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(HANSARD)

Wednesday, April 20, 2016

The Honourable GEORGE J. FUREY
Speaker

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THE SENATE

Wednesday, April 20, 2016

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

Prayers.

[*Translation*]

SENATORS' STATEMENTS

THE LATE BERNARD LAMARRE, O.C., G.O.Q.

Hon. Claude Carignan (Leader of the Opposition): Honourable senators, a funeral was held on Friday for Bernard Lamarre, who died on March 30. I want to pay tribute to this exceptional man.

Mr. Lamarre joined the offices of Lalonde Valois in the early 1960s. He became president of the company and built the largest engineering firm in Canada and one of the largest in the world, Lavalin.

During his years at Lavalin, Mr. Lamarre participated in almost every major engineering project in Quebec. The Ville-Marie Highway, the Louis-Hyppolite-La Fontaine tunnel, the Olympic Stadium, the James Bay hydroelectric project, several aluminum smelters, hospitals, and countless highways and bridges; in short, much of Quebec's major infrastructure has Bernard Lamarre's signature on it. He literally helped build modern Quebec.

Mr. Lamarre was a determined man who brought Quebec engineering abroad. Lavalin employees have participated in many projects around the world, including in Africa. I am thinking about the Martyrs' Memorial in Algeria, for example. He paved the way for the business community in Quebec, showing that it was possible to do business around the world even if you're from Jonquière.

However, Bernard Lamarre was much more than a top engineer and CEO of a successful company. He also contributed in his own way to Quebec's social development. He was a visionary, who never hesitated to discreetly offer his advice to decision-makers. He was good at putting words into action. He was one of the first business leaders to create child care at the workplace in the early 1980s. He believed in work-life balance long before it became popular.

Mr. Lamarre contributed a great deal to the engineering profession and to the sciences in general. Many organizations and institutions benefitted from Bernard Lamarre's contribution, including the Ordre des ingénieurs, the École Polytechnique de Montréal and the Montreal Science Centre at the Old Port of Montreal.

He was also an art lover and collector. Mr. Lamarre made an exceptional contribution to the art world as well. The Montreal Museum of Fine Arts would not be what it is today without

Mr. Lamarre's tireless work. Mr. Lamarre, who liked to call himself "the biggest beggar in Quebec," supported many other charities. That is the mark of a great man. He worked to give others a better world, providing access to prosperity, education, health and culture.

He received a number of honours, including being named an Officer of the Order of Canada and 11 honorary doctorates.

Bernard Lamarre was predeceased by Louise Lalonde, his wife of 50 years, and leaves behind his companion, Margot Lalonde, his seven children, 17 grandchildren and three great-grandchildren, as well as his many collaborators and friends, who will miss his valuable insight, his determination, his joie de vivre and his infectious laugh. To all those who loved him, I offer my sincere condolences.

Mr. Lamarre, on behalf of all Canadians, and Quebecers in particular, thank you.

[*English*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of participants of the Parliamentary Officers' Study Program, representing some 12 different countries.

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

Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, I also wish to draw your attention to the presence in the gallery of Mr. Jack Davis and his wife, Joanne Taylor. They are from Alberta and are guests of the Honourable Senator Black.

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

Hon. Senators: Hear, hear!

THE HONOURABLE SERGE JOYAL, P.C.

CONGRATULATIONS ON ELECTION TO ROYAL SOCIETY OF CANADA

Hon. James S. Cowan (Leader of the Senate Liberals): Colleagues, it's my pleasure to draw the attention of the chamber to the fact that our colleague Senator Serge Joyal was elected to the Royal Society of Canada last September as a Special Fellow of the Academy of Social Sciences.

Election to the society is one of the greatest honours bestowed upon any individual dedicated to the advancement of Canadian intellectual and social life. The society is one of the oldest cultural institutions in this country. It was first conceived of in the 1870s by the then-Governor General of Canada, and in 1883, it became a reality. It's the equivalent of the Royal Society of London in England, which was established in 1660, and the prestigious Institut de France, which has existed since 1795.

Since its founding, the Royal Society of Canada has become the most important national institution that promotes Canadian academic excellence and innovation. It has three academies, as they are called: one dedicated to arts and humanities, another to social sciences and the third to science.

As the Royal Society of Canada describes, the fellows are:

. . . Canadian scholars, artists, and scientists, peer-elected as the best in their field. The fellowship of the RSC comprises distinguished men and women from all branches of learning who have made remarkable contributions in the arts, the humanities and the sciences, as well as in Canadian public life.

Senator Joyal is joining the likes of Arthur B. McDonald, an astrophysicist who was awarded the 2015 Nobel Prize in Physics. There is also an eminent history of senators and people associated with the Senate being elected to the Royal Society of Canada. P.J.O. Chauveau, the first Premier of Quebec, Speaker of the Senate and one of the greatest scholars of his time, was a member. Sir John George Bourinot, Clerk of the Senate and well known to many of us as one of the greatest experts in parliamentary procedure, was a founding member of the Royal Society of Canada.

This truly is a great honour for Senator Joyal and, indeed, for this chamber.

Colleagues, let me read to you from the Royal Society of Canada's note about Senator Joyal:

• (1410)

Serge Joyal is a jurist long recognized for his commitment to emerging rights and freedoms that have had a transformative impact. He speaks for them in Parliament and defends them in the courts. This innovative approach has enlarged the role of parliamentarians. He advocates a humanist vision of law enriched by the conviction that our cultural and historical legacy is integral to a deeper understanding of our identity.

Colleagues, the honour conferred upon Senator Joyal is, according to the Royal Society, an invitation to continue demonstrating leadership in the development and advancement of Canadian knowledge and culture. I for one plan to hold Senator Joyal to that, and I look forward to continuing to benefit, here in this chamber and as a friend, from his remarkable knowledge and wisdom.

[Senator Cowan]

I invite you to join with me in congratulating Senator Joyal on this significant honour.

Hon. Senators: Hear, hear!

CHERNOBYL NUCLEAR DISASTER

THIRTIETH ANNIVERSARY

Hon. A. Raynell Andreychuk: Honourable senators, on April 26, 1986, in the small town of Pripyat, Ukraine, an aging nuclear reactor at the Chernobyl power plant exploded during a routine cleaning. The ensuing fire released toxic radioactive particles into the atmosphere, spreading across Ukraine, Belarus and other parts of Europe. Taking action to contain the radiation, employees and emergency workers fought tirelessly to extinguish the blaze and bury the reactor.

The Soviet government reacted slowly to news of the explosion. The town of Pripyat, along with the surrounding area, was evacuated when reports of high levels of radiation emerged from Sweden, Denmark, Finland and Norway. Carrying no personal belongings, nearly 50,000 people exited the city, never to return.

Emergency workers constructed a concrete sarcophagus over the remnants of the reactor. Thirty years later, the town is still abandoned. Visitors have described "a city frozen in time," where buildings stand empty, overgrown with trees and wildlife.

It is regarded as one of the world's worst nuclear disasters, and the International Nuclear and Radiological Event Scale classifies Chernobyl as a Level 7 disaster — the highest possible classification.

Within the first few months following the accident, 31 brave front-line workers died from the effects of direct exposure to radiation. Among survivors, many have developed serious health complications. Cases of thyroid cancer among those living in Chernobyl-affected areas are staggering. Countless children have been born with severe disabilities, many abandoned by parents who are incapable of caring for them in this condition. The profound human health and environmental impacts of the Chernobyl disaster have yet to be fully understood.

I wish to share an excerpt from the book *Voices from Chernobyl: The Oral History of a Nuclear Disaster*, written by Svetlana Alexievich, a Nobel Literature Laureate. Her research emerged from collecting personal survivor accounts.

A female Chernobyl survivor recounted the following:

We lived near the Chernobyl nuclear plant. . . . The day the reactor exploded, my husband was on duty at the fire station. They responded to the call in their shirtsleeves, in regular clothes — there was an explosion at the nuclear power station, but they weren't given any special clothing. . . . They worked all night putting out the fire, and received doses of radiation incompatible with life. . . .

Severe radiation sickness . . . you don't live for more than a few weeks . . . My husband was strong, an athlete, and he was the last to die. . . A few months after his death, I gave birth to a little girl, but she lived only a few days.

She goes on to state that it was the radiation that killed her child.

Honourable senators, April 26, 2016, will mark the thirtieth anniversary of the Chernobyl Nuclear Power Plant explosion. Let us commemorate the victims of the tragedy, but let us continue our efforts to assist those living in the Chernobyl-affected areas.

World attention has been on containing the expansion of nuclear activity for military purposes. However, the Chernobyl disaster underscores the importance of practising vigilance when it comes to safety within the civilian nuclear sector.

Let us continue to raise awareness about the importance of nuclear safety and always remember those who died and have been affected by Chernobyl.

Thank you.

MANITOBA

2016 PROVINCIAL ELECTION RESULTS

Hon. Donald Neil Plett: Honourable colleagues, blue skies and sunny ways have come to Manitoba. Last night Premier-elect Brian Pallister led the PC Party of Manitoba to a majority win, ending the NDP's 16-year reign.

Colleagues, 54 per cent of voters in Manitoba voted in favour of a strong majority Conservative government. The PC Party campaigned on a platform of a better Manitoba. Specifically, Premier Pallister and the PC Party have committed to attracting more investment, building strategic infrastructure and helping homegrown entrepreneurs get the capital they require to innovate and create jobs.

They have committed to fostering a skilled workforce by investing in education results for students and focusing scholarships and skills training on a current and emerging business need.

The PC government will promote Manitoba trade internationally and nationally, by creating a team-Manitoba trade initiative to generate new business opportunities in target markets and joining the New West Partnership to create more procurement and investment opportunities in Manitoba.

Premier Pallister announced a plan to enhance the Provincial Nominee Program to welcome more qualified and skilled immigrants from around the world, as well as encouraging increased family immigration.

And great news for Manitoba taxpayers: The new government will roll back the PST from 8 per cent to 7 per cent in their first term and create a red tape reduction task force.

Colleagues, Manitobans know the importance of a developed, comprehensive flood protection strategy. Scott Forbes, an ecologist at the University of Winnipeg, noted that of all the parties, the Progressive Conservatives put forth the most aggressive plan for flood protection, which in turn will keep Manitobans and their communities safe.

I believe the PC government will be an important change for Manitoba families, students, workers and business owners. They have committed to putting in place a strong financial foundation for growth, investing in front-line service, undertaking a comprehensive value-for-money review across departments and agencies and offering budget transparency and accountability to Manitobans.

Honourable senators, join me as I congratulate my friend Brian Pallister and the PC Party of Manitoba on their hard-fought win. And I look forward to working with the premier-elect on the important issues for Manitobans.

JOURNEY TO FREEDOM DAY

Hon. Thanh Hai Ngo: Honourable senators, today I'm proud to rise to speak to the first anniversary of the Journey to Freedom Day.

As many of you recall, the act designating April 30 as Journey to Freedom Day received Royal Assent from the Senate last year, on April 23, 2015, just in time to commemorate the fortieth anniversary of the fall of Saigon, the beginning of the exodus of the boat people and the acceptance of the Vietnamese refugees in Canada.

[Translation]

After the fall of Saigon on April 30, 1975, more than two million people fled their war-torn country in search of freedom. In the wake of those events, communist forces from the north meted out extreme retribution, executing more than 65,000 South Vietnamese and sending nearly one million more to prison and re-education camps, where some 165,000 died.

What was unique about the Vietnamese exodus was that, unlike most other forced migrations in which people cross mountains or desert, the only escape route was by sea. That is why this group of refugees is now known worldwide as the "boat people." According to the Office of the United Nations High Commissioner for Refugees, over 250,000 people perished at sea in search of freedom.

• (1420)

[English]

Many Vietnamese people had to set sail in rickety, broken boats to the South China Sea where they faced constant, unimaginable peril. They had to navigate not only through deadly storms but also through diseases and starvation.

Canada, one of the first countries to respond to the plight of the boat people, welcomed the Vietnamese refugees with open arms in what would come to be viewed as one of the worst refugee crises of that century.

Canadian compassion led the world and changed public opinion from indifference to caring by accepting more than 60,000 refugees who desperately needed a place to rebuild their lives.

In 1986, the Nansen Refugee Award was awarded to the people of Canada by the United Nations High Commission for Refugees in recognition of their essential and constant contribution to the cause of refugees from South Vietnam.

Journey to Freedom Day, marked on April 30, now provides Canadians with the opportunity to reflect on the journey of more than 60,000 Vietnamese refugees to Canada, to recognize the remarkable role Canadians played in helping them settle in their new homes through private sponsorship of the refugees program and to celebrate the contribution of the Canadians of Vietnamese origin to our country. It's inspired by our journey to freedom and by so many refugees to this country, 40 years after the fall of Saigon in 1975. It is a story of strength and survival, of resilience, renewal, faith, family and freedom. It's the story of the Vietnamese-Canadian community, and it is a story that many Canadians should not forget. As we celebrate and remember this chapter in Canada's humanitarian history, we are also called to look upon the Syrian refugees who are arriving on our shores.

Honourable senators, the lessons learned from the exodus of the boat people, the biggest refugee crisis of the 20th century, can now be applied to the biggest refugee crisis of the 21st century that we are currently witnessing with millions of refugees fleeing Syria.

[Translation]

I invite all Canadians to reflect on the heart-breaking and inspiring journey of the Vietnamese boat people, an important part of Canada's history.

[English]

Honourable senators, I encourage all Canadians to reflect on the heartbreaking and inspiring voyage of the Vietnamese boat people and those of new waves of refugees who represent an important part of our country's history and heritage. Thank you.

ROUTINE PROCEEDINGS

THE SENATE

NOTICE OF MOTION TO AFFECT QUESTION PERIOD ON MAY 3, 2016

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

That, 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 Tuesday, May 3, 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, which shall last a maximum of 40 minutes;

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.

INTER-PARLIAMENTARY UNION

ANNUAL PARLIAMENTARY HEARING AT THE UNITED NATIONS, FEBRUARY 8-9, 2016—REPORT TABLED

Hon. Salma Ataullahjan: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Inter-Parliamentary Union respecting its participation at the Annual Parliamentary Hearing at the United Nations, held in New York, New York, United States of America, from February 8 to 9, 2016.

STEERING COMMITTEE OF THE TWELVE PLUS GROUP, FEBRUARY 22, 2016—REPORT TABLED

Hon. Salma Ataullahjan: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Inter-Parliamentary Union respecting its participation at the Steering Committee of the Twelve Plus Group, held in Brussels, Belgium, on February 22, 2016.

CANADIAN NATO PARLIAMENTARY ASSOCIATION

JOINT MEETING OF THE UKRAINE-NATO INTERPARLIAMENTARY COUNCIL, THE SUB-COMMITTEE ON NATO PARTNERSHIPS AND THE SUB-COMMITTEE ON TRANSATLANTIC ECONOMIC RELATIONS, JUNE 8-9, 2015—REPORT TABLED

Hon. A. Raynell Andreychuk: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canadian NATO Parliamentary Association respecting its participation at the Joint Meeting of the Ukraine-NATO Interparliamentary Council, the Sub-Committee on NATO Partnerships and the Sub-Committee on Transatlantic Economic Relations, held in Kyiv, Ukraine, from June 8 to 9, 2015.

[Translation]

ANNUAL SESSION OF THE NATO PARLIAMENTARY
ASSEMBLY, OCTOBER 9-12, 2015—REPORT TABLED

Hon. Joseph A. Day: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canadian NATO Parliamentary Association respecting its participation at the assembly's 61st annual session, from October 9 to 12, 2015, in Stavanger, Norway.

[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. James S. Cowan (Leader of the Senate Liberals): Honourable senators, it's a pleasure to speak today to the Speech from the Throne, the first from the new government led by the Right Honourable Justin Trudeau.

Colleagues will not be surprised to hear that I welcome the new direction that has been taken by this government. From reinstating the long-form census, to unmuzzling our scientists, to re-engaging with our provincial and territorial partners on health and other issues, to reviewing many of the mandatory minimum penalties introduced into our Criminal Code, to launching a national inquiry into missing and murdered

indigenous women and girls, these are a few of many examples of promised policies of this government and a return to an evidence-based approach to decision-making that my colleagues and I have fought long and hard for over the past decade.

So I warmly welcome the promised new direction, and I intend to do my part to ensure that those promises are kept, just as I tried to do in the last Parliament with the previous government, and the Parliament before that, back to the day that I first came to the Senate.

That is our job, here in the Senate: to bring a different set of eyes to the activities of the government and then to clearly report to Canadians on what we find.

There has been much discussion in recent months and indeed years about "independence." Many Canadians have felt instinctively that at least some of the problems in the Senate in recent years have stemmed from a lack of independence. I agree. But are we talking about a structural problem endemic to the way senators have traditionally banded together in caucuses, or is it something else?

What do we actually mean when we use the term "independent?" Sometimes it's used in relation to the Senate, and other times in relation to individual senators. In my view, it's critical to distinguish between the two usages.

At the institutional level, the Senate was designed at Confederation to be, in the often repeated words of George Brown, one of the parents of Confederation:

... a thoroughly independent body — one that would be in the best position to canvass dispassionately the measures of this house [the House of Commons] and stand up for the public interest in opposition to hasty and partisan legislation.

• (1430)

So, we serve in an independent chamber, but the obvious question is: Of whom, or of what, are we independent?

Most obviously, we are totally independent of the House of Commons. That must be the case if we are to be a legitimate and effective chamber of sober second thought.

As a separate, independent chamber, we have our own Rules and procedures and are — and must be — the masters of our own proceedings. Members of the House of Commons have no more ability to change our Rules and procedures than we have to change theirs.

We also have a different view of our powers than do the members of the other place. For instance, the House of Commons, in its Standing Orders, makes it clear that it has an exclusive say on money bills. Standing Order 80(1) states:

All aids and supplies granted to the Sovereign by the Parliament of Canada are the sole gift of the House of Commons, and all bills for granting such ... are not alterable by the Senate.

But as pointed out in Dawson's *The Government of Canada* (6th edition, 1987):

It is a fair statement that almost the only attention the Senate has given to this grand assertion is to ignore it.

A leading statement of the Senate's position with respect to money bills was contained in the 1918 Report of the Special Committee on Rights of the Senate in Matters of Financial Legislation, known as the Ross report, so-called for the special committee's chair, Senator W. B. Ross — a Nova Scotia senator, I might add. The report said:

... the Senate of Canada has and always had since it was created, the power to amend Bills originating in the Commons appropriating any part of the revenue or imposing a tax by reducing the amounts therein, but has not the right to increase the same without the consent of the Crown.

Many people have the impression that the Senate does not have the right to amend or defeat budget bills. But in 1993, senators from both sides of the chamber joined together to defeat Bill C-93, which was entitled "Budget Implementation (Government Organization)." Although the government of Prime Minister Brian Mulroney was understandably unhappy, to say the least, the Senate's defeat of that budget bill did not lead to any kind of constitutional crisis.

The defeat of Bill C-93 was a perfect example of the Senate forcing second thoughts on the cabinet, after it had decided to fundamentally change the organization and mandates of the government's most important funding institutions, and after it had used its compliant majority in the House of Commons to force those changes through the other place. Although the government also had a majority in the Senate at the time, it was a much less compliant majority and the result was the Senate using its considerable constitutional powers as a check on the executive, or cabinet.

I should note that when it defeated that budget bill, three of the Progressive Conservative senators who participated in that vote on June 10, 1993, including one who voted against her own government's budget bill, are still members in this chamber and remain members of the Conservative caucus.

The defeat of Bill C-93 clearly illustrates that the House of Commons is not the only body from which the Senate is independent. As our Special Committee on Senate Modernization heard last week, the Senate is independent of the executive, namely the Prime Minister and his cabinet.

Indeed, Sir Clifford Sifton, an eminent minister under Prime Minister Sir Wilfrid Laurier, said:

The Senate is not so much a check on the House of Commons as it is upon the Cabinet, and there can be no doubt that its influence in this respect is salutary.

Professor Janet Ajzenstat is an acknowledged expert on Canadian political history and the origins of our parliamentary institutions. She also testified last week before our Senate

Modernization Committee. She has published extensively in this field, including contributing a chapter to Senator Joyal's well-known book on the Senate, *Protecting Canadian Democracy*, where she wrote:

The hope is that the Senate will force "second thoughts" on the Prime Minister and party elites in the Cabinet, preventing them from using their influence in the Commons to silence opposition.

So the Senate as an institution is and must be independent of both the House of Commons and the government, meaning the Prime Minister and the cabinet. What, then, do we mean by senators being independent?

Individual independence has been the responsibility of every senator, going back to Confederation. But fulfilling this responsibility — exercising independent judgment, and standing up for the public interest in opposition to hasty and partisan legislation, to paraphrase George Brown — has been accomplished by senators in a myriad of ways and from different starting points.

Traditionally, a senator newly appointed to the Senate has joined one of the existing caucuses, generally, following the tradition of a Westminster Parliament, either the government caucus or the official opposition. But we also have a long tradition of senators who have chosen not to align themselves with either the government or the official opposition. Some have formed other caucuses. For example, for some time when Prime Minister Harper's Conservative Party was in government, there were several senators who chose not to join the Conservative caucus but instead sat in this chamber as Progressive Conservatives. Senator McCoy was a member of that group.

Ernest Manning, the former Premier of Alberta and, of course, Preston Manning's father, was appointed to the Senate by Prime Minister Pierre Trudeau. Senator Manning chose to sit here as a member of the Social Credit Party — the only individual in Canadian history to sit in this chamber with that designation. For some time, he had caucus colleagues from the House of Commons, but he ended up spending years here as the only Social Credit parliamentarian.

And by the way, both Senator McCoy and Senator Manning were appointed to the Senate on the advice of Liberal Prime Ministers, Senator McCoy having been named to the Senate by Prime Minister Paul Martin and, as I said, Senator Manning having been appointed by Prime Minister Pierre Trudeau. So there is a long tradition of senators choosing to join a caucus different from, or even opposite to, the appointing Prime Minister's political party.

Other senators have chosen not to align themselves with any caucus, preferring to operate on their own as "sole practitioners," if you like. These senators have traditionally been called independent, emulating the terminology used in the House of Commons. But really, in my view, the more accurate term is "non-aligned." Because I think surely all of us would agree — I think there might even be rare unanimity on this — that each of us, as a senator, has a responsibility to ensure that collectively the Senate fulfills its constitutional role within our parliamentary democracy as an independent body of sober second thought — in George Brown's words, "a thoroughly independent body."

Perhaps not all of us can say that we have always met that standard, but I'm confident that all of us would agree that is the standard against which we are required to measure ourselves and against which Canadians judge our work.

Labels don't matter when it comes to how we do our job. What matters is the substance. The test is not whether we call ourselves independent but, rather, whether we actually act independently.

Look at the history of the Senate. There are many, many examples of senators exercising independent sober second thought, including so-called "government" caucus members going against the wishes of their government.

Senator Joyal, who has always sat in this chamber as a member of the Liberal caucus, famously and very publicly took on his own Liberal government over a number of legislative measures, and in particular, over the Clarity Act. This was not some minor, insignificant bill. It was a very important bill for the Chrétien government and for the Prime Minister himself. And by the way, Senator Joyal was named to the Senate by Prime Minister Chrétien.

Did the Prime Minister like what Senator Joyal did? I suspect not. But Senator Joyal was doing his job as he saw fit at the time. And throughout, he remained a member of the Liberal caucus, both in the Senate and, at that time, in the national caucus as well. Being a member of those caucuses did not prevent him from fulfilling his obligation to act independently as a senator.

Senator Pat Carney, a Conservative senator and former senior member of Prime Minister Brian Mulroney's cabinet, famously voted against her own government's abortion bill after Prime Minister Mulroney had appointed her to the Senate. Her decision resulted in a tied vote, which defeated the bill. As an aside, Senator Carney also played a critical role when Bill C-93, the Mulroney government budget implementation bill I referred to earlier, was defeated also on a tied vote when she chose to abstain from the final vote when it was called.

• (1440)

In her final speech in this chamber on December 12, 2007, Senator Carney spoke of her experience with the abortion bill. She described how she was "subject, along with others, to unrelenting pressure from government ministers to support the legislation." She said she could still recall, more than 15 years later, being "chilled to the bone" when she became the first Conservative senator to stand in her seat to vote no. But she said it was a matter of doing her job as a senator. In her words, "our responsibility to ensure the quality of legislation before us is paramount." She referred to her vote on the abortion bill as "a perfect example of senatorial accountability."

By the way, Senator Carney was and remained a member of the Progressive Conservative caucus, both in the Senate and in the national caucus, and then the Conservative caucus. I am sure Prime Minister Mulroney did not like his caucus member and former cabinet minister being responsible for the defeat of one of his major bills, but I'm equally sure he respected her decision and understood she was doing her constitutional job as a senator.

Of course, there are many other examples.

I welcome the enthusiasm for independence that I see from so many colleagues, both those new to our chamber and those who have been here for years. I think all of us, like so many Canadians, are delighted to hear the new government publicly call for the Senate to assert its independence. That will certainly make our task easier. We won't have to withstand "unrelenting pressure" as Senator Carney did, or rise feeling "chilled to the bone" if and when we challenge proposed government legislation.

But let's be clear, colleagues: Our job has not changed. Our responsibility is what it always was and what certainly I have always aspired to fulfil. I know that this has been true of senators all around this chamber.

There is one other point I want to make concerning our individual independence. The issue of partisanship is often presented as the antithesis to independence. When people express their views strongly, with passion, it's often seen as a sign of excessive partisanship. But commitment and passion have a legitimate role to play in our Parliament. For instance, Senator Tardif is passionate about language rights; Senator Boisvenu is passionate about victims' rights; Senator Dyck about indigenous rights; Senator Nancy Ruth about gender equality; Senator Jaffer about human rights; and Senator Joyal about our Constitution. Canadians need senators to be passionate and expect that commitment from us. I believe this is how the Senate produces some of its best work.

This brings me to the issue of caucuses. I appreciate that some feel they can do their job best by working alone, what some have called "independently," though I hope I have clarified that this term may be confusing in that context. For that reason, I suggest that "non-aligned" is the better term.

As I have described, senators appointed to this independent chamber have always been free to associate with existing groupings, or caucuses, of like-minded senators, to form new groupings or caucuses, or to function by themselves without ties to other colleagues. Senators have also been free to change their caucus affiliation at any time. Over the years, many senators have joined and have left caucuses.

I have found and continue to find that joining with other senators of similar values and approaches to mine has been extraordinarily helpful as I have done my work of independent sober second thought here in the Senate. My experience has been that I can be more effective working with others who share my values but have their own wealth of knowledge and experience to bring to bear upon a matter before the Senate. I benefit from them sharing their considered views, and my views are improved as a result of that interaction.

That, I believe, is why most senators have chosen to align themselves with a caucus. Frankly, that is why in every modern national democratic assembly throughout the world legislators align themselves into groups or caucuses. This universal evolution in national democratic assemblies has occurred for very good reasons.

Interestingly, earlier this week our Special Committee on Senate Modernization heard testimony from Lord Hope, Convenor of the Crossbench Peers in the British House of Lords. He is essentially the representative of the cross-benchers, who are the non-aligned or independent members of that house. Senator Joyal asked him this question:

... Could you envisage the House of Lords being composed only of cross-benchers? That is, peers would have absolutely no relationship with any of the parties represented in the House of Commons, either in the form of government or opposition or third parties.

Lord Hope replied that such a system would be unworkable, in his words, “break down.” He said, “. . . it would give rise to a state of considerable confusion.”

In the Senate, most of us find that our work is improved, our understanding of issues is deepened, and we are more effective when we work together. That shouldn’t come as a surprise. As a nation, we understand the value in being able to come together to cooperate and work with others of like mind. Freedom of association is a fundamental part of our nation. Indeed, it is enshrined in our Charter.

Colleagues, in my view, working together in a caucus need not be inconsistent with independence. That is a matter of how one acts, whether one asks the challenging questions that one believes need to be asked, whether one calls the government to account even though one agrees with the government generally, and even if one is a member of the political party in power. At the end of the day, it is a matter of how one votes.

Unquestionably, some senators over the years have allowed their actions in this place to be unduly influenced by others, especially party leadership in the House of Commons. But surely the solution to that is to end what we call “whipping votes” or similar assertions of party discipline in the Senate. That was the step taken by the now Prime Minister back on January 29, 2014, when Mr. Trudeau, as he then was, made the decision to sever the Senate Liberal caucus from the national caucus of elected Liberal members of Parliament. He announced that neither he nor any of his colleagues would provide any direction to or control over senators who previously had been members of National Liberal Caucus, and he has held true to his promise. There has been no communication from the then-Liberal leader, now Prime Minister, let alone any attempt to direct me or my colleagues on how we perform our duties in this place.

In our caucus, we refer to that as our “Independence Day.” Since that date, we have considered ourselves, and we remain, absolutely independent of the National Liberal Caucus, and refer to ourselves as the independent Senate Liberal Caucus.

Our independence is critically important to us. We immediately announced and have held firm in the two-plus years since that henceforth no votes in our caucus would be whipped. Every vote, from the most minor private members’ bills to budget bills, is and has been a free vote, determined by each senator’s individual judgment based on the evidence and analysis. We share ideas, insights and research. We discuss, argue and work to persuade

others of the correctness of our positions, all within the freedom of our caucus, knowing that we could trust that we all share common fundamental values and goals.

That is a very different kind of debate than what one often is prepared to have on the floor of a legislature or Parliament. I find that it informs the subsequent public debate and is an invaluable part of the process. It sharpens and deepens my thinking and improves my contribution to the public debate and ultimately the decisions I have to make. But I, and only I, am responsible for those ultimate decisions.

Some have questioned our calling ourselves the Senate Liberal Caucus. Independence isn’t measured by whether one carries a political membership card any more than it is by what books one reads or who one’s friends are. It is measured by how you do your job.

• (1450)

I am a Liberal, a proud Liberal. That is because I’ve found that my values, my fundamental beliefs, my ideas about the world and especially my country are best reflected in the Liberal Party. And I believe that the same can be said for my friends and colleagues opposite. They’re members of the Conservative caucus because the Conservative Party of Canada represents and advocates for the principles and values that they agree with.

That doesn’t mean that any of us must adhere blindly to every position taken by the party of which we are a member. That would not be fulfilling our responsibility as members of the Senate, constitutionally mandated to exercise independent sober second thought.

But, as the Supreme Court of Canada said in the first sentence of its 2013 decision about the Senate, “The Senate is one of Canada’s foundational political institutions.”

The Senate is not and was never intended to be like the civil service. This is a political institution. We are all politicians. But constitutionally, we are expected to act independently. Our challenge is to be both political and independent. There is no doubt that this is achievable. Senator Joyal, Senator Carney, and so many others, including quite a few here in the chamber today, can attest to that. But it does require determination. And at times, a great deal of determination.

All of us here who lived through the motions in the fall of 2013 to suspend three of our colleagues for the alleged misuse of Senate resources can attest to that.

I cannot speak for the experiences of my colleagues opposite. But for those of us on this side, it was a difficult time. We were still members of the national Liberal caucus. Mr. Trudeau’s decision to change our status came a couple of months after those events.

Our experience was that senior members of our caucus in the House of Commons were strongly urging us in the Senate to support the suspension motions, fearful that otherwise the Conservative Party would publicly charge that the Liberals were

defending invalid expenses and the misuse of taxpayers' money. So it did take determination in the face of that pressure from the party leadership for virtually all of the Liberal senators to either abstain or vote against the motions of suspension.

But we exercised our individual independence in an extraordinarily charged political atmosphere. As I explained in the chamber immediately following the vote that day, I abstained because I did not agree that sanctions should be imposed on those senators while ignoring due process and the principles of fundamental justice. I could not support those motions, no matter how much I was urged to do so by the leadership of my party.

Are there ways that we can improve how we do our work to enhance our ability to serve as a thoroughly independent body of sober second thought? There is no question. That's why I proposed the establishment of the Special Committee on Senate Modernization, and those are issues that we have been working on to address in a number of different ways.

I am delighted that there appears to be a real momentum and appetite for this, and I am confident that, given the wealth of talent, life experiences and knowledge collected in this chamber, together we will find creative ways to make the Senate work better for Canadians.

On our side, my caucus colleagues and I have been experimenting for a while with different approaches to find new ways to do our work. For example, shortly after our "independence day," we launched our Open Caucus initiative. We decided that we would open the doors to some of our caucus meetings. We identified issues we wanted to focus on, invited experts to join us and opened the door to the media and especially the public to join us in an open discussion of a particular issue. We also, by the way, invited and continue to invite all parliamentarians, from both chambers and all parties, to join us. I'm pleased to say our invitations have been well received and have been accepted in many cases, and I believe everyone has benefited. Certainly, we have informed our views on major issues in a way we would not have been able to had we not had the views of those outside invitees.

Our first Open Caucus, back on March 26, 2014, opened the doors to a discussion of the terrible issue of murdered and missing indigenous women. I remember that Senator Dyck opened the caucus with a song, sung by generations of indigenous women. It was a very powerful beginning to what was a very powerful caucus.

Since then, Senator Eggleton and Senator Tardif have organized many open caucuses, all of which have been informative, thought provoking and insightful. The members of the public who attend — and often the room has been filled to capacity — are afforded an opportunity to speak, whether to make a statement to contribute to the discussion or to raise questions. Soon we hope to be able to livestream those events, to engage Canadians across the country, inviting them to join the discussions online.

The other initiative we launched has necessarily fallen dormant in recent months, but I hope it will now be revived. That is something we called Questions from Canadians. Our caucus

maintains a website, and on it we invite Canadians to submit questions that they would like to have posed to the government. Many of our caucus members have stood in Question Period and asked those questions of the government leader, and I know that the people who posed the questions have appreciated both our asking the question and the responses they received. I'm not sure that my friend Senator Carignan always appreciated the initiative as much as we did, but I suspect he valued the opportunity to speak directly to Canadians, just as they did the opportunity to put questions to him through us.

Colleagues, these are some of the reasons I have chosen to stay in the Senate Liberal Caucus. I value the insights shared by my caucus colleagues, who bring a wealth of knowledge and a lifetime of experience that is different from my own. My work here for Canadians would be the poorer without them. I respect that others choose to do their work on their own, as sole practitioners, if you will. But the bottom line, colleagues, is that each of us, whether we align ourselves with a caucus or not, has a duty to fulfill our constitutional responsibility as senators, namely, canvassing dispassionately the measures passed by the House of Commons and standing up for the public interest in opposition to hasty and partisan legislation. All of us are, and must be, independent, whether we operate on our own or as members of a particular caucus, and whatever that caucus is named, whether it bears the name of an active political party or something else.

So let us be careful when we use the word "independent." We now have a rich combination of different groups of senators in this chamber. Some call themselves Conservatives. Some call themselves Liberals. Others have decided to be nonaligned with a particular traditional political party. But each of us has to measure ourselves, and be measured, against the bar of independent judgment befitting members of a chamber tasked with being the independent body of sober second thought in our Canadian parliamentary democracy.

I will end these remarks the way I have concluded every reply to a Speech from the Throne that I have delivered since first becoming leader of my caucus back in 2008. Each of those speeches was delivered in my then-capacity as the Leader of the Opposition, but, except for one change of wording — I have substituted the words "Senate caucus" for "opposition" — my words apply today as they did then to our role.

Here is what I said:

We will do our best to fulfill our constitutional role — as members of an active, thoughtful, dedicated Senate caucus, exercising our mandated role of sober second thought.

We intend to carefully scrutinize the government's legislative program and will propose legislative measures of our own.

Where we find fault with legislation, we will propose amendments to improve it.

If, on the other hand, we find favour with the government's proposals, we will support them.

Always, our guide will be the public good.

Hon. David Tkachuk: Honourable senators, in the Speech from the Throne of December 2015, were the following words:

To restore public trust and bring an end to partisanship, the Government will follow through on its commitment to reform the Senate by creating a new, non-partisan, merit-based process to advise the Prime Minister on Senate appointments.

• (1500)

Our former colleague Marjory LeBreton, writing in the *The Hill Times* last week, addressed the fact that no one appointed under this new process differs in any substantial or meritorious way from the senators who were appointed under the old process. Nevertheless, the Prime Minister did make good on his intentions to appoint senators through a purportedly arm's-length and independent advisory board.

Sitting alongside us are seven new senators who came here after going through the rigours of that process. I want to welcome them here, I want to congratulate them, and I want them to know that the following isn't about them; it's about the process.

Though I do want to remind Senator Pratte of something. In coming here, he said he wanted to avoid falling into the trap of lying. As much as he thought that about politicians, he may soon join us after being here a little while in having that same feeling about members of his old profession.

One of the new appointments is Peter Harder, now the Government Representative in the Senate. Pretty convenient: the head of Mr. Trudeau's transition team. I can just see Prime Minister Trudeau in his office, at his desk, reviewing the applications. "Gerry, Gerry, come here. You won't believe it. Peter Harder has applied."

Senators may be familiar with my thoughts on this new process from the piece I wrote for the *Sun* newspapers. I stated there unequivocally and I state now that I believe that senators who come to this place through this process are qualified to sit as senators, and I have no problem with whatever process the Prime Minister wants to use that got them here, as long as he respects the Constitution. In this respect, I have no problem with the independent advisory board. It is kind of a good idea — much like Stephen Harper's advisory process for appointing judges.

I do, however, have a problem with a process that allows some applicants to be given preferential treatment that others were not afforded and who, if they read the application they were filling out, would have been convinced they could not submit an application that lacked the necessary and required information for it to be considered. It looks to me like that is exactly what has happened.

As I mentioned in my article, one of the requirements for the application to be complete is that applicants must confirm they own real property of a net value of \$4,000 in the province for which they are applying. Quebec senators have to check off a box identifying that they own that amount of property in the senatorial division where the vacancy is.

Again, at the end of the application, on the last page, there is another item on the checklist that applicants have to check off. It says they have to provide institutional documentation — for example, a deed, a lease agreement or a bank statement — to prove the requirements listed in section B for property, residence and net worth, and net value of real property. There are four different places in the application where applicants had to indicate they owned real property in the province of vacancy. In Quebec, it would have been in the senatorial division.

According to the checklist at the end, they also had to provide proof of the value of the real property in the form of institutional documentation. All were required for the application to be complete.

Then there is the advisory, printed in bold, accompanying the checklist:

Only complete applications submitted with all required supporting information will be accepted. . . .

. . . Late or incomplete application packages will not be considered.

The need for applications to be complete and to include all the required information is reinforced in section I, which is entitled "Declarations." The applicant has to read the various declarations — there are six of them — and then sign and date at the end of the section. That's in addition to his or her signature at the end of the application, certifying that everything in the application is true.

One of the six declarations says:

I acknowledge that it is my responsibility to ensure that my application is complete, and that it includes all mandatory information and required supporting documentation, and that my failure to submit all required information in a single complete application will result in my candidacy not being considered.

We know from recent and bitter experience in this place how important a signature is on a declaration.

Honourable senators, time and time again throughout the document applicants are reminded that they need to include all the mandatory information and supporting documentation. The failure to submit that in a single complete application would result in their candidacy not being considered. There is even a handy checklist on the last page at the very end with a warning that reads:

Only complete applications submitted with all required supporting information will be accepted. . . .

Complete application packages must be received no later than 12:00 p.m. Eastern Standard Time on February 15, 2016. Late or incomplete applicants will not be considered.

One of the items that needs to be checked off in order for the application to be complete is the signature in section I of Part I, which includes the following:

I acknowledge that it is my responsibility to ensure that my application is complete, and that it includes all mandatory information and required supporting documentation, and that my failure to submit all required information in a single complete application will result in my candidacy not being considered.

That declaration doesn't say that failure to submit in a single application "may result in my candidacy not being considered," and it doesn't say "can result in my candidacy not being considered"; it says "will result in my candidacy not being considered."

Each applicant had to sign the declaration in section I, and there's no getting around it. In the order-in-council establishing the board under the section entitled "recommendation process," it says, among other things:

6 The members of the Advisory Board must:

(c) apply fairly and with consistency the criteria provided by the Prime Minister in assessing whether potential candidates meet the qualifications, including those set out in the *Constitution Act, 1867*, for Senate appointments;

That means that all the applicants had to be treated fairly and each had to be treated the same as the other. That is the meaning of consistency.

Was this instruction in the order-in-council followed? No, it was not. It couldn't have been. Two senators are sitting here who had to fill out that application but did not meet the requirements stipulated in the application.

Were others given the same consideration? Were all the applicants treated fairly and with consistency? We don't know. Did some applicants sign false declarations, or were they simply privy to information that others were not? Was a word whispered in their ear and by whom? It couldn't have been from a member of the independent and arm's-length advisory board, surely, unless they, too, had their ear bent; otherwise, how would they know whose ear to whisper into?

In the report of the advisory board on the transitional process released on March 31, they do allude to how they may have handled the real property requirements for Quebec applications. But what they didn't tell us is on whose instructions they did that and why. Did they do it in all cases or just for a chosen few?

Although Minister Monsef told us that the report would include an account of what worked and what didn't in the transition process, it doesn't. You would think that it would include something about the Quebec snafu, but, no, the report amounts to a glowing review of the process — nothing about what worked and what didn't.

Could it have been a member of the PCO doing the whispering? It did recently get a \$99 million boost in funding and an expanded mandate to assist with the appointment process, so maybe it was them. They certainly weren't shy about writing a letter to the editor in response to my article in the *Sun*. I don't recall ever seeing a bureaucrat writing a letter to the editor on a political issue raised by a politician. I guess \$99 million buys a lot of bureaucratic friendship. That's \$14 million more — in an increase — than it takes to run the Senate of Canada for a year. Something is very wrong here, honourable senators.

• (1510)

When the ministers appeared before the Senate Rules Committee on February 24, they explained that the process had been delayed. They told us that in committee. They said that the process had been delayed so that the advisory board had the time to do its due diligence. Those of us who were there may remember that.

"We have asked of them quite an enormous task," Minister Monsef told us — she was referring to the board — "so we respect their need to do it right and to take their time . . . to do it right and to do it efficiently."

But that is patently not true: The process wasn't delayed by the board. In fact, they met the original timeline set by the Prime Minister. Let me quote from page 6 of their report:

In accordance with the Terms of Reference, the Prime Minister set a time period for the production of recommendations when the Advisory Board was convened. For the transitional process, the Prime Minister asked the Advisory Board to provide recommendations by February 25, 2016. This timeframe was respected.

So, the very day after the ministers were telling us there would be a few weeks' delay so that the board could do its due diligence and complete the enormous task, their recommendations were sitting before the Prime Minister, if not before. Maybe they even got them in early. We don't know.

We were misled by the ministers that day. There was no delay, but they felt compelled to tell us that there was and then blame it on the board. This should tell you that something is wrong about this process, and the ministers knew it.

When she met with the Senate Rules Committee, Minister Monsef told us:

This is about the process. . . . It is a process that is public and allows Canadians to follow step by step and hold to account individuals that will be appointed to the Senate to serve alongside you.

Well, colleagues, the newly appointed senators can show Canadians they are willing to be held to account, as Minister Monsef said, by joining me in a call for the government to release all the information related to the process, including but not limited to the applications of everyone who was on the short list, including the appointees, the emails relevant to the appointments, the appointment process, the phone records and dates of meetings

of the board, where they met and transcripts of their conversations, everything that can shine light on this purportedly transparent process.

I want to say, honourable senators, and make it clear again that I think that the newly appointed senators are highly qualified. The new senators will serve the Senate well, and this speech today was about the process itself and about the Prime Minister's handling of it, which was a lot different that we were led to believe.

(On motion of Senator Martin, debate adjourned.)

CRIMINAL CODE

BILL TO AMEND—LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE AUTHORIZED TO STUDY SUBJECT MATTER

Hon. Peter Harder (Government Representative in the Senate), pursuant to notice of April 19, 2016, moved:

That, in accordance with rule 10-11(1), the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine the subject matter of Bill C-14, An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying), introduced in the House of Commons on April 14, 2016, in advance of the said bill coming before the Senate;

That, notwithstanding any provision of the Rules or usual practice, the committee be authorized to meet for the purposes of this study at any time the Senate is sitting or adjourned;

That the papers and evidence received and taken by the Special Joint Committee on Physician-Assisted Dying, during its study and review of the framework for legislation on physician-assisted dying, be referred to the committee for its study of the subject matter of Bill C-14, An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying); and

That, notwithstanding usual practices, the committee be authorized to deposit with the Clerk of the Senate its report on this study if the Senate is not then sitting, and that the report be deemed to have been tabled in the Senate.

He said: Honourable senators, there have been discussions through the usual channels to allow pre-study of Bill C-14. The motion reflects that and I would commend it to the chamber.

Hon. Joan Fraser (Deputy Leader of the Senate Liberals): Colleagues, on our side, we're pleased to support this motion. If ever there was a subject suited to pre-study by the Senate, it seems to me that the subject of this bill is such a subject.

I would like to observe, however, that as we always do, in supporting a motion to do a pre-study we are not setting a precedent by which when the bill reaches us, the argument can then be made that the bill doesn't need proper committee because

the pre-study was done. We don't know what the final form of this bill will be when it reaches us, and we will need to do a proper committee study of it at that time.

But until then, I truly believe that a pre-study is the absolute best thing for us to do, and we can hope that it will influence the House of Commons in its work on the bill.

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I will associate myself with the remarks that Senator Fraser made. Our discussions on whether or not to do the pre-study began a few weeks ago, so I also support this motion and know that there is much debate to be had. In the pre-study, as we have proven before, the Senate has done remarkable work, as have the committees that have been involved, so I have full confidence that the Legal and Constitutional Affairs Committee will do just that.

Hon. Serge Joyal: Honourable senators, I want to share my views with you on the subject of this motion, because I think it is important to put it in context.

I had the benefit of receiving recently, from Professor Andrew Heard from Simon Fraser University, a certain number of reflections in relation to pre-studies in past years. I would like to read some considerations that he has brought forward. I made sure that Professor Heard's considerations were circulated among senators, so you might find the professor's text on your desks.

I would like to read his first comment on how many pre-studies we've done in recent years and on which subjects. I think it's helpful to take a few minutes to listen to this to understand what we're doing. Professor Heard wrote that:

Only five bills were subject to pre-study in the period 2000 through September 2013.

I repeat: There were only five pre-studies in 13 years.

However, in the second session of the 41st Parliament, ten bills were sent to Senate committee for pre-study; this number included three omnibus bills which were each sent to multiple committees. . . . This spate of activity coincided with an extended period during which the Senate only formally amended one government bill while in the Senate.

My esteemed colleagues will certainly remember that those omnibus bills were budget bills that were sent to Finance, and there were discussions to split those bills. I want to remind colleagues that this is a very special procedure. It's not something that has been in our Rules or practices for a long time. In fact, I checked back in this famous book, which I am not recommending to anyone to read, to Professor Franks' chapter on the pre-study of bills, because I think it's enlightening. He stated that:

This practice of pre-study was especially helpful in handling the extremely complex tax legislation of 1971.

It dates back to 1971, and it was former Senator Salter Hayden, then the Chair of the Banking Committee charged with the task of reviewing the mammoth legislation of tax law, who thought it

would be helpful to the minister to have a pre-study; that is, to look through all of the legislation to try to come forward with a report that would be helpful to the minister in drafting the legislation.

I want to repeat: The pre-study was a study to try to help the minister draft legislation. This is quite important.

What are we asking with this motion today? This motion comes after the special joint committee was formed in January to study the subject matter in the *Carter* decision of the Supreme Court of Canada almost a year and a half ago that dealt with medical assistance in dying. This house has asked five of its members, our esteemed and very able colleagues Senator Ogilvie, Senator Nancy Ruth, Senator Seidman, Senator Cowan and me, to study the decision of the Supreme Court in *Carter*, which is the basis of medical assistance in dying in Canada.

• (1520)

The committee produced its extensive report on February 25. More than 61 witnesses were heard, and the committee received over 100 written submissions — briefs from various citizens and groups interested in the subject. Moreover, the committee came forward with 21 recommendations in the report in respect of medical assistance in dying.

Today the government is asking us to take Bill C-14 and study its subject matter. If the Legal and Constitutional Affairs Committee is tasked with the responsibility of studying the subject matter of the bill, it is no doubt in sync with the 21 recommendations of the report of the special joint committee. I want to stress that this report, honourable senators, received the support of all senators who sat on the special joint committee — three colleagues from the official opposition and two of us from the Liberal independent group.

It is an important report because there was consensus on the recommendations of those senators on the committee to the government to take into consideration in the bill.

Honourable senators, in the work that has to be performed by the Legal and Constitutional Affairs Committee it will be essentially to study the substance of the bill in respect of the recommendations based on the *Carter* decision. The *Carter* decision is the stepping stone to Bill C-14. It is important to remember that the pre-study will not just try to understand the subject matter, because the subject matter already has been canvassed extensively through 61 witnesses and 100 briefs. It is important, honourable senators, to remember that.

I invite you to look into those recommendations. They are, in fact, on today's Order Paper under the name of Senator Ogilvie. It's important for any one of us who wants to approach this issue of medical assistance in dying to keep in mind the recommendations of the report of the special Senate committee which, as I said, were unanimous among the senators who sat on the committee.

The title of this report is an important element of the discussion, *Medical Assistance in Dying: A Patient-centred Approach*, because the decision of the Supreme Court is essentially an interpretation of section 7 of the Charter, which deals essentially with anyone's

right to life, liberty and security of the person. Bill C-14 deals essentially with a Charter issue as interpreted by the Supreme Court of Canada.

Honourable senators, it is with those comments that I would renew the words that my colleague, Senator Fraser, put forward in supporting this motion. I will take them from Professor Thomas, again from the same book that I am too humble now to wave — it's a shameless book. Professor Thomas wrote at page 204:

The pre-study mechanism worked best in terms of influencing government thinking when the Senate did not forsake, but held in reserve, its ultimate right to make amendments.

In my opinion, honourable senators, this is what we have to keep in mind in initiating the pre-study.

Hon. George Baker: Honourable senators, when Senator Joyal was recounting our history as far as pre-studies are concerned, I thought about a particular pre-study we had done not very long ago on a complicated finance bill, a portion of which was the proposed Federal Accountability Act. There were 54 amendments suggested by the Senate and approved by the government, 50 of them proposed by the government. The government used that opportunity to introduce the amendments to that complex piece of proposed legislation. Senator Joseph Day recalls that intimately because he chaired the Finance Committee and was the carrier of the bad news to the government at the time. They accepted all of it and came back with 50 of their own — they were corrections.

Honourable senators, this procedure is helpful in that it allows the government of the day to perhaps suggest changes to their own bills; and that's not new to the process. In this particular case, we have a report on a pre-study that was done by a parliamentary committee on the judgment in the *Carter* decision. Now, we have a new matter: the government's suggested response to the *Carter* decision. We also have a government in place similar to the government of the day at that time. Some people say that governments don't accept amendments readily. Well, they accepted 54 amendments to the proposed Federal Accountability Act at the time. That wasn't a Liberal administration, was it?

Now we have a government that says it will also look at amendments. Don't forget the words of the Prime Minister that he welcomes the Senate's involvement. He welcomes suggested amendments from the Senate. In closing, let me say that superior courts in Canada have passed three judgments on the *Carter* decision as it applied to cases before them in three provinces that are instructive in our dealing with the bill now. If senators wish, my office can forward the three judgments to them.

We look forward in the Legal and Constitutional Affairs Committee to this examination. We have an excellent chair of the Legal Committee, Senator Runciman, who has been in the position for some time. He has suggested changes to bills to the former government. He readily suggested amendments and comments at the end of bills, which in some cases were not welcomed by the government of the day. We have an excellent committee, and I'm sure that it will do a good job in examining

this proposed government legislation and perhaps suggesting amendments that the government may indeed take seriously and use.

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

Hon. Senators: Question.

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

(Motion agreed to.)

• (1530)

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, as it is 3:30 p.m., pursuant to the order adopted yesterday, the Senate will proceed to Question Period.

Hon. Peter Harder (Government Representative in the Senate): Your Honour, I just received notice that the bells have begun ringing in the other place and they are expected to continue to ring for the next half hour. This puts us in an awkward situation with respect to our Question Period.

I'm happy to either revert to a normal Question Period or, should the chamber wish, continue with Orders of the Day and the committee work that I know some members will be anxious to get to. I have just been communicated with in this regard and look to the chamber for direction.

The Hon. the Speaker: Honourable senators, we could, as suggested by Senator Harder, revert to an ordinary Question Period, or we could continue with normal business. What is your pleasure, honourable senators?

Hon. Denise Batters: Does Senator Harder know when the bells commenced in the chamber and when they're scheduled to be done? If it's a half-hour bell, perhaps the minister could come down for 20 minutes.

Senator Harder: I can't answer that specifically. I've just received a note saying that the bells are expected to conclude at about 4 p.m. I have no further information.

Senator Batters: The bells go on until four o'clock?

Hon. Yonah Martin (Deputy Leader of the Opposition): In brief consultation regarding the timing of what has happened, we'd like to continue with the Order Paper if Senator Fraser and others are agreeable.

The Hon. the Speaker: Are senators agreed?

Hon. Senators: Agreed.

[Translation]

CANADIAN PUBLIC CORPORATIONS GOVERNANCE BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Hervieux-Payette, P.C., seconded by the Honourable Senator Day, for the second reading of Bill S-216, An Act to provide the means to rationalize the governance of Canadian public corporations.

Hon. Céline Hervieux-Payette: Honourable senators, today I present to you my last bill. Since I was an executive in the business world for many years, the good governance of our country's corporations is very important to me. That is why I have moved second reading of Bill S-216, which seeks to provide the means to rationalize the governance of Canadian public corporations, both for senior management, the executives, and for boards of directors, namely the directors themselves.

The bill summary reads as follows: This enactment limits the cumulative period that an individual may sit on the board of directors of a Canadian public corporation to eight years and prohibits an individual from sitting on the board of more than four Canadian public corporations at the same time. It also places strict limits on the remuneration these corporations may pay their officers and directors and the benefits they may grant in connection with their functions.

According to the executive search firm Spencer Stuart, and I quote:

[English]

A board is first and foremost a collection of skills, styles, experiences and competencies, as opposed to simply a group of former CEOs or similarly experienced executives.

[Translation]

In other words, a board must have competent members, but in addition to that, a board of directors with a diversity of views will have a better overall understanding of all the problems that the company faces, which, in return, will increase the company's chances of success. Studies have shown that more diverse boards of directors get better results for companies. As I mentioned at second reading of my bill, Bill S-207, the representation of men and women on the boards of directors of Canadian companies is far from balanced, and most often Canadian companies tend to appoint current or former executives. The 2008 financial crisis had little effect on the governance of boards of directors, despite the fact that their members were the ones who created the conditions conducive to a global economic crisis.

Paul Tellier, a member of the Canadian Business Hall of Fame in Toronto and an honorary associate of the Conference Board of Canada, to name just two of his titles, stated the following in a speech, and I quote:

[English]

It's been said in the past that the world of Canadian directorship was a cosy little club where no one wanted to rock the boat.

[Translation]

As a senator, I believe it is time that we improved our way of doing things. The first change proposed in my bill, Bill S-216, is to establish a fixed term of eight years for all members of boards of directors, with the exception of the founding members of the company. Why eight years? One reason is that it is important to maintain a high level of expertise on each company's board of directors. If the board members changed every year, the board would not be as effective and the quality of decisions and recommendations would suffer. There would be less corporate memory and the company would have to start from square one every year.

At the same time, if the period is extended beyond eight years, the administrator runs the risk of becoming mentally fatigued. Serving on a board of directors for too long could have an adverse effect on the individual's ability to think critically; he or she could become cynical or skeptical. In all these scenarios, the director's contribution would be less than adequate and wouldn't serve the interests of the company's employees, shareholders or customers.

In 2013, 44 per cent of companies still did not have a mandatory retirement policy for the members of their boards of directors. This is still far too many, and it helps maintain the status quo. Those companies that do have such a policy have set a limit on how long a director can sit on the board of directors, and the terms of office tend to range between seven and 15 years. Some companies have also adopted a policy of mandatory retirement at a certain age for directors. That age is usually 70 or 75.

The second proposal in Bill S-216 is to set a limit on the number of boards of directors on which any given individual can sit at any one time. That limit would be four. Some companies limit the number of boards on which their members can sit, but those represent only 22 per cent of the total. That is far from the majority.

• (1540)

In 2016, the second proposal in my bill is even more important because directors today have far more responsibilities. They deal with increasingly more complex challenges and have to be more involved than ever in their decision-making role. All these factors mean that directors need more time to be able to work at their full potential. Paul Tellier said that to be a good director, and I quote:

[English]

Directors should not limit themselves to the boardroom.

Directors should take every opportunity to get to understand the underlying realities of the company.

[Translation]

According to the statistics in the 2013 Canadian Spencer Stuart Board Index, the Canadian average number of board meetings per year is nine, and that does not include committee meetings. On average, each committee meets five times a year. Sitting on a single board therefore means having to prepare for and attend at least nine board meetings and, if applicable, participating in five other committee meetings. This is 14 annual meetings for a single board appointment. Sitting on four boards at the same time is therefore the absolute maximum to maintain any effectiveness. Sitting on more than four boards of directors makes companies increasingly interrelated and greatly increases the risk of conflict of interest.

In conclusion, companies, shareholders and Canadians deserve the best possible participation from every director so that they may improve the governance of our corporations. That is why it is imperative to set effectiveness parameters like the ones I am proposing in my Bill S-216.

The final points of Bill S-216 that I wanted to talk to you about concern a problem that has made newspaper headlines a lot recently, and that is executive compensation.

At the Davos conference in 2011, income inequality and corruption were identified as the two most important challenges that the world needs to address. Zhu Min, a Special Advisor with the International Monetary Fund, had this to say, and I quote:

[English]

The increase in inequality is the most serious challenge for the world. I don't think the world is paying enough attention.

[Translation]

In addition, Richard Freeman, an economics professor at Harvard University, stated the following, and I quote:

[English]

The triumph of globalization and market capitalism has improved living standards for billions while concentrating billions among the few. It has lowered inequality worldwide but raised inequality within most countries.

[Translation]

Also, he went on to say something we already know:

[English]

... over the last two decades, about 80 per cent of American families experienced income stagnation, while incomes of the very wealthy have soared. ... the richest 1 per cent of income earners more than doubled between 1970 and 2008.

[Translation]

Upon hearing that, we might be tempted to think that this is only happening in the United States, but we would be wrong. Canada is headed in the same direction. According to IGOPP, a think tank on the governance of private and public organizations, compensation for the chief executive officers of large Canadian corporations spiked unbelievably between 1998 and 2010, virtually achieving parity with American compensation at the end of that period.

In fact, the IGOPP noted that there seems to be a threshold beyond which society in general becomes uncomfortable with, or even hostile towards, the wealth of a minority. This unease about disparity is only exacerbated by the impression that the wealth wasn't earned honestly or through hard work, and that it's not the result of an activity that benefits society as a whole. The Occupy Wall Street movement, the 99 per cent and the popularity of Bernie Sanders in the United States right now speak volumes about how fed up people are with these inequalities.

Over the past few decades, compensation paid to Canadian executives has reached unprecedented heights. It has increased from an average of 60 times the average salary of employees in 1998 to 206 times the average salary of employees in 2013. While this is a global phenomenon, it is even more pronounced in North America. The United States is at the top of the inequality pyramid with 354 per cent, Canada is second with 206 per cent, Switzerland is third at 148 per cent, and France is at 104 per cent. This bill complements the budget tabled by the Minister of Finance, the Honourable Bill Morneau, which is entitled *Growing the Middle Class*, because those are the people who need to see their incomes go up.

Compensation is much more than an annual salary. Senior executives also enjoy golden parachutes and golden handshakes: severance pay and supplemental pension plans are the order of the day, no matter how well the company does and to the detriment of shareholders.

Executive compensation is calculated according to standards set by a small group of expert advisors who have developed complex compensation formulas that end up inflating pay scales. It is a vicious cycle. They compare paycheques without even referring to a baseline. Without legislation, things will not change because, as John Stuart Mill said, men — yes, men — do not desire merely to be rich, but to be richer than other men.

[Senator Hervieux-Payette]

There has been a movement in some European countries since 2009 to combat excessive remuneration, even though the problem is not as bad there as in North America. In Switzerland, for example, people voted in a referendum to prohibit golden parachutes and exorbitant bonuses given to executives. In France, taxes on golden parachutes and golden handshakes were increased and, in 2012, compensation for heads of public corporations was limited to 20 times the average of the lowest salaries. In Austria, golden parachutes are prohibited in all publicly-funded banks. Lastly, in the European Union, variable compensation cannot exceed fixed compensation without the approval of a specific majority of shareholders.

Furthermore, there is a consensus that we must ensure that compensation plans do not reward executives for making excessive short-term profits or taking risks that will compromise the long-term health of the corporation.

For all these reasons, my Bill S-216 proposes that compensation for directors of Canadian public corporations must not be more than 20 times the average salary of the employees of the corporation. IGOPP recommends that boards of directors establish a fair and productive correlation between the total compensation of executive officers and the median income of the corporation's employees. In fact, the officers responsible must ask themselves what effect their compensation has on the attitudes and motivation of their colleagues and employees and whether their compensation fosters a mercenary mentality within the corporation.

The best companies are those that bring humanity to their vision and objectives and appeal to the best in each person. Without humanity, and without the qualities of empathy, loyalty, pride in a job well done, reciprocity and social conscience, which are characteristics of human beings, a corporation quickly devolves into a den of mercenaries, becoming weak and difficult to manage. The perfect example of this phenomenon is the now-defunct Enron.

With Bill S-216, I am also proposing that we limit the one-time payments to executives, such as severance pay, to a maximum of two times the annual remuneration. Performance incentives must take into account the book value of the corporation for the current fiscal year, compared to its book value for the previous fiscal year. The retirement amounts paid to former executives must be included in the corporation's annual report. Bill S-216 also includes deterrents in the form of a fine for all executives who violate the act, set at a maximum of \$100,000, as well as a fine for all offending corporations, set at a maximum of \$500,000.

In conclusion, honourable senators, in order to combat the unacceptable gap between compensation for executives and employees and thus improve the quality of life of Canadians, all participants in the economic system must work together and be appropriately remunerated.

We really need to see an effort on the part of pension plans — all Canadian pension funds — that represent the majority of shareholders of listed companies, who hold shares, obviously. Often, pension fund representatives do not act as loyal corporation owners, since they focus on the short term and ignore the long-term interests of the corporation and the shareholders.

• (1550)

[Translation]

Boards of directors that were set up specifically to prevent this type of short-sightedness and that have to play the role of intermediary between management and shareholders are now governed by these investors' groups.

With the help of this bill, the Senate will contribute to making tangible improvements to the economic system by establishing mechanisms that will allow board members to be more effective. This bill limits the time that an individual may sit on the same board to eight years and prohibits members from sitting on the board of more than four public corporations at the same time. Finally, the bill improves Canada's economic system by limiting executive compensation in order to bring pay differences to a more acceptable level and by limiting golden parachutes and golden handshakes.

In closing, I would like to mention that this is my last major speech in this chamber. I hope that the new senators will enjoy sharing their expertise for the good of Canadian society as much as I did.

Thank you.

(On motion of Senator Martin, debate adjourned.)

[English]

FOOD AND DRUGS ACT

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Stewart Olsen, seconded by the Honourable Senator Johnson, for the second reading of Bill S-214, An Act to amend the Food and Drugs Act (cruelty-free cosmetics).

Hon. Joan Fraser (Deputy Leader of the Senate Liberals): Honourable senators, I'm not yet as properly informed on this bill as I should be. I have had one medium-sized briefing on it, but I still need to do further work, and part of that work would include consultations with our side's critic on this bill, Senator Dyck, who is, as we know, travelling with the Aboriginal Committee this week. Therefore, I am going to have to adjourn this debate for the balance of my time.

(On motion of Senator Fraser, debate adjourned.)

OFFICIAL LANGUAGES

COMMITTEE AUTHORIZED TO STUDY THE CHALLENGES ASSOCIATED WITH ACCESS TO FRENCH-LANGUAGE SCHOOLS AND FRENCH IMMERSION PROGRAMS IN BRITISH COLUMBIA AND REFER PAPERS AND EVIDENCE FROM ITS STUDY ON BEST PRACTICES FOR LANGUAGE POLICIES AND SECOND-LANGUAGE LEARNING IN CONTEXT OF LINGUISTIC DUALITY OR PLURALITY DURING THE SECOND SESSION OF THE FORTY-FIRST PARLIAMENT TO CURRENT SESSION

Hon. Claudette Tardif, pursuant to notice of April 19, 2016, moved:

That the Standing Senate Committee on Official Languages be authorized to examine and report on the challenges associated with access to French-language schools and French immersion programs in British Columbia;

That the papers and evidence received and taken, and work accomplished by the committee on its study of best practices for language policies and second-language learning in a context of linguistic duality or plurality during the Second Session of the Forty-first Parliament be referred to the committee; and

That the committee submit its final report to the Senate no later than December 15, 2016, and that the committee retain all powers necessary to publicize its findings for 180 days after the tabling of the final report.

She said: Honourable senators, the main objective of this trip is to conduct a case study on the challenges associated with access to French-language schools and French immersion programs in British Columbia. As you know, last June, your committee tabled a report on best practices for second-language learning in a context of linguistic duality or plurality. This case study is a logical follow-up to the study that we tabled.

The trip would involve on-site visits. We plan on visiting schools, consulting with organizations, visiting sites and hearing from witnesses. The proposed budget is \$123,328. This budget covers travel costs for nine senators, transcription and translation. That is the maximum cost, and we don't expect to spend the full budget. We hope to present this budget to the Standing Committee on Internal Economy, Budgets and Administration if this motion is adopted.

[English]

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

Senator Tardif: Yes.

Senator Martin: Senator, I am very interested in the topic of this study, being from British Columbia and an anglophone. You say it will be looking at challenges associated with access to French-language schools. I'm curious whether your travel will entail going to B.C. and staying within a region, or would you also travel within British Columbia?

[Translation]

Senator Tardif: I am well aware of your interest in this project. The committee's proposal is to travel to Vancouver and Victoria because most of the provincial associations are in Victoria. We will hold public hearings in Vancouver. Unfortunately, we are planning to visit just two places. We don't have enough time to conduct an in-depth study of the many other communities in British Columbia. We know that there is a lot of demand. Many

parents wait in line to enroll their children in French immersion programs.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to.)

(The Senate adjourned until Thursday, April 21, 2016, at 1:30 p.m.)

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