chamber during any future Question Period and take part in proceedings by responding to questions relating to his or her ministerial responsibilities, subject to the Rules and practices of the Senate.

NOTICE OF MOTION TO INVITE THE GOVERNMENT TO OBTAIN COMPENSATION FOR VOLUNTEERS AND CIVILIAN MEMBERS OF NATIONAL DEFENCE WHO PARTICIPATED IN THE CONSTRUCTION OF THE CHALK RIVER NUCLEAR REACTOR

Hon. Céline Hervieux-Payette: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Senate of Canada call on the government to establish a program similar to the Atomic Veterans Recognition Program in order to offer \$24,000 in

compensation to the civilian volunteers and employees who assisted in decontamination work at the nuclear reactor in Chalk River, Ontario, in 1952 and 1958 and who were excluded from the Program, which was available only to the personnel of the Canadian Armed Forces and the Department of National Defense.

• (1450)

[English]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXAMINE AND REPORT ON COMMITTEE MEMBERSHIP

Hon. John D. Wallace: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Committee on Rules, Procedures and the Rights of Parliament, when and if it is formed, be authorized to examine and report on Senate practices, and provisions in the *Rules of the Senate*, relating to committees, including senators' memberships on committees, in order to evaluate whether all senators:

- (a) are, in practice, treated equally, and with fairness and equity, irrespective of whether they sit as government members, as opposition members, as members of recognized parties or as independent senators; and
- (b) have reasonable and equal opportunities to fully participate in and contribute, through committee work and membership, to this chamber's role as a complementary legislative body of sober second thought, thereby enabling all senators to adequately fulfill their constitutional roles and responsibilities;

That in conducting this evaluation the Rules Committee pay particular attention to:

- (a) the process for selecting members of the Committee of Selection, so that all senators can be considered for membership on that committee, and so that the interests of all senators, whether they sit as government members, as opposition members, as members of recognized parties or as independent senators, are represented in the membership of that committee; and
- (b) the process whereby the Committee of Selection develops its recommendations for membership of the other committees;

That the Rules Committee also take into account the anticipated increase in the number of senators who are not members of a recognized party and how this emerging reality should be taken into account, including during the current session;

That the Rules Committee recommend necessary amendments to the Rules and adjustments in Senate practice based upon the results of its examination; and

That the Rules Committee present its final report on this study to the Senate no later than March 31, 2016.

[Translation]

COURT CHALLENGES PROGRAM

NOTICE OF INQUIRY

Hon. Maria Chaput: Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to the Program to Support Linguistic Rights, the importance of ensuring public financing of court actions that seek to create a fair and just society and to the urgent need for the federal government to re-establish the Court Challenges Program.

[English]

ORDERS OF THE DAY

THE SENATE

MOTION TO STRIKE A STANDING COMMITTEE ON NATIONAL FINANCE ADOPTED

Hon. Joan Fraser (Deputy Leader of the Senate Liberals), pursuant to notice of earlier this day, moved:

That, notwithstanding rule 12-2 and usual practice, the Honourable Senators Bellemare, Chaput, Day, Eaton, Gerstein, Hervieux-Payette, P.C., Mockler, Rivard, Smith (*Saurel*) and Wallace be appointed to serve on the Standing Senate Committee on National Finance until the end of 2015, or until a report of the Committee of Selection recommending the senators to serve on the National Finance Committee has been adopted by the Senate, whichever comes first.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[Senator Wallace]

THE ESTIMATES, 2015-16

NATIONAL FINANCE COMMITTEE AUTHORIZED TO STUDY SUPPLEMENTARY ESTIMATES (B) AND MEET DURING SITTINGS OF THE SENATE

Hon. Joan Fraser (Deputy Leader of the Senate Liberals), pursuant to notice of earlier this day, moved:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (B) for the fiscal year ending March 31, 2016; and

That the committee be authorized to meet on Wednesday, December 9, 2015, Thursday, December 10, 2015 and Friday, December 11, 2015, for the purposes of its study of the expenditures set out in the Supplementary Estimates (B), even though the Senate may then be sitting, with the application of rule 12-18(1) being suspended in relation thereto.

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

Hon. Senators: Agreed.

(Motion agreed to.)

SPEECH FROM THE THRONE

MOTION FOR ADDRESS IN REPLY— DEBATE ADJOURNED

The Senate proceeded to consideration of His Excellency the Governor General's Speech from the Throne at the opening of the First Session of the Forty-second Parliament.

Hon. Mobina S.B. Jaffer, seconded by the Honourable Senator Cordy, moved:

That the following Address be presented to His Excellency the Governor General of Canada:

To His Excellency the Right Honourable David Johnston, Chancellor and Principal Companion of the Order of Canada, Chancellor and Commander of the Order of Military Merit, Chancellor and Commander of the Order of Merit of the Police Forces, Governor General and Commander-in-Chief of Canada.

MAY IT PLEASE YOUR EXCELLENCY:

We, Her Majesty's most loyal and dutiful subjects, the Senate of Canada in Parliament assembled, beg leave to offer our humble thanks to Your Excellency for the gracious

Speech which Your Excellency has addressed to both Houses of Parliament.

She said: Honourable senators, it is a great honour to rise today to move adoption of the Address in Reply to the Speech from the Throne.

[Translation]

Today I rise to speak in reply to the Speech from the Throne read by Governor General Johnston, but first I would like to congratulate the Speaker of the Senate, the Honourable George Furey.

[English]

I know you will all agree with me that Senator Furey has worked hard on behalf of all of us to restore our institution's integrity, and we all look forward to working with you as well.

I would also like to thank Senator Housakos for all his hard work.

[Translation]

I would like to thank Governor General Johnston and his wife for their presence in the Senate, where His Excellency read the Speech from the Throne.

I would also like to take this opportunity to thank Prime Minister Trudeau and his team for the vision set out in the Speech from the Throne. It sends a clear message, and all Canadians will see that the government had them in mind when preparing its agenda.

Honourable senators, the Governor General called on us to work together with a renewed spirit of innovation, openness and collaboration. He then outlined five main objectives, which I would now like to elaborate on.

[English]

First, a clear priority was the growth of the middle class, an optimistic and practical vision that will be achieved by carefully crafting lower taxes for the middle class, strengthening the employment insurance system, enhancing pension plans and working with the provinces to develop a health accord. The objective is grand, but it is encouraging to see the specific steps outlined that will make achieving this possible.

It is essential that among these steps, the federal government works with the provinces to support Canada's youth from low- and middle-income families. We need to make post-secondary education more affordable for those who are willing to work hard to pursue it. What is more, we need to have an economy that is ready to receive these young people so they can pay down their debt right away and begin contributing to our economy.

According to Statistics Canada's 2014 survey, *Graduating in Canada: Profile, Labour Market Outcomes and Student Debt of the Class of 2009-2010*, 43 per cent of college graduates owe close

to \$15,000 by the end of their studies, and 50 per cent of students pursuing bachelor degrees owed debt averaging closer to \$27,000.

• (1500)

These young people are smart, energetic and eager to contribute, but too many of them carry a tremendous debt from pursuing their studies even before they have started working. To strengthen our country, we need to invest in the education of our youth and remind them that they should be willing to as well. This must be a strong priority for us going forward.

[Translation]

Second, the government is committed to open and transparent government.

[English]

Parliament will work with greater transparency and openness by introducing electoral reform and by giving MPs more power. Part of this will also affect our very own chamber. We know that the appointments of senators will be reformed, stressing a non-partisan approach.

Honourable senators, for me it is a privilege to work alongside the members of this chamber, and it has been encouraging to see us all work hard to improve and evolve. I would like to thank Senators Massicotte and Greene for their efforts in starting the conversation on how we modernize our institution. I would also like to thank Senators Housakos, Mitchell, Cordy, Wells and Batters for introducing effective ways to communicate about the work we do as senators.

Honourable senators, I would be remiss if I did not thank our leadership of Senators Cowan, Fraser, Munson, Carignan, Martin and Marshall for all the work they have done in the last session and continue to do on our behalf.

Our ultimate goal as senators is to better represent the Canadian national interest and the rights of minorities and to ensure those views are protected in our legislative process. I welcome any additional measures that will strengthen our resolve in pursuing this goal.

I have faith we will work in a non-partisan manner together as Canadians have demanded of us. As my leader Senator Cowan has stated, we have to fix this from within, and I agree.

[Translation]

Third, the government will prove to Canadians and to the world that a clean environment and a strong economy go hand in hand. We cannot have one without the other. The Governor General stated that protecting the environment and growing the economy are not incompatible goals. In fact, our future success demands that we do both.

I agree with the government, but I must point out that our concern for the environment and the economy must not overshadow our obligation to protect human rights. How we

choose to promote economic growth and tackle climate change will have a direct impact on the rights of all populations.

[English]

Typically, discussions around climate change revolve around the economy, environment and science. These are all necessary conversations, but more and more information from these spheres demands that we question: How will all of this affect us as human beings?

The United Nations Office of the High Commissioner for Human Rights found multiple links between climate change and how its effects stand to violate human rights, particularly by those already living in poverty.

According to the UN, climate change stands to directly violate the rights of many in Canada and abroad. The right to food, water, health, adequate housing, life and self-determination are all at threat. If Canada truly wants to be a leader in mitigating the effects of climate change, we must find ways to comprehensively tackle these issues in addition to the economic and environmental challenges.

[Translation]

Fourth, the government's agenda reflects that Canada's strength is its diversity. The Governor General of Canada said, and I quote:

Canadians elected a government to bring us together, not to set us against one another. Canada is strong because of our differences, not in spite of them.

[English]

There is no doubt that we are in a great country and live together as equals. Canada is a place where diversity flourishes, and we see strength in our differences. We know diversity and adversity can be catalysts for greatness, and in Canada we proudly provide the foundation people need to create a better future for themselves and, in turn, create a better Canada.

In line with our legacy of acceptance and diversity, I am eager to see the 25,000 Syrian refugees be resettled here by the end of February 2016.

Honourable senators, I have often visited the refugee camps in Jordan, Turkey and Lebanon, and I have spoken with those affected by the war in Syria. As someone who has seen the pain in many camps, I'm very grateful that we will create a haven for people who have lost everything.

Honourable senators, fighting on the front lines can take different forms. We get to choose what battles we fight. The people of Syria are tired of bombs, no matter who they are

coming from. What they want is peace. What they want is to go home.

When I was in Kilis at the border of Turkey and Syria, I spoke to a little girl. She was 12 years old. Her home had been barrel bombed, and she had lost her limbs because of it. She was sitting in a makeshift wheelchair and had propped a book on her wheelchair while her sister turned pages for her.

Her request to me was simple. She said, "Please help us stop the bombing. Tell Canadians to help us finish our studies. I want to grow up and be a teacher. I want to go home to Syria."

Humanitarian aid is necessary. The refugee crisis is real, and we need to give people hope. We need to give humanity an opportunity for a better future, but ultimately, we need to foster peace in the region. We need to foster peace in Syria. This, too, must be a key goal of our government. We can and must play a key role in facilitating a formal peace process. We, as a country, know how to build peace processes. We are known for our expertise.

Honourable senators, I work with women in Lebanon in an organization called Mobaderoon. They are working with groups to see how they can bring peace amongst themselves. What these women have said to me is, "You could take 25,000, you could take 50,000, you could take 75,000, you could take 100,000, but we do not want to go outside Syria. We want you to help us bring peace to Syria."

Further, the protection of our diversity, as the Governor General noted, requires protection of our languages.

[Translation]

In addition, the government will encourage the use of Canada's official languages, and for that I am thankful. French and English are very important in this country. In my province, British Columbia, parents really want their children to be able to learn French. There aren't enough classes. When my grandson wanted to learn French at school, there was no space for him in a class. His mother tried to register him at 11 different schools. The school year began and there was still no room for my grandson. His name was placed on many waiting lists. Two months after the beginning of classes, he was finally accepted.

I believe that in our bilingual country, all children should learn and speak both official languages. That is our heritage. We must not deny our children the right to speak our official languages. The government must invest in this.

I also call on the government to allocate resources to help immigrants and refugees who come from francophone countries and live outside Quebec learn English.

Fifth, the government is committed to providing greater security and opportunity for Canadians. The government said that to contribute to greater peace throughout the world, it will renew Canada's commitment to United Nations peacekeeping operations.

[Senator Jaffer]

[English]

Honourable senators, in 2000, Canada played an instrumental role in the passing of United Nations Resolution 1325. The goal of the resolution is twofold: to recognize that war is experienced uniquely by women and to stress the fact that women play a key role in peace-making processes and need to be guaranteed a place at those talks.

We made this commitment along with many other nations in 2000. This was a unanimous resolution at the United Nations, and yet many peace talks have occurred without adequate female representation. If we do not have inclusive talks, peace will fail.

• (1510)

We are living in a fragile time, and we must protect anything that will guarantee sustainable peace.

I ask the government, especially Minister of Defence Sajjan, to remember to include women as a pivotal part of decision making in any peacemaking operation our country carries out.

I'm very pleased that the government has talked about the fact that our need for security must also be balanced with the protection of our rights. We must stay vigilant about protecting a healthy balance between the two.

[Translation]

Recognizing that Canada is, fundamentally, a safe and peaceful country, the government will continue to work to keep all Canadians safe, while at the same time protecting our cherished rights and freedoms.

[English]

I urge the government to now amend Bill C-51 to introduce an oversight body so that we may ensure that such a balance is protected. Striking this balance will set the tone for the generations to come, and it is important that we get it right.

Honourable senators, as I said to you, I recently visited a refugee camp. I met a young girl who had lost her hand in the conflict. When I met her, she had carefully crafted a hand out of clay and decorated it. I was heartbroken when I saw she decorated it with splashes of red to represent her own blood that had been spilled in the war. She took my hand and placed her clay hand into it and said to me, "Please hold my hand; keep it and keep holding it when you go to Canada."

Honourable senators, we have a responsibility to our future generations, both Canadian children and children all over the world, to leave a world that is better for them, not worse. I was encouraged by the Speech from the Throne, because it laid out a clear vision for a better future. The words spoken by our Governor General set forth an ambitious agenda for our government. It also set forth an optimistic vision for the type of

country Canada will become. This is a reality we're striving for, one that Canadians deserve and that our children will be proud to be a part of.

Thank you very much for your attention.

Hon. Terry M. Mercer: Honourable senators, what a year it's been for me and my wife. We've had our first grandchild, the Blue Jays made it to the post season, a new government got elected, and Mr. Trudeau is Prime Minister. My only real political comment of my entire speech, and I can't resist it because it doesn't happen very often: 11 out of 11 seats in Nova Scotia and 32 out of 32 seats in Atlantic Canada came to the Liberal Party. I attribute all of that to the dynamic work of the executive director of the party in Nova Scotia, a young man who was well trained by his family over the years.

Anyway, for some of us, it has not been such a good year in other ways. Indeed, I'm very lucky to be here speaking to you at all. Before I offer my comments on the Speech from the Throne, I would like to say a few words about the people who have supported me throughout this past year.

As honourable senators know, a year ago September, I suffered a stroke and a brain hemorrhage. While the details of that day are quite hazy to me, what I do know is that it's through the efforts of my wife, Ellen, that I'm here right now.

Hon. Senators: Hear, hear!

Senator Mercer: She had the courage to call 911 when faced with the terrifying circumstances that were unfolding in those early moments. She has never left my side from that moment on. Words cannot express my extreme gratitude and love for her, so I will not even try. Again, she saved my life.

Within 10 minutes of her calling 911, the Mount Uniacke volunteer fire department arrived at my house, followed by the ambulance 10 minutes later. Their professionalism in performing a quick triage led me to the Cobequid Health Centre in Sackville, Nova Scotia, where I was further assessed and transferred to the Halifax Infirmary. There, I received world-class treatment and started on a long road to recovery. All of the health care workers and support staff who got me to this point were second to none, and I cannot thank them enough.

Hon. Senators: Hear, hear!

Senator Mercer: After some time in the hospital, a fair amount of it in a coma, I was transferred to the Nova Scotia Rehabilitation Centre. Rehabilitation is such an important part of the healing process when suffering from a brain injury.

Without the support of my wife, my son Michael and my daughter-in-law Lisa, I would not be the person you see today. The love and support of family and friends is one of the most important parts of rehabilitation after an acquired brain injury.

The programs and staff at the rehabilitation centre are the best in class. They have programs specifically tailored to individual needs, as treatment for brain injuries is not a one-fix-all approach.

The individual needs are always kept in mind, and the program adapts to fit them. All of the health care and support staff are involved in planning, executing and fulfilling the objectives of the program. I cannot thank them enough and will continue to thank them every day that I continue to participate.

Honourable senators, there's an interesting story I'd like to tell you. In one of the rooms down the hall from me in the rehab centre were four gentlemen, all recovering from various injuries. One gentleman was about to be discharged from the rehab centre, and a lady was in that room that day, washing the floors. It's what she did every day. She had been in my room, moved down the hall and was cleaning their room.

The gentlemen were talking to each other and one said, "I'm getting out tomorrow." The other said, "I understand there's a tunnel from the rehab centre that goes out underneath the road and over to the old Victoria General Hospital in Halifax. I understand there's a Tim Hortons there and a few other shops. I've never been there because I don't know how to get there."

The woman stopped scrubbing the floors and said, "Would you like to go?" and he said, "Yes, I'd like to go over there before I leave."

She didn't say anything else; she went on cleaning the floor. When she finished, she went down to the nursing station and said, "Is this man allowed to go over there if I were to take him?" and they said, "Certainly." So she went back to the room and said, "I'm off at three o'clock. I'd be happy to take you. Three o'clock came; she arrived at the man's room and off they went. It's not a big trip, but if you don't know how to get there, it can be confusing. I've made the trip a few times myself.

She took him over. They got to the Tim Hortons near the Victoria General Hospital, sat down, and she wouldn't even let this man buy her a cup of coffee; she bought her own coffee. They sat there and talked about the rehab centre and health care.

It was a marvelous story that proved to me that the quality of service was not restricted to the medical staff; it went to all the staff. That speaks to the training of the people who worked in that hospital.

This is how dedicated not only the health care staff are but the support staff at the rehab centre. These people take care of so many lives in so many different ways, and they deserve unending praise and gratitude for this important work.

Honourable senators, I've mentioned my family already, but there's one more thing I would like to add. I've saved the best for last. Ellen and I were blessed to welcome our first grandchild, Ellie, into the family this past May. If there's anything in this world that has driven me to recover, it is Ellie. We love her and our son Michael and our daughter-in-law Lisa very much, and it's a great inspiration for me to continue to try to improve my health.

The rest of my family also have been extremely helpful to me, of course, and so have been many friends and neighbours.

Last year was an extremely long and snow-filled winter in Nova Scotia. In the middle of all the storms, the last major storm of the year, the guy who had been contracted to plow our road quit — he just up and said, "That's it. I'm not going to continue." This was on a Thursday. And it had started snowing on Thursday and it snowed right through until Saturday.

• (1520)

Tensions were mounting in our little community because none of us could get out, so we were stuck there. My neighbours were also concerned about me, in case anything happened during the course of my rehabilitation. Here I was stuck, basically in the middle of the woods.

After our third day of isolation, one evening I heard some noises outside. I went up and had a look out the backdoor, and there, coming down my driveway, were two of my neighbours pushing their snow blowers down my driveway, cutting a tunnel through the snow to make sure I could get out of the house and into my vehicle, which I had parked at the end of my drive. They cut a wide enough path on the road so that we could get out in case anyone had an emergency. The road was only wide enough to drive on. You couldn't open a door of any vehicle; the road was that narrow. That is what a true neighbour does, helps his fellow neighbour in times of need. I will never forget that kindness.

There's also you, my colleagues here, as well as in the other place, who have shown great concern for my well-being. I thank you for being a constant reminder that one's vocation in life can make for lifelong friendships. I will particularly mention honourable senators opposite, as well as some former cabinet ministers, who sent me some funny and encouraging notes while I was away.

I would particularly like to mention the former Leader of the Government in the Senate Senator Carignan, who was extremely kind in a note that he sent to me. Despite our political differences, it is a wonderful reminder that once you step out of these doors you can share the respect for each other that may not always be clear while we're here in debate.

To my own leadership, Senators Cowan, Fraser and Munson, and all of my colleagues, I hope you know how grateful I am to call myself a member of the Senate Liberal caucus and your friend. Thank you all for your kindness and support.

To the administration and legislative staff in the Senate and to my staff, I cannot thank you enough for the support you gave me during this time of healing. We have some of the best people in the country who administer and secure this place — a fact that we often forget in times of uncertainty. For example, I will miss the extraordinary person, the late John Pasqua, who was a member of the Senate Protective Service and died recently. He will be remembered. I was reminded of how much people like him were important to the Senate when his colleagues kept John's Harvest of Coins program alive a week or so ago. It helps with the United Way program here in the Senate. It is a testament to his memory, but also a testament to the pride and devotion that Senate employees have for this place. We are very lucky to have them serve us.

Lastly, but certainly not least, my staff, Sherry and David, who have kept the train on the tracks during my illness and continued rehabilitation. I certainly am grateful for your help, support and friendship to me, my family, colleagues and friends. They have kept me informed on the goings on here at the Senate and across the Hill, which has helped to make my integration back into Senate life much easier. I also tried to keep them informed as to what was happening on the ground in Nova Scotia, particularly during the election campaign. Thank you both. I do appreciate it. I don't think you understand how deeply I appreciate that.

Honourable senators, the Speech from the Throne has laid out new government plans of action as a result of the last election campaign. I congratulate all the candidates who ran, both successfully and unsuccessfully. It is not an easy thing to put your name on a ballot, so you all should be proud of your achievements, win or lose.

The Speech from the Throne calls "...on all parliamentarians to work together, with a renewed spirit of innovation, openness and collaboration." I look forward to that cooperation here in the Senate, as we move forward with a renewed sense of optimism and hope for the future that we can achieve.

I applaud the government for its planned initiatives for helping Canadians by providing an enhanced Canada child benefit for those who need it and less for those who don't; enhancing the Canada Pension Plan; making post-secondary education more affordable; and developing a new health accord, among others.

I'm particularly interested in the plans to invest in infrastructure. As a long-standing member of the Transport and Communications Committee, one I hope to serve on again, I am keenly aware that our infrastructure needs across the country are vast. So I will be keeping an eye on what the government has planned for this huge investment in our future.

I look forward to seeing what the government has planned for the agricultural sector in this country. While not specifically mentioned in the Throne Speech, I know that agriculture plays an important role in a variety of sectors across the country. I look forward to working with my colleagues, especially Senator Percy Mockler, who shares my keen interest in these issues, and also with the new Minister, Lawrence MacAulay, my old friend, who I know will do a great job in his new portfolio. Indeed, I have already spoken with the minister and indicated that he will be welcomed to the Standing Senate Committee on Agriculture and Forestry. I also reminded him that he had better know his files. I have no worries about that.

I'm encouraged, honourable senators, by the government's commitment to a renewed appreciation and respect for scientific evidence, because good data always drives good public policy. This is true in one of the most important debates we have during our lifetime, climate change and the environment, but also true for things like the war on drugs, the capability and future of our military and international development and assistance.

Understanding where we need help and how we can perform our best and the most efficient and effective way to act should be driven by sound policies based on fact and evidence, not those

concocted in the vacuum of political ideology, whether it's ours or someone else's. Let us listen and use sound knowledge to make informed decisions in this place, not only in developing policies and laws but also in amending and refining such policies and laws.

Honourable senators, this is not just a place where we work. This is a place that has helped to build Canada. While it may be rattled —

The Hon. the Speaker: Excuse me, Senator Mercer, do you need five more minutes?

Senator Mercer: Yes, thank you.

The Hon. the Speaker: Five more minutes, colleagues?

Hon. Senators: Agreed.

Senator Mercer: While it may be rattled, it certainly does not need to be lost. I am encouraged by the Prime Minister's ideas of how to make this place a better chamber for sober second thought. In fact, we share many ideas here that we can make happen, like regional caucuses and electing our own Speaker — two issues I and others have been advocating for some time.

The process for the selection of senators may be the start of something new for the Senate, but it is certainly not the end. Until such time as major reforms happen from within and without, we must all work together to ensure the Senate becomes the respected chamber it once was.

We here assembled have the ideas, the passion, and the drive to make Canada a better place. For, as the now-Prime Minister has said, better is always possible.

(On motion of Senator MacDonald, debate adjourned.)

• (1530)

BUSINESS OF THE SENATE

The Hon. Speaker: Honourable senators, the Senate has come to the end of Orders of the Day. Pursuant to rule 13-5(1), we will now deal with the questions of privilege. Pursuant to rule 13-5(3), they will be considered by the Senate in the order in which they were received. We will deal first with Senator Hervieux-Payette's question of privilege. After consideration of that question of privilege, we will deal with Senator Housakos's question of privilege.

[Translation]

POINT OF ORDER

Hon. Claude Carignan (Leader of the Opposition): Honourable senators, I feel like I'm reliving some of the events that occurred during the last session of Parliament, not only because of some of the bills that have been introduced but also because of the

question of privilege that Senator Hervieux-Payette has again raised. It is exactly the same as the one she raised last June, which was accepted and sent to committee.

As you know, Your Honour, under rule 13-2(1), a question of privilege must be raised at the earliest opportunity.

That rule reads as follows, and I quote:

13-2.(1) In order to be accorded priority, a question of privilege must:

(a) be raised at the earliest opportunity;

A senator's earliest opportunity cannot come up twice. The earliest opportunity was in June 2015. The question has already been raised, debated and even sent to a committee.

By raising this question of privilege now, the senator is violating the rules, since she did not raise it at the earliest opportunity. This could create a problem in that the new ruling you give today could contradict the ruling given previously by Speaker Housakos.

The other problem is that when Parliament is dissolved, all bills die on the Order Paper and committee work stops. That is the case with the work done by the Standing Committee on Rules, Procedures and the Rights of Parliament, which had already started an investigation in this regard.

Senator Hervieux-Payette is trying to bring up a question of privilege that cannot be brought up again under the Rules.

Nevertheless, Your Honour, that does not mean that Senator Hervieux-Payette cannot raise this question. However, she must do so in accordance with rule 13-2(2), which states, and I quote:

13-2.(2) Except as otherwise provided, if the question of privilege is not raised at the earliest opportunity, a Senator may still raise the matter on a substantive motion following notice . . .

To act in keeping with the Rules, the senator must raise her question of privilege pursuant to rule 13-2(2) and not, as she is trying to do now, under rule 13-2(1). What is more, when she moves her motion, the rules governing debate on this question of privilege will be those that apply to a substantive motion.

Your Honour, for these reasons, I submit that Senator Hervieux-Payette's question of privilege, as presented, is out of order and that if the senator wants to raise this question of privilege, she must do so by moving a substantive motion in accordance with our Rules.

[English]

Hon. Joan Fraser (Deputy Leader of the Senate Liberals): Your Honour, Senator Carignan raises, as he so often does, an interesting point, but I cannot support his reasoning. It is

[Senator Carignan]

incumbent upon every senator to preserve the privilege of the Senate, and that takes priority over all other business. The difficulty with this particular case of privilege is that we only got halfway through it, if that.

Your Honour's predecessor ruled — correctly, in my view — that there was a *prima facie* case, and it was referred to the Rules Committee. If we reopen the whole substantive issue now, as Senator Carignan suggests, with a different motion, we risk confusing matters almost beyond belief.

It seems to me, Your Honor, that there are a couple of things you could do. You could possibly suggest that the Rules Committee, when it is re-formed, seek a mandate to continue its work on this matter that it began to work on in the last Parliament, or you could simply rule that what Senator Hervieux-Payette is doing is simply setting out a process by which a question of privilege where there has already been a ruling on a *prima facie* case can continue to be examined by the Rules Committee.

In other words, it seems to me that what we must do is continue the process that was already in train. Whether that is done on the initiative of Senator Hervieux-Payette or on the initiative of the Rules Committee, I would suggest, is a subject for you to rule upon, Your Honor, but I do not think we should be starting a whole different process at this point.

Hon. Pierrette Ringuette: Listening to the comments of Senator Fraser, it came to my mind that even after the last sitting day in June, and as recently as a few weeks ago, there was a committee that consistently looked at the issue and invoked member's privilege in a different area in regard to a certain court issue.

I believe that there is a continuum of members' privilege. In that regard, I do believe that this point of order might be technical in nature. However, the fundamental issue here is the continuum of our privilege, whether we are sitting or we are not sitting. That is the central issue that you have to consider, in addition to the fact that whether we are sitting, whether we are in a time of election campaign or prorogation, the privileges of each and every one of us, individually or collectively, do not disappear into thin air.

Therefore, I certainly think that the point of order that Senator Carignan has brought forth should not be considered. Thank you.

Hon. Anne C. Cools: Your Honour, I am not clear what rubric we are on. Are we on a point of order?

The Hon the Speaker: Yes.

• (1540)

Senator Cools: Honourable senators, I wish to speak to this point of order, to add a few words in this debate. Further, I would like to suggest to honourable senators that the problem is really not a large or difficult one and is really quite soluble and quite solvable.

I wish to make the strong and strenuous point that this issue of the leaks around the Auditor General's report's presentation in the Senate is a matter of deep concern to all senators. I would submit that our interest is as strong and fervent now as it was when Senator Céline Hervieux-Payette first raised the issue last June.

The real question before us is that those leaks are a real question of privilege. I think this question should make its way to be studied by the same Rules Committee.

I would like to share with you, Your Honour, the fact that I raised this point in the Rules Committee meeting of June 23. I was a member and hope I will be a member again this session. At that committee meeting, I made a suggestion to the committee that was well supported then. I read from the proceedings:

I would like to make a parliamentary suggestion. It is clear that we don't have enough time to do this study justice, or even fairness, in the amount of time left.

The parliamentary practice is — and I would suggest it to you, chairman — that we should prepare a very short interim report for presentation in the Senate, which was always thought to be preparing the path to get a reference again from the chamber.

We should prepare a short report saying that we have looked at this, done preliminary work, but time is short and we hope to continue it in the new session.

Those are my exact words. I will continue reading. The chairman then said:

Thank you, senator. Let me think about that for a minute, if you don't mind.

Senator Cools: That's parliamentary practice.

The Chair: I understand. We did it with parliamentary privilege last month, in fact, to try and entrench that in this committee. Let me think about it for a minute.

Senator Cools: It is a way that the committee expresses to the Senate its interest in continuing the work.

Meaning the interim report. It continues:

The Chair: My point is we did exactly that for the parliamentary privilege research we were doing.

Senator Cools: Okay.

Honourable senators, the Rules Committee was supportive of continuing this study — that's the point. The committee showed great interest that the work continue next session.

I shall reinforce my point by citing *Beauchesne's Parliamentary Rules and Forms*, Sixth Edition. The subheading under "Reports to the House" is "Deliberations Not Completed Before Prorogation," or consequently made before dissolution. Paragraph 874 states:

When committees have not completed their enquiries before the end of the session, they may report this fact to the House together with any evidence which may have been taken.

In their report, they may recommend that the same subject matter, with the evidence taken in that session, be referred again in the new session.

This is not a new problem. This Senate and the other place have well-established principles and methodologies for this.

Your Honour, the fact is, the question of *prima facie* was already decided. It was widely accepted by all senators.

In my view, I think that with a certain amount of grace, and a certain amount of generosity, and in the spirit of fine parliamentary practice, good investigative work and committee study, we should simply allow, either by leave or whatever, Senator Céline Hervieux-Payette to put a new motion today referring the matter to the committee for study.

I think it is fair to say, colleagues and Your Honour, that there is deep interest in seeing this committee study go forward.

[Translation]

Hon. Céline Hervieux-Payette: Honourable senators, regarding my colleague's point of order, please know that I did not raise this question of privilege again without consulting experts and reviewing precedents. Consider the debate that took place on October 13, 1999. The Honourable Senator Andreychuk had raised a question of privilege after the Senate adjourned for the session. She said, and I quote:

You will note that this same question of privilege was raised in the last session. A ruling was made by our Speaker, and the matter was to be referred to the Standing Committee on Privileges, Standing Rules and Orders. I am resurrecting it as a result of the prorogation, and I wish to speak to it at the appropriate time.

At the same time, your predecessor, the Honourable Noël Kinsella, also raised a question of privilege relating to the experiences incurred by a witness who appeared before one of our Senate standing committees. He requested that his question of privilege, which he had raised during the previous session, be reinstituted and brought forward.

I have prepared arguments concerning the substance of the matter, and I wish to present them to you, but I will await your decision on the point of order.

[English]

The Hon. the Speaker: Honourable senators, I would like to thank colleagues for their input on this point of order.

I would like to consider it briefly before rendering a decision. We will suspend the sitting for approximately 10 to 15 minutes with a five-minute bell to return.

Is it agreed?

Hon. Senators: Agreed.

The Hon. the Speaker: Thank you, colleagues.

(The sitting of the Senate was suspended.)

(The sitting of the Senate was resumed.)

SPEAKER'S RULING

• (1620)

The Hon. the Speaker: Honourable senators, I thank you for your patience.

Honourable senators, the point of order is, in essence, that a senator cannot raise a question of privilege that was raised in a previous session, since it does not meet the criterion of being raised at the earliest opportunity.

This point of order raises one of the criteria for giving a question of privilege priority, as set out in rule 13-2(1). Specifically, paragraph (a) states that a question of privilege must “be raised at the earliest opportunity.” Senator Hervieux-Payette has not yet had the opportunity to argue how her question of privilege meets the criteria of rule 13-2(1). The point of order has therefore jumped ahead in the process, raising a point that should be considered as part of the debate on the question of privilege itself.

In addition, it must be noted that the process that Senator Hervieux-Payette has followed reflects our practice. Questions of privilege and points of order are not automatically revived in a subsequent session. They must be raised once again in a new session after the Speech from the Throne. This happened, for example, at the start of the Second Session of the Thirty-sixth Parliament. Both our former Speaker Kinsella and Senator Andreychuk raised questions of privilege previously raised in the first session. The questions of privilege had been sent to committee, but it had not completed its work or reported prior to prorogation.

Senator Cools certainly raised an interesting point about whether this is the best process. Perhaps senators would prefer that questions of privilege from a past session be automatically revived, through some mechanism. But our current rules and practices do not provide for automatic revival. In terms of

process, Senator Hervieux-Payette is following current practices. We should now give her the chance to present her question of privilege. Other senators can certainly present their points of view.

I therefore rule that consideration of the question of privilege can proceed.

• (1630)

[Translation]

QUESTION OF PRIVILEGE

SPEAKER'S RULING RESERVED

Hon. Céline Hervieux-Payette: Honourable senators, for the second time I am rising on the question of privilege that I raised before the dissolution of Parliament. It is the only question of privilege I have ever raised in my years of service to Canadians.

The situation facing our institution is very serious, for it is already under attack by various media, public figures and political parties and is so unpopular in public opinion. Although the Auditor General's report on Senate expenses wasn't supposed to be made public until June 9, 2015, around 2:05 p.m., according to the June 8, 2015, news release of the Speaker of the Senate at that time, a number of leaks meant that confidential information under embargo made the headlines in newspapers, online media and televised newscasts.

For at least six days prior to the release of the report, these revelations continued to be made, including many details, such as the names of the senators allegedly involved, the sums of money challenged by the Auditor General, and the list of senators whose files would reportedly be referred to the Royal Canadian Mounted Police.

These leaks violated senators' fundamental right to the presumption of innocence and due process. Furthermore, the leaks caused unprecedented harm to our venerable institution, preventing it from functioning properly and undermining its credibility.

Clearly, some senators, regardless of who they were or their party affiliation, felt trapped and forced into silence by the obligation to refrain from commenting on the Auditor General's report until it was made public, even though their names had already been fed to the media and those who would cry wolf.

This situation is serious because it undermined an institution that has constitutional legitimacy, plays a vitally important role in the lives of Canadians and has contributed so much, without getting the recognition it deserves.

The Senate will have to turn things around, which will require that we fully understand what happened and find out who was responsible for these leaks, because I feel that at the very least this constitutes an obstruction to the work of a parliamentarian, if not contempt of Parliament.

According to Joseph Maingot, in his work entitled *Parliamentary Privilege in Canada*:

The invasion of the privacy of a Member of the Senate or of the House of Commons within the precincts of Parliament by any person also constitutes a *prima facie* question of privilege. This includes the interception of a private communication on the precincts.

Furthermore, allow me to remind you, honourable senators, that in January, the Subcommittee on Parliamentary Privilege of the Standing Committee on Rules, Procedures and the Rights of Parliament published a report in January entitled *A Matter of Privilege: A Discussion Paper on Canadian Parliamentary Privilege in the 21st Century*. According to the report:

There is no precise definition as to the categories of offenses which might constitute a breach of privilege or contempt that might prompt Parliament to consider a charge and impose a sanction. While this lack of precision has been accepted in the past, in an era of rights and the rule of law, it is increasingly problematic.

However, the committee goes on to specify the following in its report:

It goes without saying that parliamentarians must be able to function in a climate free from obstruction, interference, and intimidation in order to serve effectively. However, it is worthwhile to distinguish between forms of physical obstruction — such as traffic barriers, security cordons and picket lines, and non-physical obstruction, such as damaging a member's reputation. Both types can raise questions of privilege.

Finally, with respect to disciplinary measures, the report states the following:

Disciplinary powers are typically exercised against members and non-members to deal with contempts against Parliament, or acts that interfere with Parliament's operations. It is essential for Parliament to have the power to sanction contempts to enable it to discharge its responsibilities. Its power to discipline its members is generally unquestioned, and is manifest in many ways.

Honourable senators, the four criteria that must be met for my question of privilege to be accorded priority are listed in rule 13-2(1).

The second and third criteria stipulate that the question of privilege must be a matter that "directly concerns the privileges of the Senate, any of its committees or any Senator" and that it must be raised to "correct a grave and serious breach."

As I explained, this breach is historically grave and directly concerns the privileges of our institution and those of individual senators.

The last criterion states that the remedy must be one "for which no other parliamentary process is readily available."

Honourable senators, there is no other process that would enable us to understand and sanction the source of these leaks.

Finally, the first criterion states that the question of privilege must be "raised at the earliest opportunity." As you know, I raised the question of privilege at the earliest opportunity, on June 9, 2015, and His Honour the Speaker of the Senate found there to be a *prima facie* case of privilege.

This chamber then adopted the motion I had moved, but Parliament was dissolved on August 2. According to *Senate Procedure in Practice*, "Questions of privilege . . . are not automatically revived in a subsequent session. They must be raised again once the new session has started." Today is therefore my first opportunity to once again raise this question of privilege.

In conclusion, honourable senators, the fact that a confidential report was leaked, leaving senators feeling trapped without the opportunity to explain themselves for almost six days, discredited our institution and the reputation and work of all senators to an unprecedented degree.

Should Your Honour once again find that a *prima facie* case of privilege has been established, I am prepared to move a motion to establish an independent inquiry into these leaks.

[English]

The Hon. the Speaker: If there are no other senators wishing to comment, honourable senators, consideration of this question of privilege is now concluded, and I will take the matter under advisement.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, we will now deal with Senator Housakos's question of privilege.

QUESTION OF PRIVILEGE

SPEAKER'S RULING RESERVED

Hon. Leo Housakos: Thank you, Your Honour. Honourable senators, I hereby rise, with sadness, of course, on a question of privilege regarding the government's failure to appoint a government leader in the Senate.

For the first time in 148 years of our Confederation, this Senate legislature has no government leader. Honourable senators, for 148 years, this chamber has been a critical component of this great democracy, of this great Parliament and of this great country. We have to keep in mind that when this country was put together in the 1860s, through arduous and cumbersome negotiations and debates between the two founding peoples of this country,

between the French and the English, there was a constant need to compromise, and there was a constant need and a thoughtful way to put together our legislative body that corresponded to the needs of that time. It has served this country well for 148 years. We have evolved from a bicultural society, with two founding peoples and two languages, and we have eventually become this great country, which is officially bilingual and multicultural. Nonetheless, the conditions remain the same. It is a country with diversity, the most diverse nation in the world, that requires and can grow and evolve only within a parliamentary system as flexible as ours that takes into consideration all voices in this country. For the forefathers, it was not by coincidence that they thought of building a system using the Westminster style of Parliament as a basis. Two chambers. There are three essential components to our Parliament, to our democracy: the Crown, represented by the Governor General and the executive branch; the Senate; and the House of Commons. That's what makes up the Parliament of Canada.

For 148 years, as I pointed out, they have served us well. The Senate of Canada and the House of Commons are designed to be two legislative bodies to deal with legislation, to represent provinces, to represent the regions and to represent all of our stakeholders. It's not a coincidence that the forefathers thought it out this way.

This great chamber, the Senate, has always had a representative of the Government of Canada. Furthermore, this chamber, on many occasions, has had more than one representative of the government. On occasions throughout history a number of ministers have sat in this chamber, on that side, representing the Government of Canada in this chamber.

Honourable senators, we had a former prime minister, sitting in this chamber, on that side, once upon a time. So, all of a sudden, we can't just pretend that this institution is not based on those principles.

• (1640)

Furthermore, the British parliamentary system is designed to have political parties play a fundamental role and have fundamental components in political discourse. It's those political parties that form policy, that elect candidates to run for office on the other side, that choose the Prime Minister of this country and that allow millions of Canadians to make that choice for Prime Minister. The Prime Minister then has an obligation only in three areas in the Senate of Canada: He has an obligation to name a Speaker; he has an obligation to fill vacancies; and he has an obligation to name a government representative or leader in this chamber. Unfortunately, this has not been done by this government.

This is not only an affront to Canada's parliamentary system, honourable senators, but it's in contempt of the dignity of this Parliament. As we see, this chamber has two sides, like I said, the government side and the opposition side. It's not a coincidence that liberal-minded senators are sitting on the government side and conservative-minded Canadian senators are sitting on the opposition side. That's what democracy decided and that's how our legislature is supposed to work.

[Senator Housakos]

I also want to highlight, honourable senators, that there's no legislature in the world that is based on the Westminster model, like ours is, that doesn't have a representative in the house on behalf of the government.

How can we do our jobs in holding a government to account? How can we do our jobs in terms of sober second thought if we don't have somebody serving as a bridge between this institution, this legislature, the governing national caucus and the national governing party? How can senators, whose fundamental role in this place is to represent their regions, do our jobs effectively if we don't have somebody on a daily basis who will take notice of questions on behalf of our constituents or will be able to account on behalf of this institution as to what the government is doing when it comes to public policy?

The ancient Greeks always said that a citizen who doesn't have an opinion is not a responsible citizen. Honourable senators, you cannot be in a legislature unless you take a side, have an opinion and engage in public discourse. Certainly, your engagement in that public discourse has no fundamental basis if you can't be heard by the government and the executive branch. The Crown is at the top of this legislature. The Crown is represented by the government. They have a legal and moral obligation to have a representative in this chamber.

It's with sadness that I say they do not have the courtesy as they had to choose a Liberal as a Speaker — a very competent, capable Liberal — which is well within the constitutional responsibility of the Prime Minister. We have the respect here to put liberal-minded senators on the government side of this chamber, because that is the will of the other side and the will of democracy. He should have the courtesy and respect for this institution to name a government leader who will work with this institution in a professional and constructive way to help review legislation, hold the government to account and show some respect for the fundamental institutions that have allowed this country to be the kind of country it is.

Senator MacDonald: That's right.

Senator Mockler: That's right.

Some Hon. Senators: Hear, hear.

Senator Housakos: Further, without a government leader, the Senate is left to find no alternatives but to establish rules and procedures to order a conduct of business that does not include a government leader.

Honourable senators, it's not for the government house leader in the House of Commons to tell this institution what to do with our rules and procedures.

Once upon a time, people took exception with previous governments because somehow they were trying to intervene and influence this institution and guide it toward a particular direction. Well, if the government house leader in the House of Commons wants to guide the Senate of Canada, I suggest he come here and become the house leader of the government in this

chamber. I'm sure at this point in time he can arrange that quite easily. But that's not his role. He has a role to play on that side; we have a role to play on this side. The Prime Minister and the government have an obligation to name a government house leader.

He has taken away the right for us to hold the government to account and now they're calling upon us to change the rules and procedures of this institution that are hundreds of years old and are based on the British traditions of running a Parliament in government, which I think is fundamentally obscene, illegal and irresponsible on the part of the government.

Honourable senators, I don't want to go further than that. I think I have summed up my perspective on this issue as best and clearly as I can. I think perhaps the most obvious breach of our privilege resulting from this government's failure to appoint a government leader is the violation of Senate rule 4-8(1)(a) that a senator may, without notice, ask a question of the Leader of the Government on any matter of public affairs on any given day. There are a bunch of other rules and regulations that I summed up in general in my argument.

Honourable colleagues and dear Speaker, with that said I'm prepared to move a motion seeking a genuine remedy should there be a ruling that this constitutes a *prima facie* breach of privilege. Thank you, senators.

Hon. Anne C. Cools: I wish to put a question to the Honourable Senator Housakos. I note that the honourable senator places great weight on Question Period and on government bills.

Could the honourable senator tell us just when the practice of Question Period started in the Senate? We will discover it is very recent. Also, the honourable senator doesn't seem to appreciate that at the time of Confederation they did not differentiate between government bills and private members' bills; they were just bills.

I think the senator is building some hefty arguments on pretty shaky ground. Perhaps he could address the question of just how fundamental to this chamber Question Period is, first; and, second, how this relatively recent differentiation of government bills and private members' bills affects his position.

Senator Housakos: Honourable senator, I know full well that Question Period is a modern practice that began, if I'm not mistaken, in 1991. I could be wrong. What year?

Senator Cools: In 1979.

Senator Housakos: There you go. So it is rather new. However, it doesn't change the fact that this chamber always had ministers in it and had leaders representing the government. They did work on various committees. Just the opportunity to have a colleague in this institution that you can actually go and speak to on behalf of what the government is doing is very helpful. I also think that none of our colleagues will disagree that having an opportunity to voice an opinion at a national caucus of a political party where public policy is made in this country is not a bad thing, either.

Obviously, our rules and procedures can be adapted, senator. They have been in the past and they probably will be in the future. Rules and procedures evolve, but I think it's essential to remember that any legislative body has a role to play in representing its constituents. I think it's imperative that we still have a role in national caucus. I still believe, honourable senator, that we have a role in the political discourse in this country. You can't be an effective senator just by taking the view "I am non-partisan." Like I said earlier, if you don't have an opinion on the partisan politics going on, you cannot effectively serve Parliament.

Senator Cools: Colleagues, I have another point because the matter is further obfuscated. When the honourable senator was speaking, it was only about a government leader. He has only just now raised the question of Crown ministers in the Senate. Since 2013 we have not had a Crown minister in this place. In the last session, we did not have a minister in this house. I do not see how one can suddenly switch gears. He never made the connection between a government leader and a minister. He did not mention "minister" until right now. He did not build his argument on the fact that there is an absence of ministers in this house. He should make that point clear if he wants it to be debated.

Senator Housakos: Honourable senator, I thought in my speech I did mention the word "ministers." You are absolutely right that in the past Parliament we had a government leader in the house that sat on cabinet committees but was not a minister. Nonetheless, we have had a representative who was a government leader in this chamber, was appointed by the former prime minister, sat at national caucus and was the bridge in this institution. Furthermore, there were a bunch of Conservative senators here that sat at national caucus of the governing party that served as a bridge and were accountable in this place to independent senators and to senators on this opposition side.

Right now, we have nobody at the governing caucus level who speaks on behalf of that party and that government. We have people sitting on the government benches, capable Liberals, who articulate that Liberal philosophy very well, but they do not sit at national caucus, and they do not give this institution an opportunity to voice its concerns to the national governing caucus.

• (1650)

Hon. Denise Batters: Honourable senators, I rise today to speak to a breach of parliamentary privilege visited upon this chamber by the Liberal government. Prime Minister Trudeau's new plan for managing the Senate will be, at best, ineffective, but at its worst, it will compromise this chamber's ability to hold the government to account.

I submit that the Prime Minister's failure to appoint a government leader in the Senate will serve as an impediment, preventing or diminishing the ability of honourable senators to exercise our democratic rights. This would breach the privilege of the Senate to regulate its own proceedings and deliberations.

Furthermore, Maingot states that "... the privilege of freedom of speech ... is ... to support the rights of the people by enabling their representatives to execute the functions of their office."

I believe that this Liberal government plan will prevent senators from executing certain functions of the office we hold.

Allow me to explain. Prime Minister Trudeau has indicated that he will not appoint a Leader of the Government in the Senate. Instead, he will appoint an ostensibly non-partisan representative to sit among us and introduce and shepherd government legislation in this chamber. Oddly enough, this person will serve as the government's representative but cannot really be held accountable in this chamber for the decisions of the government, because he or she is supposedly non-partisan.

As such, this chamber will not be able to hold Question Period, at least not in a form we recognize. We will, therefore, lose a valuable method of asking the government tough questions on behalf of Canadians. This contravenes our parliamentary privilege, honourable senators, and impedes the exercise of democracy in this chamber.

Failing to choose a Leader of the Government in the Senate puts us all in an awkward situation, honourable senators. Currently, the Speaker of the Senate is the only one in this chamber who has been appointed by the Prime Minister. Will you have to vacate the chair on occasion, Your Honour, to answer on the government's behalf in this place? Surely more thoughtful planning is required.

Our current Question Period gives senators the ability to ask tough questions of the government's leader in the Senate. I believe this is integral to the way we fulfill our constitutional role, honourable senators. We exist to provide sober second thought on legislation and to ensure the protection of minority and regional interests in the legislative process. If we look at the regional composition of the other place, we see that, currently, the Senate provides opposition representation in geographical areas that the House of Commons does not. We believe Canadians living in these regions should have the right to hold the Liberal government accountable. If there is no Question Period in the Senate, these regions have less of a voice.

There are currently no opposition members from Atlantic Canada in the House of Commons. The only opportunity for Atlantic opposition representatives to hold the Liberal government accountable is in the Senate. We see a similar situation in the three territories of Canada's North and in Toronto, Montreal and Vancouver. Again, the Senate has opposition representatives in all of those major areas.

By failing to name a government leader in the Senate and therefore not having to answer for government decisions in this chamber, I believe the Liberal government is impeding senators in our ability to protect regional interests.

Liberal house leader Dominic LeBlanc has had a lot to say lately regarding how Senate rules will have to change to accommodate this new Liberal scheme. He has suggested that we might need to abandon our Question Period or change it significantly so that it no longer functions as the Question Period we know. Instead, he muses, the Senate may get to, in his words, "from time to time" request a minister to answer questions in a Committee of the Whole.

Would the independent, non-partisan Senate have free reign to choose which ministers to attend for questioning and when? Mr. LeBlanc is notably silent on that point. Maybe, he proposes, we could just submit written questions. I guess the government could just get back to us whenever they have the time.

Mr. LeBlanc has certainly voiced a lot of opinions on how we should change our rules, honourable senators, for somebody whose party is ostensibly divorced from its senators. Perhaps if Mr. LeBlanc would like to be the Leader of the Government in the Senate, he should ask the Prime Minister to appoint him to that post, as well. At least then someone would have to answer questions around here, honourable senators.

The Liberal government is trying to make Canadians believe that belonging to a political party somehow renders senators ineligible for public service. However, "partisanship" should not be a dirty word. The Senate is a political institution. This is a place where we have had important political discourse and debate for 150 years. Even within a partisan framework, both sides of the chamber can and do work together for the benefit of Canadians.

The Senate already contains many professional, accomplished and eminent Canadians from various walks of life. Senators like Senator Raine, Olympic champion; Senator Andreychuk, judge and diplomat; Senator White, chief of police; and Senator Ogilvie, biochemist and a recipient of the Order of Canada. I could go on and on.

Just because a senator proudly belongs to a political party does not mean that is all they have to contribute to the Senate and to the country.

A number of senators on the other side have had long careers of service to the Liberal Party of Canada in addition to their distinguished service to the Senate. Senator Smith, for example, has had a distinguished career in the Senate since 2002. His contributions to this chamber and to this country are many. He has also had a long and active career with the federal Liberal Party since the 1960s and even served as the co-chair of the 2008 and 2011 national campaigns.

Partisanship has been an important part of his life, as it has mine and for many of you, honourable senators, and yet it does not necessarily detract from the important work we do in this place. In fact, I think aligning with political caucuses actually increases political accountability and regional representation in the Senate. If we answer to a democratically elected leader, we are more accountable for our actions in this place.

As members of a national party caucus, we are also better able to address the concerns of our regions on a weekly basis to our democratically elected MP colleagues and leader. The Liberal leader has stated that he will choose the government's representative in the Senate from the ranks of his brand-new appointments. No matter their other worthwhile credentials, these new senators will presumably be individuals with zero experience in this chamber. What kind of message is the Prime Minister sending to the Senate liberals, honourable senators?

Prime Minister Trudeau is casting aside many quality senators, some of whom have served Canada faithfully in this chamber for decades. He is devaluing their public service and sidelining their knowledge and experience. To what end, honourable colleagues? The tinkering proposed by this Liberal government will improve neither the accountability nor the independence of this place.

The Conservative government under Prime Minister Harper made a number of attempts to reform the Senate. Our government proposed allowing the election of senators and limiting the length of their terms to nine years. That, my honourable colleagues, would have been real change.

However, as we know, the Supreme Court of Canada ruled that such measures could not be implemented without the approval of at least seven of the 10 provinces, and for other reforms, unanimity would be required.

Canadians want a totally transformed, democratically accountable Senate. I believe in Senate reform, honourable senators, but I believe in meaningful change. The current Liberal government is missing a golden opportunity for Senate reform. In the areas where this institution desperately needs to change, the new Liberal Prime Minister is silent.

The so-called “new” Liberal appointment process is the status quo. The Liberals are establishing an unelected, appointed body to suggest unelected, appointed senators. The process they have proposed changes nothing. Prime Minister Trudeau will still make appointments to the Senate, so we’ve already determined that that won’t change.

Let’s now turn our attention to the Liberal government’s claim that the appointment plan will be non-partisan. To review, honourable senators, the committee that will nominate a short list of senatorial candidates will consist of the representative of the Liberal government in the Senate, appointed by the Liberal Prime Minister, and two other federal government representatives, also chosen by the Liberal Prime Minister. Additionally, it will include two members appointed by the government of the province for whom the appointment is due to be filled.

The first Senate vacancies the Liberal government will fill are in the provinces of Ontario, Quebec and Manitoba. Therefore, those three Liberal federal appointees will be joined by two members appointed by either the Ontario Liberal government, the Quebec Liberal government or Manitoba’s NDP government.

Does that sound non-partisan to you, honourable colleagues? Why on earth would we think this process would operate in a less partisan way than the Prime Minister’s direct appointments? There will simply be more Liberals involved. In fact, we have already heard names in the Liberal corridors around this place like Peter Milliken, Bob Rae and Jacques Chagnon circulating as possible Senate appointments under this new process. Not surprisingly, all three of those people are Liberals, honourable senators.

Beyond the obvious political bias of the composition of the nominating committee, the proposed appointment process lacks any openness or transparency and will take place behind closed

doors. Furthermore, the recommendations for senatorial appointments are non-binding and will never be made public. So what’s the difference, honourable senators?

• (1700)

There’s a saying that the more things change, the more things stay the same. So we have seen with this new government. What we have here is a case of the emperor’s new clothes. The Liberal government claims this process is transparent, accountable and non-partisan. In effect, it is none of these things, and simply repeating these buzzwords won’t make it so. This process is not democratic, it is not transparent, and it is not real Senate reform.

Prime Minister Trudeau is employing a sleight-of-hand manoeuvre in the announcement of this new Liberal Senate plan. He is claiming this new process will be non-partisan, but the committee suggesting nominees will themselves largely be appointed by Liberal governments. On one hand, the Prime Minister is claiming this process will make the Senate more accountable, and yet the nominating committee seemingly answers to no one and their suggestions are secret and non-binding.

At the same time, Prime Minister Trudeau’s failure to name a Leader of the Government in the Senate will mean that his government will in fact be less accountable in this chamber. Instead, we will be left with a Senate where the government side is not really the government side, the Leader of the Government is not really the leader but instead a representative, the non-partisan members are appointed by the Liberals, our Question Period is not really an opportunity to ask the government questions, and no one is really sure how all of this is supposed to be working. Could it be, honourable senators, that sunny ways are giving way to foggy days?

I ask you to consider carefully the long-term implications of what this confusion could mean for this chamber and what effect it might have on our ability to fulfill our traditional role in this place. As such, honourable senators, I support the point of privilege being brought forward by Senator Housakos.

Hon. Joan Fraser (Deputy Leader of the Senate Liberals): Your Honour, I think perhaps Senator Batters lost her way on the Order Paper. She gave what would have been a wonderful partisan response to the Speech from the Throne, but we are here to discuss a question of privilege. As I had occasion to recall earlier this afternoon, privilege is the duty of every senator to support, and it takes priority over everything else, including partisan considerations.

Let me say at the outset that I share, as I’m sure we all do, Senator Housakos’ devotion to this institution and to this country, but I cannot agree that his question of privilege is founded.

We all recall the famous quotation from Erskine May that defines parliamentary privilege as the rights, powers and immunities enjoyed by each house collectively and by members of each house individually, without which they could not discharge their functions. This raises the question of what is our function. I suggest, colleagues, that our core function is legislation

— the review or initiation or amendment of legislation. It is not to hold the government of the day to account. That is a job primarily left to the House of Commons. It is not the Senate that is a confidence chamber; it is the House of Commons. Therefore, arguments about the degree to which we can hold the government to account through Question Period are of only secondary importance, I would suggest.

The words that the government of the day uses, and that Senator Housakos used frequently in his remarks, speak of the “representative of the government.” It seems clear to me that the Prime Minister of the day has the right to decide who shall represent him or her in this chamber. To argue otherwise, to rule otherwise, would be, I suggest, a breach of the Prime Minister’s privilege. We don’t have to go there.

Nor, I suggest, is it appropriate to argue that the representative of the government, who will be named, we are assured, within two months, the vast majority of that time being when we are on break, must be and cannot perform his or her functions properly unless she or he is a member of a party caucus. For many, many years in the Senate, senators did not attend national party caucuses. Then we started doing it, and now some attend their party’s national caucus and others do not. I don’t think that this has affected the functioning of the Senate in any material way. So that is another red herring and not a matter of parliamentary privilege, Your Honour.

Senator Housakos suggested at one point that to be an effective senator, you have to have opinions. He seemed to be implying that the only way you can really have opinions is to belong to a caucus. Well, I’m sure she will forgive me if I point to Senator Cools as Exhibit A in refutation of that argument. She has belonged to caucuses on both sides of this chamber, both major parties, and she has been now an independent for several years. Nobody has ever prevented Senator Cools from having an opinion and expressing it, and we are all the better for that.

We will be getting more independent senators, according to what the government has told us, and that will change the Senate. It will. It will move us, I expect, closer to the model in the House of Lords, which has, as we all know, a very strong contingent of what they call “cross-benchers” and what we call “independent senators.” Cross-benchers currently occupy more than 20 per cent of the seats in the House of Lords. It will take us a little while to get there, but I haven’t heard arguments that the House of Lords is a malfunctioning chamber, at least not from people who support the existence of second chambers. I exempt the NDP from that remark.

The Senate has always changed, and at some points the change has been more dramatic and more far-reaching than at others, but not all change is a breach of privilege. In fact, I would argue that most change is not, and if change should occur that is a breach of privilege, that change is reversed.

But just look back at our history. Did you know, colleagues, that twice in our history, not government leaders but Speakers of the Senate have been ministers of the Crown? Had I been here in those days and been a member of the opposition, I would have

argued that that was a very serious, at least potential, probably actual, breach of my privilege. Well, we don’t do that anymore, do we?

We have had huge changes. I expect that many senators felt their privilege was being breached when we brought in time limits for speeches. There used to be no time limits, and there were people who took advantage of that. I would argue that we did not breach privilege when we brought in time limits for speeches and that we certainly are not breaching privilege with the series of changes that awaits us.

Already we have had today very constructive suggestions about how we can move into this new world — for example, Senator Carignan’s notice of motion about calling ministers to appear before us in Question Period. He has been in the position of trying to answer for every department in the government, and we all saw, with him and with all of his predecessors, what an impossible task that is. It is much better to bring in a change and have the actual responsible ministers appear before us. Our privilege is not breached by not having a government leader who has to read cue cards.

• (1710)

Senator Carignan: Cheap shot.

Senator Fraser: No, the cue cards were read very eloquently.

Of course, we can continue to call ministers to committees. I hope that you all share the principle enunciated by our former colleague Senator LeBreton: no minister, no bill. Ministers can come to committees, and those are the people who can really delve into what they’re up to. Not having a minister of the Crown in this chamber does not affect our privileges in any way.

To insist that we must have a minister of the Crown would, I repeat, in my view, breach the privileges of the prime minister of the day.

Hon. Elaine McCoy: Just to add a grace note or two to Senator Fraser’s very eloquent speech: First, I do have opinions. I do not regard them as partisan opinions, and I share those opinions when I think they’re worthwhile and can add to a debate.

I think it’s a false premise to put on this institution the need to have a party affiliation to be effective, and I particularly think it’s a misunderstanding and a misappreciation of the history of the Westminster institution, as it has grown, both in England and in other countries that have adopted it, to think that there are only two sides — a government side and an opposition side.

Indeed, in England, there have traditionally been more sides than that. There have been three or four sides, traditionally. If you go back far enough, in fact, there were no sides at all. Everybody acted as an independent member of the chamber, whether it was the House of Lords or the House of Commons.

So this so-called point of privilege is based, I think, on a false premise. Two false premises: One, that a chamber, to be effective, must be only two-sided; and two, that, to be effective, to have opinions and to express them, one has to be partisan.

Now, let me share with you what I consider the word “partisan” to mean, because I think there’s quite a bit of confusion over three words — partisanship, politics and policy.

“Partisan” I looked up a few months ago when there was a debate of similar character, and it struck me — I think it was the Oxford English Dictionary, the OED, that said partisanship is blind obedience, blind obedience to a party line. That’s a three-line whip, as we would say in the vernacular: blind obedience to a party line.

Now, that strikes me as being something that actually eats away at the effectiveness of a chamber — a legislative body — when it is considering measures that come before it in a legislative manner. So I strongly urge senators to consider moving beyond a straitjacket in which we consider that we must be, and continue to be, locked into a blind obedience to a party line.

Politics is another question that is sometimes considered to be less than worthy. Being a former cabinet minister, of course I disagree with that. I think politics is a fine and wonderful public service. But, again, I think it needs to be played out and a contribution to civil society in an honourable manner.

That is not to say that you defeat your enemies. It is to say that you have an open debate. You bring different ideas to the chamber. You have differences of opinion. You work them out in peaceful ways. You find ways to settle the differences of opinion, usually by voting on them, and you walk out of the chamber afterwards as colleagues. Perhaps with differences of opinions, but colleagues.

So politics isn’t the problem. Of course, “policy” is a broader term altogether. It is choosing a policy, a set of rules, to follow for society. That’s really what we are ultimately reaching for in all that we do: setting up a society, a civil society, that reflects our pluralistic nation and all of the advantages that we, as Canadians, take pride in. This is why we’re opening up our arms to the Syrian refugees, because we feel that we have so much to teach the rest of the world in compassion and welcoming others to join us and to add to the pluralistic society, the wonderful mix that we have here in this country. It’s all based on respect and tolerance and delight in celebrating our differences, even as we continue to be colleagues.

I, too, am straying off the point, Your Honor, as to whether this is a point of privilege. We have several roles as senators, and I think Senator Nolin listed them all, in his series of inquiries, two years ago. They are legislative. They are investigative. We also do diplomacy and advocacy. We do advocacy for regions. We do advocacy work for minorities, and we do advocacy work for causes, civil society causes.

All of those roles are what you might call, and what often are termed, parliamentary functions. In all of that, we do not depend upon having a chamber that is strictly divided along partisan lines. Nor do we need to continue to need to make this distinction between government and opposition.

I am saddened to hear the arguments that have been put forward by two senators, Housakos and Batters, today because I was hoping that, in this new year, we would be looking at fresh

and interesting and fruitful ways to change our institution so that we can respond in a more effective manner to the challenges that we face in our pluralistic society as we move forward.

I trust that those views will be influenced over time by this ongoing discussion I expect we will have. But I do urge the chamber to, over our break, sincerely consider how we can get away from blind obedience to a party line and move much closer to working together to find the policies and the agreements that we can make that will contribute to a prosperous and pluralistic future for our country.

[Translation]

Hon. Ghislain Maltais: Honourable senators, the question of privilege raised by my colleague Senator Housakos is very clear. I listened carefully to Senator Fraser’s arguments. She openly criticized Senator Batters by saying she had lost her way. However, you missed the boat, senator. I’m sorry, but you didn’t say anything about the merits of the question.

The question is this: Do we have a leader across the way or not? I see that none of you are rising. You are rising, but in what capacity? You don’t have a title. Your Liberal colleagues haven’t recognized you and neither has your Prime Minister. You don’t have a title.

My colleague’s question is this: When will there be a Leader of the Government in the Senate? Why don’t we have one in this chamber? There are enough senators on your side of the chamber for a leader to be appointed. Why hasn’t the Prime Minister appointed a leader?

People have been talking about partisanship, but what do we do in a parliament? We engage in politics. We are parliamentarians. A parliamentarian that does not engage in politics has no right to sit in Parliament. There are two ways for people to sit to Parliament: they can be elected or they can be appointed to the Senate on the recommendation of the Prime Minister. Each one of us, without exception, was appointed, except of course for the Senate staff.

• (1720)

We are politicians. Blind partisanship is a bad thing, but the type of partisanship that we engage in together is strong. I am disappointed in your arguments, because you didn’t get to the crux of the question of privilege raised by my colleague, Senator Housakos. Since I have been a senator, for the past four years, Senator Fraser, you have generally taken up 40 per cent to 60 per cent of the time reserved for Question Period. Perhaps I’m being generous, but you have used that time appropriately.

Today, because your Prime Minister no longer recognizes you, you want nothing more to do with Question Period. Let’s be clear: why does the Prime Minister no longer recognize you? Why look to people outside this chamber when you are here? Are you qualified or not? I believe you are highly qualified and I do not understand the Prime Minister’s attitude or why he wants to rely on people other than those already in this chamber.

I believe the 22 vacant seats can be filled. I totally agree with that, but I disagree with the idea of telling you right to your face that you are not qualified, that you do not deserve to be leader or the leader's representative. That is the question Senator Housakos asked, and it is a crucial question for the Senate as a whole.

As long as this is not resolved — whether you like what I have to say or not, I am not being mean-spirited, I am being sincere because I know you are caught up in a three-ring circus and you are anxious to move on.

Over the coming weeks and months, I am sure you will come up with some fresh ideas and when we get back after the holidays, I think the Prime Minister will have realized that he has excellent people in his Liberal Senate caucus and he will call on those people to run the Senate.

Thank you.

[English]

Senator Housakos: Would the Honourable Senator Fraser be willing to take a question?

Senator Fraser: Your Honour, the rules of debate on questions of privilege are, I think, normally interpreted rather more loosely than for a regular debate.

If, at the end of this long and very strange proceeding, all senators who wish to speak have spoken and somebody wants to ask me a question, with your permission I would certainly be prepared to answer it.

The Hon. the Speaker: Thank you, Senator Fraser.

Senator Cools: Honourable senators, I am sitting here trying to identify the particular privilege that has been breached. No senator so far, including my dear friend Senator Housakos, has been able to point to the exact privilege that has been breached.

It is a standing principle in most procedures and in most courts that when one accuses another of wrongdoing, the accuser must identify the particular wrong that has occurred. We have a most interesting situation here where either the issues have been confounded or obfuscated. There is clearly no identifiable wrong that has been put before us. No breach of a particular privilege that we can identify and sympathize with, or even take a position on or, far less, produce a remedy has been put before this place.

From what I can see, Your Honour, your challenge here this evening is slight. It is not a large problem. I listened very carefully. All three senators who spoke said again and again — as did Senator Batters — “Prime Minister Trudeau makes appointments of senators.” Senator Maltais said “senators are appointed by the Prime Minister.”

I see this also in Senator Housakos' letter circulated to all senators today. He wrote, “The government's refusal to appoint a government leader is an affront to Canada's parliamentary

system.” He later clarified here that he meant to say “minister” not “leader.”

Colleagues, I think the problem here is that the senators speaking are really talking about an area that is not in our purview. I think they are on the Royal Prerogative powers of appointment. I do not know about any of you, but I was not appointed by a prime minister. I was appointed by the Governor General of this land, who is the representative of Her Majesty the Queen. For all those people who play the game that it is not really the Governor General, that the Governor General is just a ceremonial position, they are wrong. The actuating power in the Constitution of Canada is her Majesty the Queen. There is nothing that becomes law that does not necessitate her agreement or approval.

I think we should abandon this game. When I speak to law students and university law classes, I tell them to abandon the notion that the Governor General is a ceremonial creature. I tell them to read the Constitution Act of 1867. It says the seat of government is Ottawa. It is Government House. Many have forgotten the term “Government House” as they have forgotten that the actuating power of this constitution is Her Majesty.

Honourable senators, I think this is where we have gone astray today. I believe this question of privilege is raised with good intentions and good motivation. However, the fact of the matter is that Senate appointments are made solely by the Governor General and not a prime minister.

Honourable senators, in respecting the office of the Senate Speaker, Senator Fraser raised a good point. When the Senate was created, they did anticipate and intend that the Senate Speaker would be a vice regent. They also intended that this office would be joined with that of a minister. Maybe we don't do that anymore. I shall put the relevant sections of the Constitution Act of 1867 on the record.

Section 3 is headed the “Executive Power.” This constitution is so brilliantly written, one understands why it has lasted 150 years. When Sir John A. Macdonald and the other Fathers of Confederation were in the United Kingdom, they interested one of the finest draftsmen in the world, Lord Thring. He examined every word of our Constitution Act. The precision and clarity that is found in this Constitution is rare. This is why our Constitution has endured for 150 years. The challenge for its reformers is to create something that can last another 150 years.

Honourable senators, 150 years in constitution time is a long time. The Americans, in the same time frame had many constitutional failures. Our rich Constitution was put together against a backdrop of carnage and civil war that was erupting on our borders.

Colleagues, having said all of that, this question is out of your hands, Your Honour. Our Constitution Act is clear in section 9 that

The executive government and authority of and over Canada is hereby declared to continue and be vested in the Queen.

[Senator Maltais]

Now, in respect of the Governor General, if Senator wishes to raise these issues with the Governor General, we have a process for that. In fact, one could even begin it tomorrow because a motion for an address to the Governor General has already been placed before us. An address is the form by which the two houses speak to Her Majesty or the Governor General.

• (1730)

In section 12 of the act, one sees very clearly that the margin notes say:

All Powers under Acts to be exercised by Governor General with Advice of Privy Council, or alone.

This section 12 is quite long. It describes that “All Powers, Authorities, and Functions” that are vested in vice-regals are continued. About the governor General, section 12 states that he can act:

. . . with the Advice or with the Advice and Consent of or in conjunction with the Queen’s Privy Council for Canada . . . or by the Governor General individually . . .

Colleagues, we are assured that if the Prime Minister runs afoul of the Constitution of Canada, as the honourable senator suggests, the Governor General has ample powers to correct the situation. We should understand this.

In today’s debate, I heard some disaffection for the incumbent Prime Minister of Canada. Well, colleagues, some say “from sea to sea.” I came to this Senate under a Trudeau and I will leave under Trudeau. I am from “Trudeau to Trudeau.” I want to make that quite clear — from Trudeau to Trudeau. I came here on the advice of the Right Honourable Pierre Elliott Trudeau. He personally chose me. I will leave under Trudeau the younger.

Senator Plett: Will he make you government leader?

Senator Cools: That possibility is not out of reach. However, I do not deal in speculation or hypothesis. We would do well to stay on subject. Some fine senators have raised a question of privilege. But there is no question of privilege here. They cannot identify or name any harm or hurt or wrong that they have received in respect of their privileges.

Honourable senators, I listened very carefully to Senator Housakos. He identified no breach to his privileges. Therefore, I have to record here that there is none. He was not aware, either, that he may have been thinking “ministers” but he was not saying “ministers.”

The Governor General’s law is called prerogative law. Legislation is created where the law of the Queen’s prerogative, the *lex prerogativa*, and the law of Parliament, the *lex parliamenti*, meet. They are two very important areas of law. They are the two least studied areas of law.

Honourable senators, I make a point that some do not know, but for years here we had independent senators who served as chairs of committees. Former Senator Hartland Molson of the

Molson family was chair of the Rules Committee for many years. Senator Lowell Murray, as an independent, was chairman of the National Finance Committee.

This is not new, so I think we should rethink how we think about these kinds of things.

In conclusion, I think Senator Housakos was unable to identify a particular privilege that has been breached. I am noting this because I think we should do justice and debate every question of privilege that is raised.

I thank Senator Batters and Senator Housakos for their good intentions. I really think that they have made no case that their privileges have been breached, because we don’t know which privileges have been breached.

Senator Housakos: Thank you, honourable senators. I listened quite attentively to Senators Cools, Fraser and McCoy —

Hon. Serge Joyal: If Senator Housakos speaks, it ends the debate, and I stood up to speak.

The Hon. the Speaker: I’m sorry, Senator Joyal.

Senator Joyal: The point is that if Senator Housakos wants to ask a question to the previous speaker, it’s admissible under the rules, but if he stands up to speak, that would close the debate. I want to intervene on the debate. That’s why I’m on my feet.

The Hon. the Speaker: Thank you, Senator Joyal.

When I recognized you, Senator Housakos, I thought you were going to ask for leave to ask Senator Fraser a question. Was that not your intention?

Senator Housakos: My intention was to close the debate, so I was not going to ask a question. But if Senator Joyal wants to —

The Hon. the Speaker: This is a very important debate, and I would like to hear from any senator who wishes to participate. Senator Joyal has expressed an intention, so please go ahead.

[Translation]

Senator Joyal: Thank you, Mr. Speaker. I would like to wish you success in your new role. I have no doubt that, over the coming years, you will demonstrate the skill, diplomacy and intelligence required to discharge the duties of the Speaker of the Senate. I do wish you every success.

[English]

Before I enter into the crux of the question, I want to also thank Senator Housakos for his performance as former Speaker. I want to say to you, Senator Housakos, for the words that you published in your open letter dated December 3, which was the day before you were replaced in the Speaker’s chair, are very telling. I suggest that you circulate them to all the senators of this chamber.

I will quote one paragraph, if you don't mind, and it speaks a thousand words. You wrote:

As Canada has evolved, so too has the role of the Senate while remaining as relevant as ever. The Senate improves, suggests, and advises legislation, but understands the critical importance of representative democracy in a modern society.

All of us should reflect on those words during the Christmas recess. There's a lot of food for thought in that open letter.

Again, I want to thank you personally and wholeheartedly for the contribution you made in defence of the institution at a very crucial time of its life. Thank you, senator.

Hon. Senators: Hear, hear!

Senator Joyal: I want to join in on this debate because I feel that we are in a period of change. As in any period of change, there is uncertainty. This chamber today is not the one it was when I entered it as a new senator 18 years ago. I'm supposed to leave in 2020, four years from now, and I'm sure that when I leave this chamber, it might be a totally different chamber than I have known during the 22 years I will have served here.

The question you raise is an essential one. As a senator, do I have the right of having a government leader in the chamber to perform my duty as a senator? This is essentially your question. It is an important one because, as you stated quite eloquently in your presentation, we are a chamber in the model of Westminster. It's enshrined in the preamble of the Constitution: "a Constitution similar in Principle to that of the United Kingdom." In other words, the Westminster model is the way that this chamber is devised: a pro and con side — a government and an opposition or a majority and a minority.

This essential division of minds is based on the principle that it is from debates that truths come out. The Supreme Court recognized this a long time ago.

• (1740)

You will allow me to suggest a quotation from the Supreme Court in a case referenced in the Alberta statutes. In 1938, former Justice Duff, very learned and very well respected among the legal profession as an authority, stated the following with respect to the very question raised by Senator Housakos. He said that the preamble of the Constitution

... shows plainly enough that the Constitution of the Dominion is to be similar in principle to that of the United Kingdom.

What does that mean?

The statute contemplates a Parliament working under the influence of public opinion and public discussion. There can be no controversy that such institutions derives their efficacy

from the free public discussion of affairs, from criticism and answer and counter-criticism, from attack upon policy and administration and defence and counter-attack; from the freest and fullest analysis and examination from every point of view of political proposals.

In other words, the essence of our role is to debate. This is the core, the art, of the democratic principle. It's the debate. We have to be able to debate. Hence the question is raised: Do we need a government leader to be able to debate? Of course, when there is a government leader, there is an additional perspective in the debate. I'm not the government representative. Nonetheless, I certainly have a lot of opinion about the government's proposals in relation to the appointment process of senators. That is not the subject of the day. I hope it will become the subject of the day. I will certainly join the debate on that issue.

I come back to the fundamental point: Do we need a government leader to be able to debate, to perform our duty? It is important to understand that because, as we all know, rule 13-2(1) states very clearly the four essential elements, Your Honour, that you will have to consider in adjudicating on the question of privilege. The four elements that have to be present in any question of privilege include one that is very important: The question of privilege must "... be raised to seek a genuine remedy that the Senate has the power to provide and for which no other parliamentary process is reasonably available."

In other words, do we have the power to order the government to appoint a government representative? My humble opinion is no, but we have the means to have the opinion of the government on the floor of this chamber. As my colleague Senator Fraser said earlier, and as the Honourable Senator Carignan proposed in his motion today to summon or invite a minister of the Crown or an officer of Parliament or a president of an agency of government to come and testify and answer our questions, we certainly have the means to keep the government accountable.

I come back. Do we have the power to order the government through a motion today to appoint a government representative or a government leader here? My humble answer to that question is no, we don't have that power. We can express the wish. We can hope. We can solicit. We can send somebody on our behalf to make those representations to a government officer. But the executive doesn't have the right to sit in this chamber, and we don't have the right to request the executive to sit in this chamber. That's not the way we have been framed. That's not the way the Westminster model functions.

It is important to remember that even though the Leader of the Government is recognized in our statute and in our rules, that doesn't give us the corollary right to compel the government to appoint a government leader. The government leader is mentioned in the Parliament of Canada Act. I will provide the quotes. It's mentioned in section 19.1.3 of the Parliament of Canada Act, where it states:

The Leader of the Government in the Senate, or the nominee of the Leader, and the Leader of the Opposition in the Senate, or the nominee of the Leader, may, in

accordance with the rules of the Senate, change the membership of the Committee —

Of Internal Economy.

— from time to time . . .

So there is a role for a government leader in our statute. There's no doubt about it. That's why, having a role, there is a special salary attached to it. It's at section 62 of the Parliament of Canada Act. If you look at it, it will give you the amount, \$67,800. In other words, there's no doubt that the government leader is recognized, as much as it is recognized in our standing *Rules of the Senate*.

I will list the various roles that the government leader has in in this chamber. Let me recite them quickly. The government leader is the only one who is entitled or has the "privilege" to move allocation of time. If there is no government leader, there is no allocation of time as our rules stand right now. The second one is the government leader is an ex officio member of committees. If there is no government leader, there is no ex officio member of committees. The government leader can change the committee membership. If there is no government leader, there is nobody to change that. Fourth, the government leader is the only one authorized to table user fee proposals. Fifth, the government leader is the only one able to table responses to requests or government papers. The Leader of the Government can propose the motion of membership on the Conflict of Interest Committee, as you stated in your letter. Finally, and not least, the government leader is the only one to inform us that there is a message for Royal Assent. That's very fundamental. That's the way bills come into force. There's no doubt that in our rules, there are a lot of roles for the government leader. No question about that.

I come back to your question. This is what you have to adjudicate, Your Honour. Do we as individual senators on any side, this side or the other side, have the right to compel the government to appoint a government leader?

Senator Cools: No.

Senator Joyal: My answer is no. I have looked into the jurisprudence of the Supreme Court and the report that was tabled in this chamber in June 2015, chaired by our esteemed colleague Senator White as Chair of the Rules Committee, a report entitled *A Matter of Privilege: A Discussion Paper on Canadian Parliamentary Privilege in the 21st Century*.

You were, Your Honour, the chair of the subcommittee of the Rules Committee that adopted this report. Of course, when I read that Senator Housakos was raising a question of privilege, I said, "My God, what did we write on this issue?" We have to be consistent with what we said a couple of months ago.

I found this in the report. Very interesting. I think we were good, as much as I can read the report again. I will quote page 11 and page 23 of the report.

Page 11: A report from the U.K. Parliament of 2013 quoting a decision of our Supreme Court in *Vaid*. I know that some members will remember the *Vaid* case in 2005. I will come back to it. What does our report state?

Absolute privilege attaches to those matters which, either because they are part of proceedings in Parliament or because they are necessarily connected to those proceedings, are subject to Parliament's sole jurisdiction.

One of the advantages of the "doctrine of necessity" is that it ensures a degree of flexibility. The working practices of Parliament change, and our understanding of what is or is not subject to Parliament's sole jurisdiction needs to adapt and evolve accordingly.

Our friend Senator Cools stated that Question Period is not something that is linked to the very nature of this institution. We can have no Question Period.

• (1750)

There were days there was no Question Period and we were totally able to perform when, for x, y, z reasons, the government leader at the time, Senator Carignan, was not in his seat for all kinds of reasons. There were days when the leader on our side, when we were the opposition, didn't want to have questions, and we skipped Question Period. What we did that day was not presumed illegal or null and void.

It shows that our practices evolve. Now we have nine independent senators —

Senator Cools: And growing.

Senator Joyal: According to what we were told on December 3, 22 more independent senators will come into this chamber in the next 12 months. That will change something in this chamber. There will be something changing, there's no doubt in my mind. We will have to find a way to accommodate those new senators to have them working on committee, while now they have to have permission to take the seat of one party or the other. We know how it works, but that will change.

Does it mean that my privilege as a senator will be breached because that will happen? My answer is no. I have no right to say, "Enough independent senators" because, as a member of the independent Liberals, I will be overwhelmed by independent senators. They will be greater in number than the Liberals, because that's what will happen. Just take your calculation and you'll see that what I'm telling you is the future.

We have to live in that context. We can fight it. Of course, we can. We can say, "Well, this is against the way we have functioned traditionally over 147 years." That's what I told you at the beginning. The way I entered the chamber 18 years ago and the way I will leave it 4 years from now, it will be a different chamber. Will that mean that my privileges will have been breached? Because that will be a fundamental change of the nature of this institution, with nothing much more than not going to court, not

even having legislation to be adopted. Of course, we will have to look in front of one another and read our standing order and reflect that in the standing order. The standing order, as my colleague Senator Andreychuk would say, is an evolving document. We adapt our rules to our practices, and our practices evolve slowly, but they evolve in respect to our right to debate.

I come back to your very fundamental point. We have the right to debate. This is the Bill of Rights of 1689. That's the fundamental right of Parliament. Inasmuch as this right is not impinged upon, there is no breach of privilege.

I thank you for having raised this question, Senator Housakos, at this stage because it gives us the signal; it rings the bells that we have to think about what's looming ahead. Of course, what's looming ahead will displace the seats. It will displace the furniture. We will have to think of how we proceed. As I say, we can resist that. There is no doubt about it. We can stick our heels in the sand and say no to anything but, nevertheless, they will come. Those 22 will come. Those five will come. Among the five, as was announced on December 3, there will be a senator who will be the government representative. I reacted much as you did, Senator Housakos. My goodness, I read English; "government representative" is not the leader of the government. It's not the same.

But I saw Senator Carignan being a government representative without being a member of cabinet. I know that it changes status because he was not part of cabinet decision making and, with his not being part of cabinet decision making, we could not expect, on that side, that he would be able to answer all of the questions because he didn't participate in all of the steps leading to a government bill on very difficult issues, like Bill C-51, for instance, that we had in this chamber and that was debated and studied and so forth. It changed. It impacted on our work, but it did not prevent us from exercising our right to debate. That is essential.

Humbly said, Your Honour, and, again, thanks to Senator Housakos. I don't think that the four conditions to establish a case of *prima facie* allegation of breach of privilege, according to rule 13-3, have been demonstrated, but there is no doubt that it was a good exercise for us at the opening of this session to try to reflect on where we are heading and how we're going to cope with the changes that are looming ahead.

The Hon. the Speaker: If there are no other senators who wish to join the debate, I will call upon Senator Housakos to close out the debate.

Senator Housakos: Thank you, honourable senators. I listened with great interest, especially to the last speaker, Senator Joyal, and actually all senators in their views on this matter. I find a little bit of inconsistency and discrepancy in the arguments of Senators McCoy and Cools, Joyal and Fraser.

Senator Cools, I listened to you on many occasions in this very chamber, getting up and making a very strong argument that it was essential on the part of the government to have not only a representative in here but you used the term "minister of the

Crown" and that it was abhorrent that any government would show such blatant disrespect for this institution. You made those eloquent and great debates sitting in that chair right next to me when I was Speaker. I listened very attentively. So I agree with you. I think we need to have a minister or, at bare minimum, a representative or, at bare minimum, a bridge between this institution and the other. That's how the Westminster model works.

Senator McCoy says that she has not totally bought into the idea that there are only two sides to the Westminster parliamentary system, that there are other political parties and, indeed, there are. There's room in this great political system for all voices. Parliamentarians, on the House of Commons or on the Senate side, despite their political affiliations, can get up at any point in time and stand on principle. It has happened on many occasions, on both sides of this chamber.

So no one is compelled to vote with their political philosophy or ideology or party all the time if they have a principled stand to take, but we cannot forget that in every single legislature in the Commonwealth there's a government that represents the Crown and there's Her Majesty's Official Opposition. That's what you have in the House of Commons. That's what you have in the Senate, and you have a third party and a fourth party and independents with no recognized status other than the fact that they are respectively recognized.

Senator Fraser points to the House of Lords as an example, and I think it is an example. I think it's the basis upon which our democracy in Canada functions. There is a government leader in the House of Lords, and there always has been one. If I'm not mistaken, even currently there are ministers sitting in the House of Lords on behalf of the government, and it doesn't impede them to have a number of party affiliations and a large number of independents. I think that has proved in the United Kingdom, as it can be proven here, to be a very great contributor to political discourse.

Senator Fraser and Senator Joyal pointed out that there is evolution and change coming. I'm all for change, but change has to be done within the confines of the Constitution, and it has to be done in consultation with this institution, not unilaterally where we're being dictated to by a government leader on the House of Commons side through radio interviews, rather than through speaking to the leadership on what we need to do with our rules.

Senator Joyal and Senator Fraser quite appropriately pointed out in their discourse that on one hand we don't need a government leader here to function, and we don't need to hold the government to account. On the other hand, you said there are other means to do it, and one of those means is to bring ministers before the Senate and question them. Either you agree that we need to have some form of keeping accountability on the other side or that we don't.

If I understand my colleagues correctly — and I agree with Senator Fraser and Senator Joyal because they certainly did an eloquent job, through the years I sat on the government side, of keeping our government in check — this institution has that role to play as well. It's in the rules. Both of you know, honourable

colleagues, that we don't have the power to compel ministers or members of the House of Commons to come before this house. We can invite them, but we can't compel them.

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

Hon. Senators: Agreed.

The Hon. the Speaker: Thank you, colleagues.

• (1800)

Senator Housakos: To elaborate on that point, again Senator Joyal points out that this is a place for debate, and I agree. Again, debate can only take place and be rooted where it all begins. In Canada, in our political system, political debate and policy debate starts within political parties. It could be the Liberal party, the Conservative party or the NDP. I haven't seen many issues come on the floor of the House of Commons or the Senate of Canada, or any provincial legislature in this country, where the issues did not ignite, come forward or fester out of a political policy conference somewhere and a political party.

With all due respect to independents, I have never seen an independent movement bring a political issue to the national arena and take it forward and create a vigorous debate on the issue. All of those debates stem from some political party, some political philosophy or some political ideology.

All the independents that are sitting in this house today all espouse some political principles. That's how they got here. For whatever reason they chose that they felt more inclined to operate independently, and we respect that because that's what a democratic Parliament does.

As parliamentarians we can't forget that parliaments in our British system speak for the people — the body that is elected and even this appointed body, which has a particular role to represent

minorities and regional interests in this country. We speak for our stakeholders, and all those stakeholders combined make up the shareholders of the country.

If we are taking away that principle as parliamentarians to be able to articulate vigorously and debate those issues, honourable senators, while there's somebody sitting in this chamber that will take that message back, whatever the outcome, to the executive branch, then those three essential elements of our Parliament, which is the Crown, the Senate and the house, completely fall apart.

That's why I focused on two areas, namely government accountability — which the Senate has a role in playing — and, of course, we have a role as senators here in that vigorous progress and debate to add value to the government's barometer. That's what the government is. The executive is supposed to listen to its people. If it's not listening to the legislative chambers, to whom are they listening when they're advancing their policy? How are they engaging with the public if they are not respecting Parliament?

I want to terminate by saying that Parliament speaks for the people; the Senate speaks for the people, its regions, its provinces, and we have, I think, a responsibility to compel the government to name a government leader in respect of this institution and in respect of the fundamental constitutional elements that make up our Parliament.

Thank you so much.

The Hon. the Speaker: Consideration of this question of privilege is concluded. I want to thank all colleagues for their input in this important question. I will take the matter under advisement.

As there are no items on the Notice Paper, I will now recognize Senator Fraser for the adjournment motion.

(The Senate adjourned until tomorrow at 2 p.m.)

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