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(HANSARD)

Thursday, February 25, 2016

The Honourable GEORGE J. FUREY
Speaker

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THE SENATE

Thursday, February 25, 2016

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Ms. Barb Stegemann, Founder of The 7 Virtues, a social enterprise based in Halifax, Nova Scotia, accompanied by Patrizia Quas. They are guests of the Honourable Senator Martin.

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

Hon. Senators: Hear, hear!

SENATORS' STATEMENTS

ANGELIQUE EAGLEWOMAN

CONGRATULATIONS ON APPOINTMENT AS DEAN OF LAKEHEAD UNIVERSITY FACULTY OF LAW

Hon. Lillian Eva Dyck: Honourable senators, I rise today to congratulate Angelique EagleWoman for being appointed the Dean at the Bora Laskin Faculty of Law at Lakehead University in Thunder Bay, Ontario. Angelique is the first Aboriginal woman to hold the position of the Dean of Law at any university in Canada. She will officially take over the position in May.

Currently, Angelique is a professor and legal scholar at the University of Idaho. She has taught in the area of Tribal Nation economics and law, and Native American natural resources law. She has also published articles on topics like tribal economics and quality of life for indigenous peoples.

She previously served as a tribal judge in four tribal court systems and as general counsel for her own tribe, the Sisseton Wahpeton Oyate, in North and South Dakota.

Upon her appointment, she said:

I hope that seeing me at the helm of the beginning of the law school will also encourage other First Nations young people and people in mid-career that might be thinking about change to consider law as a profession. Law touches every aspect of our lives and it is important that our voices be heard in forming that law and responding to that law and in making that law.

Angelique follows the traditional teachings and is a jingle dress dancer. She said:

This is what has led me on my journey and allowed me to be a role model and to be able to operate in two worlds.

She looks forward to getting involved in the Aboriginal communities in Thunder Bay, noting that she's already been invited to Fort William First Nation. Congratulations, Angelique.

BARB STEGEMANN

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I rise today to speak about an outstanding Canadian entrepreneur and global leader, Barb Stegemann, creator of the 7 Virtues Beauty Company. She is also the author of *The 7 Virtues of a Philosopher Queen* and the embodiment of her book as a working mother and wife of a successful international social enterprise that aims to change the world scent by scent.

Barb's vision for her cosmetic line was originally inspired by her best friend, Captain Trevor Greene, who, while serving in Afghanistan in 2006, was brutally attacked by a Taliban fighter. She transformed her feelings of anger and vengeance to forgiveness and action that would truly honour her friend's legacy of service in the Canadian military.

To love her friend was to love the people he was willing to die for. She realized that supporting Afghanistan's economy was a key to building stability for its people. Her first perfume was the "Orange Blossoms of Afghanistan," made with the oil of orange blossoms that grow in abundance, to empower farmers to harvest these crops in contrast to the illicit poppy crops of the Taliban. She later created other fragrances called "Noble Rose of Afghanistan," "Vetiver of Haiti" and "Middle East Peace." These beautiful fragrances are available across Canada at the Bay, in fact.

By sourcing fair market natural essential oils from nations rebuilding after war or strife, Barb aims to encourage change and to reverse the effects of war and poverty through trade and commerce. I am not alone in thinking that the 7 Virtues is a remarkable business venture. Not only was Barb the first woman from Atlantic Canada to land a venture-capital deal on the CBC TV show "Dragons' Den," she became the "Top Game Changer" in the history of the show.

In recognition of her remarkable vision and success, Barb has also been named one of Canada's Top 100 Most Powerful Women, has been awarded the Ernst and Young Entrepreneur of the Year Award, in the emerging entrepreneur category for Atlantic Canada, and was ranked one of Profit Guide Magazine's Top 30 Cool and Fabulous Canadian Entrepreneurs.

Honourable senators, that's not all. Her fragrance collection won Chatelaine's Beauty 100 Award and Barb received the Women's Innovator Award from the U.S. State Department at

the APEC Women and the Economy Summit. Of this long list of achievements, one of Barb's proudest moments was becoming the first female Honorary Colonel in the history of 14 Wing Greenwood base, Royal Canadian Air Force.

I met Barb in 2003 when we began our friendship as community builders and festival organizers within the city of Coquitlam. I was one of the first people to read and be inspired by *The 7 Virtues of the Philosopher Queen* in its draft form and I have witnessed her rise from regional to national to now global stardom as she raised her two beautiful children, Victor and Ella, and found her true love.

She continues to be a visionary leader who is an inspiration to me and to anyone who has ever had a dream and the determination and dedication to see it through.

Honourable senators, please join me in recognizing a proud Nova Scotia native and incredible Canadian, Barb Stegemann.

Hon. Senators: Hear, hear.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of a group of participants in the Parliamentary Officers' Study Program. They are: Ms. Jane Lubowa Kibirige, Clerk to Parliament, Parliament of Uganda, Uganda; Ms. Kushani Anusha Rohanadeera, Assistant Secretary General, Parliament of Sri Lanka, Sri Lanka; Mr. Mengtyth Ly, Senior Officer, National Assembly of the Kingdom of Cambodia, Cambodia; Mr. Matthew Hamlyn, Clerk of Bills, Public Bill Office, House of Commons, UK, United Kingdom; and Mr. Ryan Reddin, Research Officer and Committee Clerk, Legislative Assembly of Prince Edward Island, Prince Edward Island.

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

Hon. Senators: Hear, hear!

THE LATE GRAHAM LEO DOWNEY

Hon. Wilfred P. Moore: Honourable senators, I rise today to participate in Black History Month by paying tribute to Graham Leo Downey Sr., late of Halifax, Nova Scotia, who passed away on September 15, 2015. I first met Graham in the 1950s, when playing minor hockey. As a teenager, he was the manager and coach of a team of young players, exhibiting his generosity and leadership qualities at a young age, a born leader. We were good friends since those early days. Perhaps Graham's greatest achievement in sport was the Vaughan Furriers, a multiracial baseball team he put together, managed and coached. The team was known as the "Boys of '62," and they became the Maritime Junior Champions.

Graham also became a community leader. When he was elected as alderman for Ward 3 in October 1974, he became the first Afro-Nova Scotian ever elected to Halifax City Council. Graham

would also serve as deputy mayor from 1978 to 1979. I served on council with him from 1974 to 1980 and can attest that he was a consummate alderman, always available to his constituents regardless of race. He served until the year 2000: an historic record of service, of respect and achievement.

• (1340)

Graham was a community-builder. An editorial in a Halifax newspaper spoke of him as "a builder of great note." More than his elected service, Graham was a builder in the maturing of our city. I think that began when he and his late brother Billy opened the Arrows Club on Agricola Street. In their quiet and steadfast manner, they broke down racial divides and defused some very testy situations in the bumpy 1960s.

Graham Downey had solid personal values. He believed that with good work, good things would happen. He was a positive motivator. He and his wife, Ardith, instilled those values in their family, nieces and nephews, grandchildren and neighbourhood kids, encouraging them all to get an education and become involved in their community.

His niece Terry Downey put it best when referring to his community service:

I became aware of his huge political presence in our community observing pedestrians calling out his name on the streets and drivers honking their horns as they drove past him. There was a lot of respect and acknowledgment from people for his contributions to the people of Halifax.

In recognition of Graham's superb legacy of service, giving and hope, the Alderman Graham Downey Bursary has been established at Saint Mary's University under the direction of his wife, Ardith. It will provide financial assistance of \$1,000 annually to an Afro-Nova Scotian student from Halifax County. It is a fitting and lasting testament to Graham's life's work that the education of a young student of his race will be aided under his name.

Graham Downey was the recipient of many honours, including the Dr. W. P. Oliver Hall of Fame recognition, the Queen Elizabeth II Golden Jubilee Medal in 2002 and the Queen Elizabeth II Diamond Jubilee Medal in 2012.

He is survived by Ardith, his six children Carmella, Graham Jr., Pricilla, Gordon, Christopher and Stacy, as well as 13 grandchildren and many nieces and nephews. We extend our heartfelt sympathy to them from the Senate of Canada.

Senators, *this* was a good man. Halifax, Nova Scotia and Canada could all use more Graham Downeys.

Hon. Senators: Hear, hear.

PLAN 2014

Hon. Bob Runciman: Honourable senators, I want to speak today about a plan that would bring great benefits to the environment and would benefit the economy of eastern Ontario

and western Quebec — a plan that is the result of a 15-year, \$20 million study. It is a plan that has been awaiting approval from the federal governments of Canada and the United States for nearly two years.

I am talking about Plan 2014, a new approach for regulating water levels in Lake Ontario and the upper St. Lawrence River. It was approved and recommended by the International Joint Commission, but which requires binational approval before it can be implemented.

The existing water levels management plan, which involves manipulating levels at the Moses-Saunders Power Dam near Cornwall, Ontario, has been in place for nearly 60 years. It is blamed for the destruction of thousands of acres of wetlands. It drastically lowers water levels in the fall, curtailing the boating season in the Thousand Islands region.

Plan 2014, although it still involves regulation, would be much more consistent with the natural flow of the river.

There are losers under Plan 2014, and mitigation funding will be needed, most notably for homeowners on the south shore of Lake Ontario near Rochester, New York, who built on a floodplain.

But there are far more winners than there are losers. Plan 2014 will work for commercial navigation. It will provide significant benefits for hydroelectric production, and it will extend the recreational boating season for an area that is heavily dependent upon it.

But the biggest benefit would be for the environment.

Lana Pollack, the United States chair of the International Joint Commission says this plan has the potential to restore 64,000 acres of wetlands. These are wetlands that have been destroyed by the current policy. It will improve biodiversity of both plants and animals, and provide more appropriate spawning grounds for fish.

Plan 2014 would be the second-largest wetlands restoration project in the history of North America, behind only the reclamation of the Florida Everglades, and it could be implemented at almost no cost — just by changing the way the gates are operated at the Moses-Saunders Power Dam near Cornwall.

Yet this plan, which received widespread support during extensive public consultations over many years, remains stalled by Global Affairs Canada. Sources say that Canada's new government wants to modify this plan to significantly reduce its environmental benefits.

Shame on them, I say.

Prime Minister Trudeau and his so-called “green” government that he leads should stop stalling. When he visits Washington next month, he and President Obama should announce the adoption of Plan 2014.

There is little cost and huge benefit. The time to act is now. Thank you.

[Senator Runciman]

TERRITORIAL FORMULA FINANCING

Hon. Daniel Lang: Colleagues, I rise to draw the Senate's attention to the decision by the Minister of Finance and the Prime Minister to revise how Territorial Formula Financing — an agreement between the Government of Canada and the territories to provide long-term stable funding to the North — is calculated. This agreement is the basis for our equalization payments from Canada, similar to provincial transfer payments.

Under this new interpretation of Territorial Formula Financing, Yukon is projected to lose \$23 million, Northwest Territories \$32 million and Nunavut \$34 million next year and annually thereafter.

According to the Department of Finance, Territorial Formula Financing helps territorial governments fund essential public services in the North such as hospitals, schools, infrastructure and social services, and recognizes the high cost of providing public services in the North, as well as the challenges the territorial governments face in providing these services to a large number of small, isolated communities.

Given the definition of this program, and the program that was negotiated between the three territories and Canada, residents of Nunavut, Northwest Territories and Yukon were troubled this past December when Canada's newly elected federal government informed the local governments that they will cut over \$445 million in the next five years from the budgets of Canada's northern territories.

These cuts come at a time when the federal government is increasing spending on foreign aid, immigration and global warming. It leaves one wondering why the North is being shortchanged so that the federal government could spend on other priorities. It also comes at a time when the government is planning to run billions of dollars of deficits to stimulate economic growth.

Colleagues, Senator Patterson, Senator Sibbeston and I have been working with our territorial governments since these cuts were announced. I have written to the Minister of Finance, and our northern premiers have been pressing Ottawa to stop the cuts.

Just last week the federal government agreed to reduce their proposed cuts. The Finance Minister and the Prime Minister are now proposing to cut \$6 million from Yukon, \$10 million from Northwest Territories and \$8 million from Nunavut per year. This presents a federal cut of well over \$100 million over the next five years.

Colleagues, in Canada's North cutting federal transfers will have a significant impact on our fragile economy and will negatively affect economic development, education, social services and health care. It will have a negative impact on communities at risk, especially our First Nations and Inuit people, as well as our seniors and single parents.

Colleagues, the Senate is a champion of Canada's North, minority group communities and our First Nations and Inuit people. I note that the federal Finance Minister and Prime Minister have moved to nullify the new interpretation of data

related to the federal transfer formula to provinces. By so doing, they have ensured the provinces do not face cuts, unlike what is happening with the territories.

In light of how the provinces have been treated, these cuts in the North are absolutely unfair and harmful to our region's economic and social development. To Northerners, it goes against the letter and spirit of the Territorial Formula Financing agreement.

Colleagues, I ask you to join with me in calling on the Prime Minister and Finance Minister to honour their obligations to our northern territories and fully restore the over \$100 million they're planning to cut in the next five years.

• (1350)

[English]

ROUTINE PROCEEDINGS

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

THIRD REPORT OF COMMITTEE PRESENTED

Hon. Leo Housakos, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, February 25, 2016

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

THIRD REPORT

Your committee has approved the Senate Main Estimates for the fiscal year 2016-2017 and recommends their adoption. (Appendix A and B)

Your committee notes that the proposed total budget is \$90,115,308.

Respectfully submitted,

LEO HOUSAKOS

Chair

(For text of Appendices "A" and "B", see today's Journals of the Senate, Appendix A p. 215 and Appendix and Appendix B p. 219.)

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

Senator Housakos: Honourable senators, with leave of the Senate and notwithstanding rule 5-5(f) of the *Rules of the Senate*, I move that the report be placed on the Orders of the Day for consideration later this day.

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

Some Hon. Senators: Yes.

An Hon. Senator: No.

The Hon. the Speaker: Leave is not granted.

Senator Housakos: Honourable senators, I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

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

Hon. Senators: Agreed.

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

PHYSICIAN-ASSISTED DYING

FIRST REPORT OF SPECIAL JOINT COMMITTEE TABLED WITH CLERK

Hon. Kelvin Kenneth Ogilvie: Honourable senators, pursuant to the order adopted on Wednesday, February 17, 2016, I would like to inform you that earlier today I had the honour to deposit with the Clerk of the Senate the first and only report of the Special Joint Committee on Physician-Assisted Dying entitled *Medical Assistance in Dying: A Patient-Centred Approach*.

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

(On motion of Senator Ogilvie, report placed on the Orders of the Day for consideration two days hence.)

[Translation]

THE SENATE

NOTICE OF MOTION TO AFFECT QUESTION PERIOD ON MARCH 9, 2016

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

That, in order to allow the Senate to receive a Minister of the Crown during Question Period as authorized by the Senate on December 10, 2015, and notwithstanding rule 4-7, when the Senate sits on Wednesday, March 9, 2016, Question Period shall begin at 3:30 p.m., with any proceedings then before the Senate being interrupted until the end of Question Period;

That, if a standing vote would conflict with the holding of Question Period at 3:30 p.m. on that day, the vote be postponed until immediately after the conclusion of Question Period;

That, if the bells are ringing for a vote at 3:30 p.m. on that day, they be interrupted for Question Period at that time, and resume thereafter for the balance of any time remaining; and

That, if the Senate concludes its business before 3:30 p.m. on that day, the sitting be suspended until that time for the purpose of holding Question Period.

[English]

ORDERS OF THE DAY

SPEECH FROM THE THRONE

MOTION FOR ADDRESS IN REPLY— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Jaffer, seconded by the Honourable Senator Cordy:

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.

Hon. Dennis Glen Patterson: Honourable senators, I rise today to deliver my response to the Speech from the Throne. On December 4, 2015, the Governor General called on all parliamentarians to work together with a renewed spirit of innovation, openness and collaboration. I hope my comments today will be greeted by the Government of Canada in that same spirit.

I was pleased, honourable senators, to hear the government recognizes that:

... public investment is needed to create and support economic growth, job creation and economic prosperity. . .

[Senator Carignan]

The Governor General went on to elaborate that:

... the Government will make significant new investments in public transit, green infrastructure, and social infrastructure.

This is welcome news for Nunavut, as there are currently several projects underway that would qualify for such funding. In Cape Dorset, for instance, there are plans underway to construct the Cape Dorset cultural centre and print shop to replace the aging firetrap they now operate in. This West Baffin community is renowned worldwide for its prints, graphics, carvings and other types of traditional Inuit art. It was home to acclaimed artist, Kenojuk Ashevak. It is said that there are more artists per capita in Cape Dorset than elsewhere in Canada. With very strong support from the community, the fundraising team for the centre, led by Mr. Paul Desmarais III, a renowned collector of Inuit art, has raised \$2.1 million of the \$3 million private-funding target. They now await a response from Canadian Heritage on their request for an additional \$2 million. Cape Dorset MLA David Joanasi described the project as an "excellent and nationally important project" in his October 29, 2014, member statement in the Nunavut Legislature.

Meanwhile, Iqaluit, the capital city and my home, has two projects of note. Its population of 7,000, a majority of whom are Inuit, has no place to teach kids how to swim, despite the ocean being both a highway and a bread basket to the Inuit. With this in mind, the city has received the support of taxpayers to borrow to build an aquatic centre, a new 3,500-square-metre multi-use centre that will also have fitness facilities.

Construction is now underway, having been halted last fall for the winter. The centre is set to open at the end of 2016 and has received support by the Federation of Canadian Municipalities' Green Municipal Fund. The aquatic centre will incorporate advanced energy-efficient strategies and green construction methods. Nothing is cheap in the Arctic. Due to the high cost of construction, there will be an additional tax burden on tax-paying homeowners. I'm hopeful that the City of Iqaluit's application for \$4 million from Infrastructure Canada will be favourably received.

The second project is the waste water treatment plant upgrade required to service a growing population, protect the environment and meet more stringent treatment objectives. The current plant was mandated by Environment Canada and Indigenous and Northern Affairs Canada to move into compliance with their water licence by the end of 2018. To satisfy regulatory compliance, the City of Iqaluit has applied to Infrastructure Canada for a \$26 million contribution to this project, which is shovel-ready and has the blessing and financial partnership of the Government of Nunavut. This money is needed to upgrade the primary waste treatment process, to install a moving bed biofilm reactor to achieve secondary treatment, and to meet the city's capacity requirements for a 20-year horizon.

• (1400)

Other green infrastructure initiatives in Nunavut, which are currently in the pre-feasibility stage, include a proposed hydro power plant in Iqaluit.

Honourable senators, each one of Nunavut's communities is powered by diesel generators. They burn 45,000 litres per year and create 110,000 tonnes of carbon each year. A hydro dam in Iqaluit, where there is plenty of hydro potential, will reduce Nunavut's carbon dioxide emissions from diesel plants by approximately 37,000 tonnes per year. It will allow secondary manufacturing industries to develop, such as we've seen in our eastern neighbour, Nuuk, Greenland, where about 70 per cent of the country is powered by hydro.

The other project I am enthusiastic about is the potential for the construction of a hydroelectric transmission line that would bring power from Churchill, Manitoba, to the Kivalliq, the central region of the territory, with its seven communities and gold mine.

The Government of Nunavut has also identified key social and energy-related infrastructure needs: \$525 million is needed to build a thousand homes in an effort to address Nunavut's acute housing crisis; and another \$250 million is needed to replace and upgrade Nunavut's aging power plants and other basic energy infrastructure, on which all Nunavut residents are reliant.

The Government of Nunavut has also identified an exciting project in the Kitikmeot, the western region of the territory, as a territorial priority because it could be the first link in North America to the Arctic Coast in Nunavut. I speak of the Grays Bay road and port that will be the first road linking the Canadian highway and rail system to tidewater in Nunavut.

To make this project happen, a 227-kilometre road needs to be built through the very rich greenstone belt of the Slave Geological Province, with its plentiful mineral prospects that would become viable with a road and a port at the end of it.

The construction of this road would have many lasting benefits for the region and for Canada. The mineral deposits in Izok and High Lake would provide a minimum of 18 years of employment and business opportunities for northerners. The mine would result in over 600 jobs for Canadians. And the road and port, combined with the mine, are projected to add a total of \$5.1 billion to the gross domestic product of Nunavut.

Additionally, it is estimated that Nunavut and Canada would receive approximately \$390 million over the life of these projects in corporate taxes and resource royalties, while a total of \$100 million would be paid in royalties and Impact and Benefit Agreement payments to the beneficiaries of the Nunavut Land Claims Agreement.

The Grays Bay Road and Port could also serve as an alternative access route to key mines and sites in the Northwest Territories. Colleagues, there is a real possibility that global warming could threaten the winter road from Yellowknife, which currently supplies two diamond mines and soon to be a third. The all-weather road from the Arctic Coast south could allow those three mines, and others being planned, to be accessed by sea from the north instead of by rail and road from Southern Canada.

This project complements stated NWT priorities to "improve access to the Slave Geological Province" that abuts this region in Nunavut, which is why Premier Bob McLeod has publicly stated his support for Nunavut Premier Peter Taptuna and this project.

It was further supported by the Canada Transportation Act Review Report tabled by Minister Garneau today. The report recommended the immediate support of three projects in the North, including "the Coronation Yellowknife Corridor, connecting resource development projects in the Slave Geological Province to the Arctic Coast in the North and Yellowknife in the South; the intention is to facilitate the development of a central Arctic transportation corridor for both Nunavut and the Northwest Territories, beginning with funding for the Grays Bay Road and Port Project."

This nation-building project is close to shovel ready and would require a total commitment of \$34 million from Canada over the next four years in order to complete the permitting and engineering process.

It is also proposed that the Inuit-owned Nunavut Resources Corporation, partnered with the Government of Nunavut, would build and own the road and port, which could also serve the Royal Canadian Navy as a refuelling location, as well as a safe landing area for storage and resupply needs in the region, while collecting long-term lease payments from the mining company.

Colleagues, mining operations face huge transportation, climate and logistical barriers. It's estimated by the Mining Association of Canada that northern mines cost between 170 to 280 per cent more than mines in Southern Canada, depending on remoteness, because of climate and lack of infrastructure. This infrastructure should have been built when Canada was being built, but the projects stopped in the Arctic because of our small population and political representation, I believe. Now we can make these investments, along with those investments needed in our urban centres.

Let's not leave Northern Canada out again when we're building our nation. Between Nunavut, Northwest Territories and Yukon, we comprise 40 per cent of the land mass of Canada.

Projects such as the Grays Bay Road and Port would bring stability and certainty to a region whose high operating costs and lack of infrastructure currently act as barriers to investment and private development.

Canada could also show its support for the mining sector, where investment in exploration is virtually dried up, by renewing the Mineral Exploration Tax Credit and enhancing it from 15 to 30 per cent for three years. This could act as a stimulus for a sector that is finding it very difficult to attract investors in today's economy, and do so at very little cost to the treasury.

Another way to support development in Canada is by modernizing and updating the *Guidelines on Canadian Exploration Expenses*. Due to our tightly regulated system, companies expend millions of dollars on Aboriginal and environmental consultation every year. However, these expenses are not included in the so-called CEE.

Honourable senators, the Governor General promised to focus on "growing the economy; creating jobs; strengthening the middle class; and helping those who work hard to join it." Another sector in the Nunavut economy that needs the government's continuing support is its fisheries program.

It is all too often the case that programs designed for First Nations do not include the Inuit or are not available to Inuit. Of course, indigenous fishers gain their livelihoods on the East and West Coasts of Canada, but there is also a growing fishery of shrimp, turbot and Arctic char on Canada's longest coast, the Arctic Coast, where the Inuit have had a marine-based economy and way of life for millennia.

An analysis of federal financial support for Aboriginal fisheries over the last 21 years shows a total of just under \$1.68 billion. Of this funding support, Nunavut and Inuit have only received 0.2 per cent.

Despite this lack of support, Nunavut fisheries groups are making progress with territorial and private financing. There are now seven factory freezer fishing vessels owned by Inuit, worth a total of more than \$75 million, and the replacement value of these vessels is more than \$175 million.

Today there are more than a hundred Inuit working in the offshore fishery and they have all been trained through the Nunavut Fisheries and Marine Training Consortium. There is no question that this growing industry should also be recognized and receive its fair share of monies allocated to support Aboriginal fisheries in Canada. This can be solved without cost but, rather, through a more equitable allocation of existing program resources and removal of policy barriers to Inuit fishers.

In his Throne Speech, the Governor General also stated that "the Government believes that all Canadians should have a real and fair chance to succeed." I would like to emphasize the importance of fairness for all Canadians, even those of us who live in the Far North, in this reply to the Throne Speech.

Honourable senators, Canada currently charges a Marine Navigation Fee and Icebreaking Services Fee to all commercial vessels as a way of recovering a portion of the cost for publicly funded navigation aids and vessel traffic. However, southern suppliers who bring cargo to Nunavut and other northern regions, where there is virtually no marine transportation infrastructure and limited charts, navigational aids, ports, wharves, accurate weather and ice readings, are being charged fees four to five times those being charged to operators in other parts of Canada — 200 per cent higher than what is charged to international operators. Southern-based operators who supply the North can be charged anywhere up to \$100,000 — sometimes as a terrible surprise at the end of the shipping season — and the shippers tell me they have no idea how these fees are calculated.

• (1410)

I say it is a terrible surprise because some seasons are like last season, when sealift ships were held off the ice for two weeks at the end of July, incurring demurrage fees of \$80,000 per day per ship in Iqaluit, while important cargo like the steel for the aquatic centre remained stuck in the vessels, delaying construction projects in the precious summer building season before winter sets in.

Due to a persistent south wind, ice packed into the harbour in Iqaluit, and iceberg bits the size of houses were stranded on the beach for weeks on low tide. Three polar bears used the ice to

walk through town like they owned the place. Nobody could leave town on their small boats to go fishing or seal hunting, the ice was so thick and impenetrable. This was in late July.

This Marine Navigation and Icebreaking Services fee is an additional financial burden heaped onto the shoulders of those who already pay the high cost of business and living in the Eastern Arctic and cannot be linked directly to the services they pay for. Our MP, the Honourable Hunter Tootoo, not only knows about this problem but, as Minister of Fisheries and Oceans, is I hope in a position to fix it.

Understand, honourable senators, we have only very rudimentary navigational and related services in the Arctic. There is no commercial dock for any of Nunavut's 26 coastal communities. I have previously protested the imposition of this cost on commercial vessel owners working in the Arctic, which increases the cost of living in a place where costs of everything are excessive — costs like that of food.

The Hon. the Speaker: Is the honourable senator asking for five more minutes?

Senator Patterson: Please.

The Hon. the Speaker: Granted.

Senator Patterson: Thank you.

Remember, we cannot bring non-perishable goods to any community anywhere in Nunavut by truck or rail. Everything has to either go on the summer sealift — and there are between three to four ships per year that come to Iqaluit — or by air freight, which currently costs \$4.84 per kilo from Ottawa to a relatively nearby location in Nunavut, plus a 23 per cent fuel surcharge and a 6.5 per cent NAV CANADA surcharge. The highest cost per kilo listed by one carrier, First Air, is \$16.74 per kilo from Ottawa to Ulukhaktok, which would also be subject to the fuel and NAV CANADA surcharges.

This leads to outrageously high food costs, such as \$28 for a bag of grapes I saw recently in Sanikiluaq. The Facebook group Feeding My Family, started by Nunavut resident Leese Papatsie, aims to raise awareness of the high food costs in the North. Ms. Papatsie states that she hopes this awareness could also be the impetus to helping Inuit learn more about hunting or fishing. The group currently has 24,467 members.

High costs of living and doing business in the North are reasons why the promise made by the Liberals in their platform in the last election to increase the northern residents' tax deduction was a welcome one. It is a measure that would impact every territorial resident who files a tax return.

The northern residents' tax deduction has not been adjusted for inflation since 2008. The government has promised to increase the amount of the deduction to 33 per cent, to a maximum of \$22 per day. I hope this eagerly awaited and equitable measure will be implemented in time for the coming tax filing season, and I'll be watching for it in next month's budget. This will benefit all people who live north of 60, where living costs are the highest in Canada.

[Senator Patterson]

Honourable senators, the Speech from the Throne touched on many areas of import to the people of the North, and I do hope that it signals a continued commitment by the Government of Canada to improve the lives of northerners.

Thank you.

Some Hon. Senators: Hear, hear!

(On motion of Senator Martin, debate adjourned.)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SECOND REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the second report of the Standing Committee on Internal Economy, Budgets and Administration (committee budget—legislation), presented in the Senate on February 18, 2016.

Hon. Leo Housakos moved the adoption of the report.

He said: Honourable senators, this report contains a recommended legislative budget allocation for the Standing Senate Committee on Legal and Constitutional Affairs in the amount of \$2,300 for the purchase of copies of the annotated Criminal Code, a routine purchase made by the committee as needed.

I would urge all honourable senators to support the adoption of this report.

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

Hon. Senators: Agreed.

(Motion agreed to.)

• (1420)

THE SENATE

MOTION TO ENCOURAGE THE GOVERNMENT TO EVALUATE THE COST AND IMPACT OF IMPLEMENTING A NATIONAL BASIC INCOME PROGRAM—DEBATE ADJOURNED

Hon. Art Eggleton, pursuant to notice of February 16, 2016, moved:

That the Senate encourage the federal government, after appropriate consultations, to sponsor along with one or more of the provinces/territories a pilot project, and any complementary studies, to evaluate the cost and impact of implementing a national basic income program based on a negative income tax for the purpose of helping Canadians to escape poverty.

He said: It's a basic income pilot project that this motion relates to. In past it was known as guaranteed annual income. I would like to read the motion just so that it's perfectly understood the context in which I make my comments today:

That the Senate encourage the federal government, after appropriate consultations, to sponsor along with one or more provinces/territories a pilot project, and any complementary studies, to evaluate the cost and impact of implementing a national basic income program based on a negative income tax for the purpose of helping Canadians to escape poverty.

As we know, honourable senators, I've mentioned in this chamber a number of times that we have immense challenges in our country when it comes to poverty. We have families that struggle to pay rent. We have children that can't afford school supplies or to go on school trips. We also have many that can't afford to put good food on the table and have to rely on donations at the food banks just to feed their families.

According to Statistics Canada, one in seven Canadians live in poverty. That's over 5 million people, with over 1 million being children. What a staggering statistic. What a shameful statistic that is in such a rich country as ours.

There are over 4 million people in need of decent affordable housing, according to Canada Mortgage and Housing Corporation, and an estimated 150,000 to 300,000 people are homeless, according to the Canadian Alliance to End Homelessness.

In 2015, according to Food Banks Canada, almost 900,000 Canadians used food banks every month, with over a third of those being children. Despite this, one in seven children go to school hungry every day, according to the organization Breakfast Club of Canada. Again, I say, what a staggering set of statistics in such a rich country as ours.

When it comes to health, the Canadian Medical Association declared that "Poverty makes us sick." In their 2013 report, they showed that over half of health outcomes could be attributed to the social determinants of health — such social determinants as housing, poverty and homelessness.

We also have increasing income and wealth inequality that is changing the very nature of our society and threatening our social fabric. The Conference Board of Canada gave Canada a C grade for inequality, ranking us 12 out of a 17-country study.

Between 1980 and 2005, earnings for those in the top income group increased by over 16 per cent. Not so for the bottom income group. They saw their income fall by 20 per cent. And for the middle, their earnings were basically stagnant.

The top 20 per cent of Canadians now account for 70 per cent of the total wealth in this country. This is staggering.

For many people — our fellow citizens — every day is a battle. Dreams are diminished; hopes are dashed. I remember the words of social activist Michael Creek, who experienced poverty as a

result of a medical condition — a cancer — that took him out of the business community. He ended up in poverty, and he said these very profound words:

Poverty steals from your soul, leaving you with little or no hope. It robs you of all that can be good in life. It leaves you isolated, lonely and hungry. Every day is a struggle.

Make no mistake, colleagues. Poverty continues to rage in our communities. It continues to have a stranglehold on many Canadian families. Particularly hard hit nowadays, especially since the 2008 recession, are single men, a lot of whom are recent immigrants; Aboriginal people; visible minorities; lone mothers; and the disabled.

I remind senators of a report produced by this chamber. It was produced out of the Senate Social Affairs Committee and was titled *In From the Margins: A Call to Action on Poverty, Housing and Homelessness*. It was unanimously adopted by the Senate in 2010. Our committee found that decades of social-policy-making by all levels of government, well-meaning as it may have been, has resulted in two equally devastating results. First, even when all the programs are working as they should, the resulting income is often only enough to simply maintain them in poverty. Second, at their worst, existing policies and programs actually entrap people in poverty, creating unintended but nonetheless perverse effects that make it almost impossible to escape the reliance on income security programs and homeless shelters. You make a little money, they cut you off there, and you can't get ahead. We all know these kinds of stories.

That is why I believe we need a new way — a new approach. *In From the Margins* called for a study of basic income, or guaranteed annual income, as it has also been known, but that was not pursued by government. Hopefully, this time will be different.

If passed, through this motion, we would encourage the new government to test a basic income based on a negative income tax. It would be a tax credit administered through the tax system whereby if someone earns or receives less than the poverty line, they would simply be topped up to a point just above the poverty line.

Now, this wouldn't be the good life, honourable senators. It wouldn't provide for that, but it is to ensure that all Canadians would have income that pays for the basic necessities of life: food, clothing and decent shelter. It would provide a floor; a foundation that low-income people could then build upon for a better life.

This idea is supported by many Canadians. A 2013 poll by Environics found that 52 per cent of Canadians are in favour of a basic income. The support does not fall along a particular party line or political philosophy. People from across the political spectrum are in favour.

Conservative economist Milton Friedman was a proponent of the basic income. He said “. . . governmental action to alleviate poverty . . .” is justified to set “. . . a floor under the standard of life for every person in the community.”

[Senator Eggleton]

Our former colleague Conservative Senator Hugh Segal, Green Party leader Elizabeth May, Alberta NDP Finance Minister Joe Segal and Quebec Liberal Minister of Employment and Social Solidarity François Blais are among the many who have expressed support for this idea, again, across the political spectrum.

We see also that communities across the country are supporting the idea. Many mayors have shown support, including Halifax's Mayor Mike Savage, Calgary's Mayor Naheed Nenshi and Edmonton's Mayor Don Iveson. The City of Kingston just passed a resolution calling for a national conversation and encouraged all levels of government to work together to “. . . consider, investigate, and develop a basic income guarantee for all Canadians.”

We also have organizations like the Canadian Medical Association, the Canadian Public Health Association and the Canadian Association of Social Workers, amongst others, are calling for action along these lines.

We can see that a growing number of Canadians realize the way that we have dealt with the scourge of poverty has failed. We need a new way. They realize that there may be a lot of positives to this approach: A basic income is a simpler, more transparent administrative approach to fighting poverty than currently exists, and it would extend benefits to those not covered by social assistance programs, such as the working poor.

Instituting a basic income could also be a stimulus initiative by immediately injecting money into the economy. Those of low income spend the money as they get it. They need it to survive. That puts more money back into the national economy.

Also, as Glen Hodgson, from the Conference Board of Canada, said a basic income “. . . could strengthen the opportunity for labour force engagement and social mobility, especially for young people and disadvantaged groups living in poverty.”

Now, colleagues, in the 1970s a basic income program was piloted in Manitoba, mainly in the town of Dauphin. It was known as Mincome. Research done by Professor Evelyn Forget from the University of Manitoba found that hospital visits dropped 8.5 per cent.

• (1430)

Fewer people went to the hospital with work-related injuries and there were fewer emergency room visits from car accidents and domestic abuse. There were also far fewer mental health visits.

She found that from the statistics in the study.

What about employment? Research showed that by and large it was new mothers and teenagers who worked less. Mothers stayed home with their babies longer. Youth worked less but spent more time in school and graduated in higher numbers. Overall, the attachment to the workforce remained strong.

In the United States, basic income pilot projects began in the late 1960s and took place in North Carolina, Iowa and Indiana, among others. Research showed similar results to that in

Dauphin. Hospital visits decreased and there was a marginal effect of decreased work hours from secondary and tertiary earners — women and youth again. Women had longer maternity leaves and youth stayed in school longer and their school scores increased. They had that foundation.

More recently, Brazil created a basic income in 2003 called the *Bolsa Familia*. It was a countrywide basic income that reached 46 million people, contributed to a 20 per cent drop in inequality and improved education and health outcomes.

Honourable senators, looking at these results we could see not only an upsurge in the living conditions for our most vulnerable but we could also realize a decrease in costs. Yes, I said a decrease in costs. As we know, poverty is costing each and every one of us. It forces up our tax bills, depresses the economy, increases health care bills and breeds alienation and crime.

A 2008 study guided by economists and policy experts Don Drummond, Judith Maxwell and James Milway estimated that poverty costs this country about \$7.5 billion every year in health care costs alone. Lowest income Canadians use much more in the health care system than the higher level of income people in this country. They also estimated that between \$8 and \$13 billion was in lost productivity. All told, they set poverty's bill at \$30 billion annually, and that was in 2008. That doesn't include the cost of the social welfare bureaucracy or administration by the provinces.

On the other hand, the now-closed National Council of Welfare put the poverty gap in Canada at \$12 billion in 2011. That's \$12 billion over and above the levels of support now to bring people up to the poverty line. That is what they said it would take to bring everyone up to the poverty line. Honourable senators, \$12 billion or \$30 billion — which one makes more sense?

Let's not get ahead of ourselves. Let's take this step by step. We need a pilot project that can provide new Canadian data under current-day circumstances, determine how much a system would function in this day and age and what the benefits and costs would be.

Cost estimates of a pilot project can vary depending on how the program is designed and the level of support provided. The Manitoba experiment in the 1970s cost \$17 million.

In conclusion, moving forward, we need to adopt a simple, common-sense premise: social programs should lift people out of poverty, not keep them there. They should give them a leg up so that they can then go on to a better life. Poverty is not benign. It affects us all and costs us all. We spend a lot of money and we don't get the results we should. We need a new way forward.

A basic income is a new approach, a new path that has shown great potential. Let's get the evidence. Let's study this approach. If proven, we not only end poverty but we spend smarter, more efficiently and effectively.

Thank you.

Hon. Diane Bellemare: Would Senator Eggleton take some questions?

In your opinion, which program with a minimum income tax would be replaced? Would it replace, for instance, Old Age Security or the Guaranteed Income Supplement for older people?

Senator Eggleton: I think that has to be worked out in the design of the pilot project. I'm glad you mentioned the Guaranteed Income Supplement and the OAS because there's an example where we already have a guaranteed annual program. Guaranteed annual income is not something new to this country. The National Child Benefit is a similar kind of program.

Basically, it would replace the social assistance programs in the provinces. That is certainly what the Manitoba project did in the 1970s. It would not replace the insurance programs like Employment Insurance or CPP. These are all investments by citizens, so it wouldn't replace those. It could replace or expand the Working Income Tax Benefit so as to deal with the working poor.

Those programs have to be sorted out. Those aspects of the design have to be sorted out, going into this pilot project. The overall objective is to ensure that people come up and over the poverty line.

The Hon. the Speaker: Senator Eggleton, are you asking for five more minutes to answer more questions?

Senator Eggleton: Yes, please.

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

Hon. Senators: Agreed.

Senator Bellemare: I have another question. It is about the fact that the program would be administered through taxes. As we know, we all do our income tax once a year. When you become poor you don't know if it's in line with the time that you have to deposit your income tax and ask for some help through taxation. In your understanding, how would such a scheme work with our bureaucrats? Would it work only through the income tax system?

Senator Eggleton: The income tax system does have bureaucrats and an administrative system. The Canada Revenue Agency operates it. They already use income-tax based refundable programs that can benefit citizens as well. They have that kind of knowledge and expertise.

Also, in the case of people whose circumstances change from time to time within a given year — because you only file your income tax once a year — there can be allowances for that, as is done with the GST or the HST now. People getting the refundable portion of it get it, I believe, on a quarterly basis.

These kinds of mechanisms are already in place in the CRA. It wouldn't be too difficult for them to be able to adapt, in my opinion. Again, I'm not calling for the implementation of a basic income or a guaranteed annual income at this point. I'm asking for a pilot project and some studies to go along with that and help bring out the evidence.

Senator Bellemare: Could I move the adjournment of the debate in my name?

The Hon. the Speaker: Before we do, Senator Patterson, a question?

Hon. Dennis Glen Patterson: Senator, you mentioned a previous pilot project. Why are you now recommending that we have another one?

Second, you mentioned indigenous people as being vulnerable. Where might such a pilot project or projects occur?

Senator Eggleton: In the motion, to start with the last part first, I said that the federal government needs to talk to the provinces and the territories. It can be more than one. The one that occurred in the 1970s was just in Manitoba, principally in the town of Dauphin, although part of it occurred in Winnipeg as well. It can be done in more than one location. Given the challenges that the Aboriginal community right across this country faces in terms of income levels, it would be appropriate to look at how that could be part of the study.

Why now when we already have this study? That study was almost 40 years ago. It is a long time ago and some things have changed. For example, I mentioned that a lot of women dropped out of the workforce to look after their children from their early years when the children were just born. Now, of course, we have maternity leave; we didn't have it back then. A number of things have changed, but that program was not completed. It was the largely the brainchild of the Premier of Manitoba at the time and the Prime Minister of Canada, who was Pierre Trudeau. They both left before the project was finished, and their successors didn't continue it.

• (1440)

Not much analysis was done at that point in time. Professor Forget from the University of Manitoba has only recently started to dig out a lot of the files and information, which is all in paper form and everything. There needs to be an up-to-date study with the realities of today.

(On motion of Senator Bellemare, debate adjourned.)

THE ESTIMATES, 2016-17

JOINT COMMITTEE ON THE LIBRARY OF PARLIAMENT AUTHORIZED TO STUDY VOTE 1 OF THE MAIN ESTIMATES

Hon. Joan Fraser (Deputy Leader of the Senate Liberals), pursuant to notice of February 23, 2016, moved:

That the Standing Joint Committee on the Library of Parliament be authorized to examine and report upon the expenditures set out in Library of Parliament Vote 1 of the Main Estimates for the fiscal year ending March 31, 2017, if and when that committee has organized; and

That a message be sent to the House of Commons to acquaint that House accordingly.

She said: Colleagues, this motion requires no spending at all. It is simply a reference of the portion of the estimates to the Standing Joint Committee on the Library of Parliament, which has not yet been organized, but once it is organized, it will be asked, if you accept this motion, to study that portion of the estimates.

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

Senator Martin: Question.

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

Hon. Senators: Agreed.

(Motion agreed to.)

THE SENATE

MOTION TO AMEND THE *RULES OF THE SENATE* AND THE *ETHICS AND CONFLICT OF INTEREST CODE FOR SENATORS* TO PROVIDE FOR A REPRESENTATIVE OF INDEPENDENT, NON-PARTISAN SENATORS TO BE ELECTED TO THE ETHICS AND CONFLICT OF INTEREST FOR SENATORS COMMITTEE— DEBATE ADJOURNED

Hon. John D. Wallace, pursuant to notice of February 23, 2016, moved:

That, in order to provide for a representative of independent, non-partisan senators to be elected to the Standing Committee on Ethics and Conflict of Interest for Senators;

1. The *Rules of the Senate* be amended by replacing rule 12-27(1) by the following:

“Appointment of Committee

12-27. (1) As soon as practicable at the beginning of each session, the Leader of the recognized party with the largest number of Senators shall move a motion, seconded by the Leader of the recognized party with the second largest number of Senators, on the membership of the Standing Committee on Ethics and Conflict of Interest for Senators. This motion shall be deemed adopted without debate or vote, and a similar motion shall be moved for any substitutions in the membership of the Committee.”; and

2. The *Ethics and Conflict of Interest Code for Senators* be amended by replacing subsections 35(4) to (6) by the following:

“Election of members

(4) Two of the Committee members shall be elected by secret ballot in the caucus of the recognized party with the largest number of Senators at the opening of the session; two of the Committee members shall be elected by secret ballot in the caucus of the recognized party with the second largest number of Senators at the opening of the session; the fifth member shall be elected by secret ballot by the majority of the Senators who are authorized to attend sittings of the Senate and who do not belong to the caucus of the recognized party with either the largest or second largest number

of Senators at an in camera meeting called by the Clerk of the Senate at the opening of the session.

Presentation and adoption of motion

(5) The Leader of the recognized party with the largest number of Senators, seconded by the Leader of the recognized party with the second largest number of Senators, shall present a motion on the full membership of the Committee to the Senate, which motion shall be deemed adopted without any debate or vote.

Chair

(6) The Chair of the Committee shall be elected by its five members.”.

He said: Thank you, Your Honour. Honourable senators, I rise to speak to the motion before you today, which seeks to address in a manner that is fair, reasonable and equitable, two significant problematic issues that relate to the composition of the membership of the Standing Committee on Ethics and Conflict of Interest for Senators. In this regard, I do wish to say at the outset that, for the reasons I will describe, I am strongly of the view that both of these issues are in serious need of our immediate attention and rectification.

These particular issues are as follows: Number one, there is currently no provision in the *Ethics and Conflict of Interest Code* that provides for any direct representation of independent, non-partisan senators in the membership of this committee, that is, those particular senators who are not affiliated with or designated as members of the Conservative Senate caucus or the Liberal Senate caucus; and, number two, the *Ethics and Conflict of Interest Code* assigns certain responsibilities and authority to the Leader of the Government in the Senate and the caucus of government senators. As we presently understand from the public comments of the Prime Minister and, most recently, of Minister LeBlanc, there will not be a designated caucus of government senators.

Furthermore, the role and mandate of the individual appointed to be either the leader or the representative of the government in the Senate will be to manage the government’s legislative agenda in the Senate. It has been made clear that it is not the intention or desire of the government to be involved in the procedural operations and administration of the internal affairs of the Senate. I would say to you this would include the process by which senators are chosen to become members of the Ethics and Conflict of Interest Committee.

Prior to addressing the proposed amendments to both the *Ethics and Conflict of Interest Code* and the *Rules of the Senate* that are contained and described in this motion, I do wish to first provide comments on another somewhat related outstanding motion that was moved in this chamber by Senator Fraser on February 4, 2016, the result of which, if approved, would be to reappoint without holding secret ballot elections all of the present members of the Ethics and Conflict of Interest Committee.

I raise this particular matter at this time since Senator Fraser’s motion touches upon and highlights directly and indirectly a number of the same key issues and concerns that I believe to be highly relevant to my motion before you today.

Having said that, and with the greatest of respect and personal regard for Senator Fraser and each of the committee’s existing members, I do have to say for the reasons that follow that I consider Senator Fraser’s motion to be inappropriate in the circumstances and particularly so in that it does not respond to and address the legitimate concerns, reasonable expectations, and rights of all members of this chamber and, in particular, those of independent, non-partisan senators.

Honourable senators, as you are aware, subsection 35(1) of the *Ethics and Conflict of Interest Code* require that at the beginning of each session a committee of the Senate shall be established for the purposes of the code.

The roles, responsibilities and authority of members of this committee are of obvious critical importance to all senators, in that committee members may be called upon to consider and sit in judgment on allegations which may be brought against any senator of this chamber under the provisions of the code.

Subsection 35(2) of the code provides that this committee shall be composed of five members. Subsection 35(4) further states:

Two of the Committee members shall be elected by secret ballot in the caucus of Government Senators at the opening of the session; two of the Committee members shall be elected by secret ballot in the caucus of Opposition Senators at the opening of the session; the fifth member shall be elected by the majority of the other four members after the election of the last of the other four members.

Subsection 35(5) states:

The Leader of the Government in the Senate, seconded by the Leader of the Opposition in the Senate, shall present a motion on the full membership of the Committee to the Senate, which motion shall be deemed adopted without any debate or vote.

This particular motion on the full membership of the committee is essentially identical to a motion that is also required under rule 12-27(1) of the *Rules of the Senate*. As indicated, the provisions of subsection 35(4) of the code do include a specific requirement that committee members be determined on the basis of secret ballot elections by senators.

This specific requirement for secret ballot elections by senators is extremely rare and reflects the fact that for the purposes of the *Ethics and Conflict of Interest Code*, we as senators are self-governed by our peers and that matters concerning individual senators which come before this committee can most certainly be of great personal concern, sensitivity and significant potential consequence. The current secret ballot election process for choosing members of this committee enables some senators, but not all, to participate in making the choice of who they believe are most able, and best suited, to sit in judgment of each and every one of us.

Honourable senators, the spirit and intent of these provisions of the code are obvious. In fulfilling its obligations under the code, the committee is not only to be free of any bias and partisanship but is also to be free of any possible appearance or perception that any such bias or partisanship could even exist.

In this regard, I refer you to the following comments of Independent Senator McCoy in this chamber on February 4, 2016:

But it is one of those serious committees, because we're self-governing. We are governed by our peers. As Senator Fraser points out, it was set up so that we chose by secret ballot which peers would sit in judgment upon us. . . .

That is a practice unique to that committee in this institution, and I think it's an appropriate one. It allows us to choose who will sit in judgment upon us, and it does that by secret ballot. It's the only secret ballot, I think, that we allow in this institution, because there is a rule that governs our work in this chamber and every other committee where it says it must be by open vote. There is no other secret ballot anywhere else.

The motion moved by Senator Fraser on February 4, 2016, includes a notwithstanding clause. It provides that notwithstanding the requirements of rule 12-27(1) of the *Rules of the Senate*, and the secret ballot election requirements of subsection 35(4) of the code, all of the existing five members of the committee are proposed to be reappointed to serve until such time as a motion pursuant to rule 12-27(1) is adopted by the Senate. As mentioned previously, this rule requires the person designated as the Leader of the Government in the Senate to move a motion on the committee's membership at the beginning of each session, and I shall speak more on this particular point shortly.

• (1450)

The use of a notwithstanding clause in any motion or legislative bill is, for obvious reasons, something that is very rare and is only to be used, if at all, in the rarest of exceptional circumstances. We only have to be reminded of the reluctance of federal legislators to use the notwithstanding clause that is found in our country's Constitution.

In this regard, I'm also reminded of the following words of our colleague Senator Cowan during the Senate suspension debates in this chamber on October 29, 2013:

I'm troubled any time I see notwithstanding the rules. Notwithstanding the practice, here we go.

We should be very careful when the majority comes to this place and says, "Notwithstanding any rules, notwithstanding any practices, notwithstanding any historical precedents, this is what we want to do." That is a very dangerous precedent.

Ultimately, honourable senators, in this regard I must remind you that there has been no rationale provided by Senator Fraser or anyone else that would seem to justify the use of a proposed notwithstanding clause to eliminate the foundational requirement for secret ballot elections of committee members, other than her following comments to this chamber on February 4, 2016:

This is a very simple motion, colleagues, designed to continue the membership of the Committee on Ethics and Conflict of Interest as it was in the previous session of Parliament.

And:

In consultation between the two sides and with members of the committee, it was agreed that this was the simplest way to handle matters. . . .

With the greatest of personal respect, this may be a very simple way to achieve what is obviously a predetermined result. However, considering the significance and potential implications of the work and possible conclusions and rulings of this particular committee, there is absolutely no question in my mind that membership of this committee should always be determined on the foundational basis of secret ballot elections by all senators.

In the future, I believe we must always be on guard to preserve and protect this critically important foundational basis of our *Ethics and Conflict of Interest Code*.

The committee membership proposed in Senator Fraser's motion calls for the re-appointment of three Conservative and two Liberal senators. As previously mentioned, this particular committee has been created to be a committee of our peers, who could sit in judgment of each and every one of us on matters that may be of great personal concern, sensitivity and significant potential consequence. Obviously, not only must the decisions of this committee be free of any bias or partisanship toward any particular senator appearing before them, but of equal importance is the need to ensure there is no possibility of the appearance or perception that any such bias or partisanship could even exist.

In this regard, for any Conservative or Liberal senators who may be required to appear before the committee to face and respond to particular allegations, they of course have the comfort of knowing that members of their particular caucus or group are present and represented on the committee. However, this is not the case for any of the existing 11 truly independent, non-partisan senators or any of the 27 new independent, non-partisan senators who will become members of this chamber in 2016.

During her presentation to this chamber on February 4, 2016, Senator Fraser also stated as follows:

In consultation between the two sides and with members of the committee, it was agreed that this was the simplest way to handle matters, until such time, as the motion says, as the committee has been reconstituted according to the *Rules of the Senate*. I think it's worth doing.

On hearing that, honourable senators, I cannot help but ask: What are these two sides that are being referred to? Liberal senators are not part of the government caucus. Prime Minister Trudeau has made that abundantly clear. Nor are Liberal senators part of the opposition caucus, since that, of course, is the role of the Conservative senators. Liberal senators do not represent any of the existing 11 independent, non-partisan senators or any of the 27 new independent, non-partisan senators who will be joining this chamber by the end of this year.

Once again, I would say to you in the strongest of terms that in the future, our decisions and handling of critically important and potentially sensitive personal matters that relate directly to the functioning of our *Ethics and Conflict of Interest Code*, and are of

obvious significant interest and concern to all senators, should not be decided on the basis of what is the simplest way to proceed.

In her February 4, 2016, comments, Senator Fraser also stated:

The first point I would like to make is that the motion before us, as presented by me, was designed as a stopgap, interim, temporary measure.

Honourable senators, and clearly distinguishable from the amendments proposed in my motion before you today, I would say to you that any such stopgap, interim measure should, at a minimum, respond to and respect the rights of all senators, including, of course, all independent, non-partisan senators, regardless of their self-declared political designation, affiliation or non-affiliation, and in particular the rights of all senators to have representation on the Ethics and Conflict of Interest Committee and for that representation to always be determined on the foundational basis of secret ballot elections.

Although Senator Fraser's motion has been referred to as an "interim, temporary measure," I do not believe that can be taken as a given.

As previously mentioned, her motion provides in part that notwithstanding the requirements of rule 12-27(1), the present members of the committee are to be appointed to serve on the committee until such time as a motion pursuant to this rule is adopted by the Senate. This rule specifically requires that at the beginning of each session, the individual designated as the Leader of the Government shall move a motion on the committee's membership.

Once again, as previously stated, it has been made clear that it is not the intention or desire of the government to become involved in the procedural operations and administration of the internal affairs of the Senate.

Consequently, the motion required by rule 12-27(1) in its current form, to eventually remove and replace Senator Fraser's proposed "interim, temporary measure," is not capable of being satisfied given the proposed limited mandate of the Leader of the Government in the Senate.

Furthermore, this "interim, temporary measure" in its current form could well impact, without any direct group representation on this committee being provided to them, the rights of all independent, non-partisan senators for at least the next three and a half years, and there could well be a total of 38 independent, non-partisan senators by the end of 2016 and 45 by the end of 2017, then exceeding the size of both the Liberal Senate caucus and the Conservative Senate caucus.

I must say that I also found it interesting and —

The Hon. the Speaker: Senator Wallace, are you asking for five more minutes?

Senator Wallace: Yes.

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

Hon. Senators: Agreed.

Senator Wallace: Thank you. I must say that I also found it interesting and particularly relevant to my motion before you today that, in her comments to this chamber on February 4, 2016, Senator Fraser also stated the following regarding the anticipated arrival of the new independent senators:

... when we are adjusting ourselves to accommodate all these new, independent senators, we need to give them a voice. We don't just say to them, "Here, this is what your new world is going to be like." We have to give them a voice, and they are not here yet. I know we have some independent senators but the ones we have now, for whom I have great respect, will be vastly outnumbered in a short period of time.

Honourable senators, I do wish to make a comment on that particular point, and in doing so, once again draw your attention to the fact that the existing 11 independent, non-partisan senators are truly independent, non-partisan senators, without any affiliation or self-designation that would associate them with either the Conservative Senate or the Liberal Senate caucuses.

Once again, Prime Minister Trudeau has made it abundantly clear that all of his new appointees to the Senate will similarly be truly independent and non-partisan senators. As such, and with all due respect, it will not be the existing independent senators who will be vastly outnumbered within a short period of time, but rather, it will be the existing Liberal Senate caucus, soon to be followed by the Conservative Senate caucus that will be outnumbered by the independent, non-partisan senators of this chamber.

With the greatest of personal respect for Senator Fraser, I'm strongly of the view for the reasons I have outlined that Senator Fraser's motion for an "interim, temporary measure" should have included the same foundational principles that form an integral part of the amendments proposed in my motion before you today, namely: first, membership on the Ethics and Conflict of Interest Committee should effectively include representation from Conservative caucus senators, Liberal caucus senators and independent, non-partisan senators; and, second, the membership of this committee should be determined on the foundational basis of secret-ballot elections conducted among Conservative caucus senators, Liberal caucus senators and independent, non-partisan senators of this chamber.

• (1500)

Additionally, my motion before you would also resolve the present procedural dilemma that arises from the fact that this chamber will have neither a caucus of government senators nor a traditional Leader of the Government in the Senate with a mandate that includes his or her involvement in the procedural operations and administration of the internal affairs of the Senate.

The amendments proposed in this motion to the *Rules of the Senate* and the *Ethics and Conflict of Interest Code* would accomplish this by replacing references to the Leader of the

Government in the Senate and a caucus of government senators with the expression “recognized party,” which, pursuant to the rules, refers to a caucus consisting of at least five senators who are members of the same political party.

In conclusion, honourable senators, I respectfully suggest that the amendments proposed in the motion before you today would create fairness, equity and a heightened sense of equality among all senators of this chamber while respecting their rights, legitimate concerns and reasonable expectations, and, at the same time, would remain consistent with the true spirit, intent and purpose of the *Ethics and Conflict of Interest Code for Senators*.

Hon. Jacques Demers: I adjourn the motion in my name.

Hon. George Baker: I wish to speak to the motion.

The Hon. the Speaker: On debate.

Senator Baker: I think, honourable senators, that the situation is even more serious than Senator Wallace has outlined, given the Rules Committee meeting last evening. In the Rules Committee meeting last evening, it was announced by the government that the referenced representative of the government in the Senate shall also be the Leader of the Government in the Senate. The Leader of the Government in the Senate has incredible powers under our Rules. Think of time allocation when there’s no agreement. Look at the powers of the Leader of the Government in the Senate. There are dozens of these examples.

The specific point that’s being raised by Senator Wallace now becomes even more urgent because the motion that we’re talking about, motion 43 under the name of Senator Fraser and also agreed to by the official opposition, does name senators, whom we all respect. This is a great group of senators who should be on this committee, and they urgently need to be appointed. But what is the, you might say, saving section of the motion? The motion says that these senators will only be there until a Leader of the Government in the Senate is appointed. It says:

. . . until such time as a motion pursuant to rule 12-27(1) is adopted by the Senate

Now, such a motion is not debatable, Your Honour. It is not votable, Your Honour. It is a motion put by the Leader of the Government in the Senate, upon consultation with the Leader of the Opposition in the Senate. I’m glad Senator Martin is here because she agrees with the motion put forward by Senator Fraser, but the information we received last evening from the government, that the appointment by the government will be the Leader of the Government in the Senate, under our Rules, commands us to re-examine these motions and just where we stand here in the Senate.

Let me go just a little bit further. You’ll notice the notwithstanding section of that motion referenced by Senator Wallace. Notwithstanding means “in spite of.” That’s the legal definition, “in spite of.” What it says is that this particular motion will apply until the regular rules come into play, and the regular rule here is “until such time as rule 12-27(1) is adopted by the Senate”

That means, if you go to rule 12-27(1), it says:

. . . the Leader of the Government shall move a motion, seconded by the Leader of the Opposition, on the membership of the Standing Committee on Ethics and Conflict of Interest for Senators. This motion shall be deemed adopted without debate or vote, and a similar motion shall be moved for any substitutions in the membership of the Committee.

No debate, no voting, just consultation. Now, it gets even worse, because not only does it say notwithstanding rule 12-27. It was a logical motion to make — I agree — to get this committee under way because we need it. There are matters addressed that need to be addressed by the committee, but what does it also notwithstanding? It also notwithstands sections of the code, sections 35(1), (4), (5) and (8). What do they say? They say that the Leader of the Government in the Senate will get his names that he will propose by secret ballot from his caucus.

What is a caucus? If you look in the Oxford dictionary, I’m sure that you will find that the word “caucus” means a group. Look at the definition of the word “group.” Two people can form a group. Two people. As long as it’s more than one.

What we have are rules and a code that give this incredible power to this person being appointed now, to be known as the Leader of the Government in the Senate, not a representative of the government but a Leader of the Government in the Senate, which carries with it a lot of responsibility and authority and power.

Now, who is being discriminated against here? I would suggest, Senator Wallace, that you’re wrong on one point. You say that it’s the independent members who will be discriminated against. Not only them, it will be the Liberal members, won’t it? Because the decisions of the Leader of the Government in the Senate will come from the Leader of the Government in the Senate and his group. Then, of course, Senator Martin is smiling because Senator Martin’s group is taken care of because they have to consult with them for the other two members of the committee. I’d be smiling too.

An Hon. Senator: I’m very sad about that. I’m not smiling.

Senator Baker: So I think it goes further. Given the meeting last evening and the message given to us, I tend to agree with Senator Wallace. I, however, don’t agree with Senator McCoy’s motion.

Sorry, Senator McCoy, but you had, at the end of your motion, the same thing: “Until section 12-27(2) is moved by the Leader of the Government in the Senate.” You had the same thing there. In other words, you wanted to count the independent senators until the new Leader of the Government in the Senate was appointed, so he could discriminate against the individual senators. I’m just putting it literally.

So I think, senators, that the message here is that Senator Wallace has raised a very important subject. I can understand what the Senate has done to this point in time, but I cannot understand why we have procrastinated so much since the January 29, 2014, letter to the Speaker of the Senate. That

letter was from the leader of the Liberal Party of Canada, who said in his final sentence that Liberal senators will henceforth be known as — the final two words — “independent senators.”

• (1510)

I think at that point — that was over two years ago — we should have looked down the road. We should have started the wheels in motion to change the rules. Now we have a direction from the government, which means we have to change them even faster to head off a problem highlighted by Senator Wallace on behalf of the independent members. But, as I look at it, it’s a problem for the Liberal senators because they’re not included.

Those are my remarks, but I’m not adversely criticizing — I’m criticizing, but not adversely so — Senator Fraser or Senator Martin. I would never go down that road. They do terrific jobs. I’m not adversely criticizing Senator Wallace either.

I told the government representative last night, procrastination is like a credit card: It’s great until you get the bill. We’ve got the bill right here before us. We have problems that need to be addressed on an urgent basis, and I’m sure all senators here would want to do this because, looking at the facts as they now stand, we have some huge problems with the appointment of a Leader of the Government in the Senate.

Hon. Elaine McCoy: May I ask a question?

Senator Baker: Certainly.

Senator McCoy: I assure you I do not take your comments personally. I see the flaw in my amendment that you pointed out, and I would encourage you to speak to that debate and amend my amendment. I would be supportive of that.

My question to you, and I don’t mean to muddy the waters in particular here but, as I listened to you, I believe you are supporting an amendment of the Rules and the code of conduct to get us past this problem. Am I correct in that? Is that what I got from your speech?

Senator Baker: Yes.

Senator McCoy, if I could just make a suggestion to you and Senator Wallace, with your great background in the law, if I were in your position, I would think about putting forward a challenge in this place as being a court of competent jurisdiction, as they say, to adjudicate a Charter question. Charter questions can only be put forward by persons who are affected by the Charter argument, so I can’t put it forward. I’m not an independent member. But it would be a great time to have this court under section 118 of the Criminal Code.

We are a judicial proceeding. We have a Speaker who is well known as being a great litigator in the past, a person who has litigated the Charter and so on in the courts. We have an ideal situation to address the problem, I think, that you’ve been trying to address all this time. I could offer you some assistance in that regard, but I would suggest that you think about that.

Hon. Larry W. Campbell: I just wanted to make one comment with regard to the famous January 2014 decision by the leader of the Liberal Party. At that time the Liberal Party was in third place, and so my question simply is: Who knew?

Hon. Yonah Martin (Deputy Leader of the Opposition): Senator Baker, I don’t disagree with everything you’re saying, because I agree that we are facing a situation where we need to examine the changes carefully and, as a chamber, adopt rules that will impact this chamber for who-knows-how-long, and how important that is.

There are processes in place. I’m a member of the Rules Committee. I know that, after carefully studying any sort of proposed rule, as a committee we still bring it back to the chamber.

We set up the Modernization Committee recently, and I know members have met.

So as much as we want things to happen really quickly, do you think that a motion to change the rules should be adopted right here, right now, or can we look to the Modernization Committee and trust in them to examine this carefully and bring back to us recommendations and/or a proposal for such rule changes? Perhaps we could send it to Rules, as well.

But we should respect the processes we have. Do you not agree?

Senator Baker: Yes, I would agree with you, as long as I knew that the government was anticipating appointing a representative of the government who would not belong to any caucus, as I understood it, to be nonpolitical and non-partisan.

But I think the scene has changed. It’s now a Leader of the Government in the Senate under the law, and the law is under our Rules. There are 20 or 30 rules here that give that Leader of the Government in the Senate — that one person — powers that the rest of us don’t have.

Upon the realization that that’s the person we’re going to get under our Rules, then I think it’s a matter of urgency to do whatever we can to make this a democratic institution and not an institution in which one person appointed by the government would have total control over our entire proceedings.

Some Hon. Senators: Hear, hear.

The Hon. the Speaker: Senator Baker, there are a couple more questions, but your time has expired. Are you asking for five more minutes?

Senator Baker: Yes, please.

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

Hon. Senators: Agreed.

Hon. Wilfred P. Moore: Senator Baker, you were there last night. We heard from the government that they intend to appoint a Leader of the Government in the Senate, styled as a

representative of the government. They also said they are going to appoint a deputy. So now we have two. Do we now have a caucus, and can we proceed pursuant to the Rules?

I think the answer is obvious. I don't think it's appropriate for us to wait until the end of June for a report from the Modernization Committee for something that we'll be facing by the end of March this year.

What do you have to say to that, sir?

Senator Baker: Senator Moore, I completely agree with you. These two things — I have not been in communication with the government in any way, shape or form, as you know — came as a surprise to me, that there was going to be a Leader of the Government in the Senate and then a Deputy Leader of the Government in the Senate.

Senator Moore: Because he knows he needs two.

Senator Baker: Then I reflected back to our code that says a "government caucus." You then look at the definition of caucus: it's a group. If you look at the definition of group, you get two people.

So the new Leader of the Government in the Senate will simply, by secret ballot, between him or herself and the deputy leader, determine who will be on this committee.

Even more importantly, which rules in this book will be followed? What about time allocation? What about things like that that arise that give the Leader of the Government in the Senate or the deputy the ultimate power—? It simply says "leader or deputy" in about a couple of dozen places in these rules.

So I agree with you. I think the message given to us last night is that we've got to now, as soon as possible, on an urgent basis, change these rules so that the place can be as workable as it's always been. We've been so workable, as I've pointed out many times. We have three times the references in our case law in Canada in our courts than the House of Commons. We're doing this fantastic job and all of a sudden somebody else is going to come along who is going to have this incredible power, as we've now found out, and this means that we've got to get to it right now in some way.

• (1520)

Perhaps the members on the committees that have been formed should think during this break week about how we can speed up this process just in case the new Leader of the Government in the Senate wishes to exercise powers that he or she has that they shouldn't be exercising.

Hon. David Tkachuk: Senator Baker, I'd be quite keen on re-examining some of those Rules, especially the Rules on closure and others for the Leader of the Government in the Senate. If there's any way that we can speed this process up, I think I'd be with you on that. Certainly that will wake them up across the hall, that's for sure.

Hon. Joan Fraser (Deputy Leader of the Senate Liberals): I have recently spent some time looking at the *Rules of the Senate* in this precise context, Senator Baker, as I'm sure you have, and it seems to me that almost every element of power that the Leader of the Government has in this place depends upon that leader's ability to command the majority of votes in this chamber. Time allocation, for example, cannot be imposed by simple fiat of the Leader of the Government. Have I missed something?

You have talked at length about the Conflict of Interest Code, but I would take issue with your assumption that a group of two would be sufficient to form a recognized government party in the Senate. By my reading of the Rules, you would need at least five.

Can you be a little more specific about what you actually think these two people would have the power to do that a majority of senators didn't want them to do?

Senator Baker: First, you used the word "recognized." I don't see that this person being appointed, the other four people, need to be recognized as a recognized political party. They are a group.

You asked me what specific example I can give to you. The specific example is here, right in this motion, of what the honourable senator is talking about. It is the decision of the Leader of the Government in the Senate, not debatable, not votable. There's a concrete example. He or she goes home at night and decides who is going to be on the committee. That's what the Rules say, and the procedure is even spelled out in the code, as I've mentioned. It's a secret vote between the Leader of the Government in the Senate and the deputy leader, or just the Leader of the Government in the Senate, one of the two. It recognizes the official opposition, but it sure doesn't recognize the Liberal Party on this side or the independent members.

(On motion of Senator Demers, debate adjourned.)

ADJOURNMENT

MOTION ADOPTED

Leave having been given to revert to Government Notices of Motions:

Hon. Joan Fraser (Deputy Leader of the Senate Liberals): Honourable senators, with leave of the Senate and notwithstanding rule 5-5(g), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, March 8, 2016, at 2 p.m.

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

Hon. Senators: Agreed.

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

(Motion agreed to.)

(The Senate adjourned until Tuesday, March 8, 2016, at 2 p.m.)

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