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(HANSARD)

Thursday, November 24, 2016

The Honourable GEORGE J. FUREY
Speaker

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THE SENATE

Thursday, November 24, 2016

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

Prayers.

[*Translation*]

SENATORS' STATEMENTS

HONOURABLE ANDRÉ PRATTE

CONGRATULATIONS ON THE PUBLICATION OF LEGACY: HOW FRENCH CANADIANS SHAPED NORTH AMERICA

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, during the last break week, I was in my kitchen having a coffee, listening to Radio-Canada, when I was surprised to hear our colleague, Senator Pratte, talking about his new book. I went to my local bookstore and got a copy of his latest publication.

This 400-page book gives an account of 13 French Canadians who shaped North American history before the Quiet Revolution. Senator André Pratt is the co-editor, in collaboration with Jonathan Kay. The book includes contributions from many well-known authors, including Lucien Bouchard, Margaret Atwood, one of our former colleagues, Senator Roméo Dallaire, Chrystine Brouillet, former Quebec premier Jean Charest, Ken Dryden and others.

[*English*]

This unique biographical book, written by many of English and French Canada's best-known writers and thinkers, tells the story of the extraordinary legacy of the French contribution to our very way of life.

Great news: It is possible to buy the English version, and the English version is called *Legacy: How French Canadians Shaped North America*. The book includes chapters on Jacques Plante, Gabrielle Roy and many other prominent francophones.

[*Translation*]

Legacy allows us to draw lessons from these pioneers that can help us face today's challenges. It also reminds us of our roots. Think about the immense contribution Jehane Benoît made to gastronomy in Quebec with her *Encyclopédie de la cuisine*, which was full of recipes I remember from my childhood. Think about Thérèse Casgrain, who was appointed to the Senate in 1970, where she sat as an independent and fought for the rights of women in Quebec and across Canada.

As Senator Pratte says in his preface, and I quote:

> Having discovered the life stories of these important but relatively unsung French Canadians, our readers may want to delve deeper into the history of their ancestors. In doing so, they will realize that the French Canadians have always been a great people. Not a greater people than any other, but not a lesser one either. A people that, given its small size and the trying circumstances it has faced, has made a remarkable contribution to the building of North America.

[*English*]

Senator Pratte has written many books on politics, history and the media. I also invite you to read his biography on Wilfrid Laurier, part of the Extraordinary Canadians series.

[*Translation*]

Please accept my warmest congratulations, Senator Pratte.

Hon. Senators: Hear, hear!

QUEBEC

SEX OFFENDER REGISTRY

Hon. Pierre-Hugues Boisvenu: Honourable senators, on Friday, November 18, André Spénard and Nathalie Roy, members of Coalition Avenir Québec, introduced, for the first time, in the Quebec National Assembly, a motion calling on the Government of Quebec to implement a provincial dangerous sex offender registry in order to better protect women and children.

It is important to remember that in 2006 the Supreme Court of Canada recognized that information on freed dangerous sexual predators is public in nature and can be made available if it serves to protect the public. Since then, almost all of Canada's provinces have adopted different ways of making that information public, except one: Quebec, the province that has the unenviable title of "champion" of women and especially children.

[*English*]

In 2015, the Conservative government passed legislation that recognized the importance of making public specific information about freed sexual predators.

[*Translation*]

We also know that implementing an IT infrastructure to keep the public better informed about these dangerous criminals would cost very little because the RCMP already compiles this sort of information in the National DNA Data Bank.

[*English*]

To my surprise, as well as that of thousands of victims of sexual assault, the motion introduced by CAQ was denied by the Leader of the Government of Quebec, Mr. Jean-Marc Fournier.

[*Translation*]

This is a very troubling situation for our province. The majority of sexual offences against children in the country — 55 per cent — occur in Quebec. By way of comparison, the

annual rate of recorded sexual offences against children is two times lower in Ontario than in Quebec, even though Ontario's population is 30 per cent larger. There are only 800 recorded offences per year in Ontario compared to 1,500 in Quebec. The same is true for the monitoring of released high-risk sexual predators in the two provinces. Ontario loses track of four per cent of these offenders while Quebec is unable to locate 26 per cent.

I encourage you to read the report by Quebec's Auditor General, which was tabled on Tuesday and identifies a number of very troubling gaps in the protection of women and children in Quebec.

Honourable senators, it is a first, but I am nevertheless very disappointed that Quebec is hesitating to create the registry that tens of thousands of people who signed petitions are calling for alongside parents such as those of little Cédrika Provencher, whose kidnapping and murder had a profound impact on the annals of Canadian law and Quebec law in particular.

[*English*]

As you all know, I am very engaged with the victims of crimes and their families in the province of Quebec, as I have been for over 15 years. It is important to point out that this registry is requested not only by the victims of crime but by over 80 per cent of Quebec's population.

[*Translation*]

Honourable senators, in closing, I want to draw your attention to the work of Sophie Dupont, who has been fighting for this cause for many years. She volunteers her time and her resources to mobilize people and convince Quebec politicians that it is important to protect the most vulnerable members of society. As this is the eve of the International Day for the Elimination of Violence against Women —

The Hon. the Speaker: I'm sorry, senator, but your time is up.

[*English*]

We have a full list of senators for Senators' Statements today, so please stay within your three minutes, senators.

• (1340)

NATIONAL CHILD DAY

Hon. Jim Munson: Honourable senators, every November 20, Universal Children's Day — National Child Day in Canada — recognizes the 1989 unanimous adoption of the Convention on the Rights of the Child by the United Nations General Assembly.

The UN Convention on the Rights of the Child outlines the framework for enabling children to flourish and advocates for eliminating social inequities that can prevent them from doing so.

Acting in respect of children's rights begins with a choice. While Canada made this choice when it ratified the convention in December 1991, we are not necessarily meeting our obligations to all children in this country. Notably, Aboriginal children continue to lag their peers by virtually every measure of well-being: family income, housing, access to clean drinking water, educational attainment and mental health.

Article 6 of the convention guarantees a child's right to life: Governments must ensure that children survive and enjoy a healthy development. That is not happening for Aboriginal children in Canada.

National Child Day reminds us not only of what has been accomplished with respect to children's rights but also the work that remains to be done — particularly when it comes to those who are more vulnerable, like Aboriginal children or those with a physical or intellectual disability.

Honourable senators, tomorrow morning, the chairs on which you are now seated, and those in the galleries above, will be filled with children from across the National Capital Region. They will be joining Senator Martin, Senator Mercer and I for our annual celebration in honour of National Child Day. I hope next year that we have an independent within our group so that we can continue in an equitable manner with this important day.

We follow in the footsteps of the great children's rights activist, former Senator Landon Pearson, who created this event even before we were appointed to the Senate.

Every year we craft a program that embraces the values embodied by the UN Convention on the Rights of the Child and showcases the tremendous potential and accomplishments of Canadian youth.

Honourable senators, if you are in Ottawa tomorrow morning, join us here in the Senate Chamber at 10:00 a.m. to witness first-hand the incredible excitement and energy of this event. If you are not able to attend, I encourage you to add next week's networking breakfast with local and national children's groups to your calendars. That event will be held from 8 a.m. to 9 a.m. just outside, in the Senate foyer. I look forward to seeing you there.

Honourable senators, it has been said you can seek the wisdom of the ages, but always look at the world through the eyes of a child. Thank you.

ENERGY PROSPERITY

Hon. Douglas Black: Honourable senators, I view part of my role to be to keep this chamber updated on developments in the energy industry and their impact on all regions of Canada.

Today I rise to share with my colleagues the key milestone dates that are upon us regarding two pipeline approvals in Canada, and to summarize what I believe to be the three immediate issues that now need to be addressed to allow Canada to maintain energy prosperity.

By now, I believe it is accepted in this chamber that Canadian prosperity in large part depends on ensuring Canadian oil moves safely to the Atlantic and Pacific coasts and to the U.S. through Keystone XL and other expanded U.S.-bound projects.

We all know the consequences of the export of our energy products going exclusively to the U.S. market: lower demand and lower prices, lower investment, less employment and less tax revenue.

Tomorrow, the Government of Canada is expected to announce its decisions on the way forward, or not, for both the Northern Gateway pipeline project from the oil sands to Kitimat, British Columbia, and the rebuilding of the Enbridge Line 3 from Alberta to Wisconsin.

Canada needs both decisions to be positive, and I'm hopeful they will be.

Going forward, I'm strongly advocating that our prosperity agenda requires three more immediate steps to be taken.

First is the approval of the twinning of the Trans Mountain pipeline from Edmonton to the Pacific coast. The government is expected to announce its decision on this important project on or before December 19.

Second is the approval of the Keystone XL pipeline. The government should be actively ensuring that the new U.S. administration understands the importance and benefits of this pipeline to both the U.S. and Canada. It is awaiting President-elect Trump's approval, so the time to act is now. I'm doing my part to share the benefits of Keystone with American legislators and influencers. I urge my Senate colleagues to reach out to their American colleagues to seek their active support for a quick Keystone decision.

Third, the momentum behind carbon pricing initiatives in Canada needs to be slowed — not stopped, but slowed.

Seven or eight years ago I was one of the first leaders in the energy field to call for the measured pricing of carbon. My view has not changed: There should be a price on carbon.

But I urge governments to exercise alert caution to prevent getting too far ahead of other competitive energy nations, such as the U.S., in imposing taxes on carbon. To be materially out of sync with our competitors on taxes, including carbon taxes, can only ensure that Canada's energy industry becomes less competitive, with the result that businesses, projects and investments will vote with their feet.

I urge my colleagues both to consider these reflections and to continue to advocate for wise decisions from governments to ensure that safe pipelines can be built for the prosperity of all Canadians.

MAJOR (RET'D) WILLIAM TILLEY

CHURCH LADS' BRIGADE—CONGRATULATIONS ON GOLD SERVICE BAR

Hon. Fabian Manning: Honourable senators, I'm pleased to present Chapter 6 of "Telling our Story."

Fellow senators, I'm honoured to be informing you of a very special event taking place at Government House in St. John's, Newfoundland and Labrador.

This afternoon the Church Lads' Brigade is hosting its annual awards ceremony and will be awarding Major William Tilley with the 90-year Gold Service Bar. Yes, senators, you heard me correctly: a 90-year Gold Service Bar.

Major Tilley will soon celebrate his one hundred and second birthday. He is the only member of the CLB Armoury in the organization's history to be awarded this honour.

The Church Lads' Brigade in Newfoundland is the oldest and largest Anglican youth organization in Canada. Since 1892, more than 20,000 boys and girls have been members. There are 12,000 former members still living. At the end of 2015, the CLB Armoury in Newfoundland and Labrador had an active strength of approximately 600 members, ranging in ages from five years to, as we know now, 101 years of age.

William Tilley was born in St. John's on November 30, 1914. The records of the brigade indicate that he joined the CLB Armoury on March 26, 1926, giving him 90 years of active service this year.

Major Tilley was drum major in 1939 when King George VI visited St. John's, and he served in that role until 2002, for a total of 63 years. He led the Battalion Band over and over again throughout World War II as it marched soldiers, sailors and airmen to the waterfront and railway to head overseas.

He remains archivist for the brigade, having begun the archives in 1978 and then having begun them again following their destruction in the armoury fire of 1992. In 2006 the archives room at the CLB Armoury was renamed the Major William C. Tilley Museum in tribute to his work.

When asked how the CLB Armoury had shaped his life, he replied, "I think it made a man of me." He went on to say, "I learned how to be respected."

Friends, this is a wonderful chapter in the history of our province. Major William Tilley is a credit to his family, his province and, indeed, to his country. He is the perfect and true example of respect, commitment and duty, and there is no simple measure for the life of this man.

I ask you all to join me in congratulating 101-year-old Major William Tilley as he receives his 90-year Gold Service Bar today from the Church Lads' Brigade of Newfoundland and Labrador.

LIEUTENANT-GENERAL CHRISTINE WHITECROSS

CONGRATULATIONS ON BEING NAMED COMMANDANT OF NATO DEFENSE COLLEGE

Hon. Pamela Wallin: Honourable senators, I rise today to pay tribute to Lieutenant-General Christine Whitecross, Canada's first female three-star general, outgoing Chief of Military Personnel and the point person on handling the response to the issue of sexual harassment and assault in the military. Lieutenant-General Whitecross has recently been named the next Commandant of the NATO Defense College in Rome.

She is the first woman to lead the prestigious college and the first Canadian since 1992.

Lieutenant-General Whitecross was what was called an army brat. The family moved often, and, back in the day, the expectation was that Christine would become a kindergarten teacher, or maybe a nurse. But when her father was stationed in Kingston, Ontario, she was accepted in the engineering program and graduated as a chemical engineer. With her military training, she also became an airfield engineer.

Lieutenant-General Whitecross rose through the ranks, and as I noted, in 2015 she was placed in charge of a strategic response to what was called a sexualized culture in the Canadian Forces.

She was appalled to discover that little had changed since her own experiences 30 years before. She was determined to help bring about an institutional change. In her words, "We need to find those people and either kick them out of the military if they won't live up to our values and what we believe in, or we need to change their behaviour." Her honesty and forthrightness have forced this problem out of the shadows and into the open, where it can be better adjudicated and corrected.

• (1350)

She has also spoken out on what she calls a moral obligation to deal with the increased suicides within the forces related to PTSD.

Christine is caring and she is competent. Over the course of her career, she has been posted to Germany, Bosnia, Afghanistan and nearly every Canadian province and territory. Her roles have included engineering officer, director of infrastructure and environment, and the commander of a joint task force.

She was awarded the Commander of the Order of Military Merit as well as the U.S. Defense Meritorious Service Medal for her work in Kabul.

Her three children were all under five years old when she was deployed to Bosnia. She missed birthdays and graduations and gives credit to her husband Ian for making their children's lives as normal as possible while supporting her career without waver.

Over the years, she and Ian have fostered 33 children — a tradition started by her parents when she was just a child.

She is a woman who leads by example.

Lieutenant-General Whitecross is why Canada is so proud of her serving women and men. And on behalf of the Senate, we thank her and congratulate her on her newest assignment — Commandant of the NATO Defence College in Rome.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Gordon and Cathie Wilson of Garden Hill, Ontario. They are the guests of the Honourable Senator Patterson.

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

Hon. Senators: Hear, hear!

[*Translation*]

ROUTINE PROCEEDINGS

INNOVATION, SCIENCE AND ECONOMIC DEVELOPMENT

USER FEE PROPOSALS—PATENT AND TRADEMARK FEES—REPORTS TABLED AND REFERRED TO BANKING, TRADE AND COMMERCE COMMITTEE

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, pursuant to section 4 of the User Fees Act, I have the honour to table, in both official languages, two proposals submitted by Innovation, Science and Economic Development Canada to Parliament concerning user fees for patents and trademarks.

After consultation with the Deputy Leader of the Opposition, the Standing Senate Committee on Banking, Trade and Commerce was chosen to study this document.

The Hon. the Speaker: Honourable senators, pursuant to rule 12-8(2), this document is deemed referred to the Standing Senate Committee on Banking, Trade and Commerce, and, pursuant to rule 12-22(5), if that committee does not report within 20 sitting days following the day it received the order of reference, it shall be deemed to have recommended approval of the user fees.

STRENGTHENING MOTOR VEHICLE SAFETY FOR CANADIANS BILL

BILL TO AMEND—FIFTH REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE PRESENTED

Hon. Michael L. MacDonald, Chair of the Standing Senate Committee on Transport and Communications, presented the following report:

Thursday, November 24, 2016

The Standing Senate Committee on Transport and Communications has the honour to present its

FIFTH REPORT

Your committee, to which was referred Bill S-2, An Act to amend the Motor Vehicle Safety Act and to make a consequential amendment to another Act, has, in obedience

to the order of reference of October 25, 2016, examined the said bill and now reports the same with the following amendment:

1. *Clause 9, page 5*: Add after line 26 the following:

"**10.52 (1)** In this section, *dealer* means a person who is engaged in the business of purchasing vehicles or equipment directly from a company and reselling it to another person who purchases it for a purpose other than resale.

(2) If, on the date on which an order is made under section 10.5 or 10.61, a dealer still owns a vehicle or equipment that it purchased from a company that is the subject of the order, the company shall, without delay, either

(a) provide the dealer, at the company's expense, with the materials, parts or components required to correct a defect or non-compliance in the vehicle or equipment, in accordance with any terms and conditions specified in the order; or

(b) repurchase the vehicle or equipment from the dealer at the price paid by the dealer, plus transportation costs, and compensate the dealer with an amount equivalent to at least one percent per month of the price paid by the dealer, prorated from the date on which the order was made to the date of purchase.

(3) If the company provides materials, parts or components in accordance with paragraph (2)(a),

(a) the dealer shall install the materials, parts or components in the vehicle or equipment without delay after it has received them; and

(b) the company shall compensate the dealer for the cost of installation and with an amount equivalent to at least one percent per month of the price paid by the dealer, prorated from the date on which the order was made to the date the dealer has received the materials, parts or components."

Respectfully submitted,

MICHAEL L. MACDONALD
Deputy Chair

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

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

FOOD AND DRUGS ACT

BILL TO AMEND—SIXTH REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE PRESENTED

Hon. Thanh Hai Ngo, member of the Standing Senate Committee on Foreign Affairs and International Trade, presented the following report:

Thursday, November 24, 2016

The Standing Senate Committee on Foreign Affairs and International Trade has the honour to present its

SIXTH REPORT

Your committee, to which was referred Bill C-13, An Act to amend the Food and Drugs Act, the Hazardous Products Act, the Radiation Emitting Devices Act, the Canadian Environmental Protection Act, 1999, the Pest Control Products Act and the Canada Consumer Product Safety Act and to make related amendments to another Act, has, in obedience to the order of reference of November 3, 2016, examined the said bill and now reports the same without amendment.

Respectfully submitted,

RAYNELL ANDREYCHUK
Chair

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

(On motion of Senator Ngo, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.)

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO STUDY THE CURRENT SITUATION INVOLVING THE BOVINE TUBERCULOSIS OUTBREAK IN SOUTHEASTERN ALBERTA AND TO MEET DURING A SITTING AND THE ADJOURNMENT OF THE SENATE FOR THE PURPOSE OF THE STUDY

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

That the Standing Senate Committee on Agriculture and Forestry be authorized to examine and report on the current situation involving the bovine tuberculosis outbreak in southeastern Alberta, the quarantine that farms in Alberta and Saskatchewan are under, and the movement controls in place for cattle. The study will focus on:

(*a*) factors explaining the outbreak of the disease;

(*b*) measures taken by the federal government and the relevant authorities to control the spread of the disease and to eradicate it from the Canadian cattle population; and

(*c*) possible effects on the Canadian cattle sector.

That, for the purposes of this study, the committee have the power to meet, even though the Senate may then be sitting on Tuesday, November 29, 2016 from 4 p.m. to 5 p.m, and that rule 12-18(1) be suspended in relation thereto;

That, pursuant to rule 12-18(2)(b)(i), the committee be authorized to sit from Monday, January 2, 2017 to Monday, January 30, 2017, inclusive, even though the Senate may then be adjourned for a period exceeding one week; and

That the committee submit its final report to the Senate no later than February 28, 2017, and that the committee retain all powers necessary to publicize its findings until 180 days after the tabling of the final report.

He said: Honourable senators, this is not a typical notice of motion in this chamber, and I owe my honourable colleagues an explanation.

With bovine tuberculosis wreaking havoc in Western Canada and threatening to spread across the country, and in light of yesterday's recommendations from the Minister of Health, members of the Standing Senate Committee on Agriculture and Forestry made a unanimous decision this morning to move this motion. As chair of the Standing Senate Committee on Agriculture and Forestry, I am speaking on behalf of the other 11 members of the committee today.

If the crisis ends in December, the committee will not meet in January. Authorizing the committee to meet will not result in additional costs for either the committee or the Senate because it would call on Health Canada and Canadian Food Inspection Agency officials. If the disease subsides, there will no longer be a problem. If it persists, senators have a duty to track its progress because it may cause extraordinary and dreadful losses to Canadian farmers and ranchers not only in the West, but across the country.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

(Motion agreed to.)

• (1400)

[*English*]

QUESTION PERIOD

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, before beginning Question Period, we have a long list of senators who wish to partake in Question Period, so, when senators are asking questions, I would ask you to please keep your preambles as brief as possible so that we may get to as many senators who wish to ask questions as possible.

PRIME MINISTER'S OFFICE

TRUDEAU FOUNDATION

Hon. Linda Frum: I have a question for the Leader of the Government in the Senate. There have been a number of troubling media reports regarding the relationship between the Prime Minister and the Pierre Elliott Trudeau Foundation. I would like to ask you to set the record straight. When did Prime Minister Justin Trudeau step away from his involvement with the Trudeau Foundation?

Hon. Peter Harder (Government Representative in the Senate): I can't give you a precise date, but I can say that, in the 2014-15 annual report of the foundation, the following statement appeared: The Prime Minister —

> . . . has withdrawn from the affairs of the foundation for the duration of his involvement with federal politics.

Senator Frum: That's two years ago. I heard him characterize it today on the news as many, many years ago.

I would like to ask you: You would agree that it is a basic principle that, in cases where a conflict of interest could occur, an ethical wall is created to separate a person of power from that conflict or from the appearance of conflict. I would like to ask you how the ethical wall between the Prime Minister and the Trudeau Foundation is being enforced?

Senator Harder: The Trudeau Foundation is an arm's length, independent foundation, as senators will know. Its financing has been supported by a number of private sector donors, and the board of directors has historically had a representation from a broad range of individuals with party and non-party-affiliated backgrounds.

With respect to the Prime Minister's involvement, as I said, that involvement terminated with his statement as I have referenced. The foundation exercises its responsibilities entirely on its own.

NATIONAL FINANCE

PARLIAMENTARY BUDGET OFFICER— REVIEW OF BILL C-2

Hon. André Pratte: My question is for the chair of the National Finance Committee. Looking at the material published by the committee on Tuesday, on the amendment to the Bill C-2, I was under the impression that the Parliamentary Budget Officer had analyzed the amendment on Bill C-2.

I spoke with the PBO yesterday and exchanged emails with him today. The PBO told me he had not analyzed the amendment proposals and that he, therefore, could not have concluded that the proposal was revenue neutral. I would like to know from the chair of the committee: What is it exactly that the PBO did with the amendment that transformed Bill C-2 into a totally different tax bill?

Hon. Larry W. Smith: Early in the process, around six months ago, we approached the PBO, asking him to comment on Bill C-2. The PBO prepared a report and, in that report, stated that Bill C-2 delivered the amounts of money as outlined in Bill C-2 to the various five tax brackets but that there would be a cost of $1.7 billion as a deficit. They said the deficit of $1.7 billion in Bill C-2, multiplied by four years, would be about $8.9 billion.

Now, in examining the numbers, we approached the Library of Parliament to do the analytics with the factors to come up with the numbers that we have. We also had a certified chartered accountant take a look at them and quantify them.

Actually, *The Globe and Mail* took our numbers and had a senior professor of economics at Wilfrid Laurier University go over our numbers, as of two days ago, to verify that the numbers were correct that we have projected.

Now, what we did is we went back to the PBO with our new amended version. We asked him to take a look at it to vet it. You have to understand that the PBO is at the service of all parliamentarians, and they like to make sure that they remain as objective as possible. They have taken a look at our numbers, but — and I respect them publicly because they're very good people and do a lot of work for everyone including ourselves — they said that they wouldn't certify it publicly. I understand that.

What we have is the Library of Parliament started the function. The PBO took a look at Bill C-2 as it existed. They have taken a look at our numbers. We sent the numbers to *The Globe and Mail*. *The Globe and Mail* went to Wilfrid Laurier University and got one of their senior economics professors to take a peek at it, and they certified that our numbers are correct.

That's the information that we deal with, and we have been very thorough in terms of going over and over and asking more and more people about our numbers because we realize the importance of the numbers, but we realize the importance of not raising taxes in the amended version of Bill C-2. This is what is most important. We don't have the power in the Senate to increase taxes, but, if you go back to the Ross Report of 1918, we have the power to reduce taxes to adjust tax bills. That's clearly stated, and so, as a measure, we look at our numbers and say that the numbers are correct, that we're on the right path. We actually deliver an improvement to the bill.

I want to make sure everyone understands that our objective is not to defeat any bill, a tax bill, our objective is to try to make Bill C-2 better because, if we had been trying to hit something, it would have been on the upper scale of increasing the $200,000 bracket to 33 per cent. As we all know now, we're faced with a potential competitive issue in North America with the election of the U.S. president, who will probably cut taxes. The highest tax bracket in the United States is $400,000. It is much higher than Canada's. So it does affect competitiveness.

We're not even looking at that. What we want to focus on is the promise of the Prime Minister who said that he is asking wealthy people to help the middle class group between the $45,000 and $90,000 tax bracket. We have done our homework. We feel very secure about our numbers.

Some Hon. Senators: Hear, hear!

Senator Pratte: I don't want to take too much time, and I certainly do not doubt at all the sincerity and good faith of the chair of the committee, but we all see — we can now see — just how complicated this is, and that's why the process is, I find, so disappointing.

I would like to ask the chair why this proposal was not put to the committee way ahead of time instead of at the last meeting on Bill C-2, the clause-by-clause analysis, because this is so complicated that it was impossible to analyze all of the possible consequences of this amendment at the last minute, at the last meeting on Bill C-2.

• (1410)

Senator Smith: Senator Pratte, tax and software on taxes is all computerized to adjust to changes in tax. It is not like 35 years ago when I was a young man and I used to do my taxes and I would run to the mailbox at five to 12 at night and put my taxes in the mailbox and phone my buddies and say, "Have you got your taxes in?" Everyone would say the same thing and we would all laugh.

As I started going forward in my career, I was lucky enough to have chartered accountants to do my taxes. Tax is complicated to 99.9 per cent of people, including us, because we're not tax experts. However, tax software is able to handle these questions and make adjustments easily. No one will pay more tax than they did in 2015 at the same level under the amendment to Bill C-2.

The fact of its being complex, we have already had reports back, and the Finance Department is up in arms. They're talking about this issue being complicated. It is not complicated. What we have done is simple. It only becomes complicated in a couple of areas, but the tax software will handle those particular areas. We feel very confident that this can be adjusted and addressed to helping Canadians in bracket 2 that need the help the most.

The question we have to ask ourselves, as senators, is are we going to do the right thing and help the Canadians who need it the most? The Prime Minister said, "I'm asking the wealthy to

contribute a little more to help the second bracket of tax from $45,000 to $90,000." I remember that. When I heard it, I said, "That's a fantastic statement to make and very noble." But when I look at the execution, the execution doesn't work.

As a result, I ask the question: What is my role as a senator? My role as a senator, especially on the Finance Committee, is to say if it doesn't work, as opposed to trying to destroy the bill, why don't we try to make it better?

I don't look at this as a partisan issue. I look at this as are we going to do the right thing to help Canadians? The complexity is a defence or a mirage that is put up by people who don't want things to change. I understand that. I faced that all my life. I have been a change agent in everything I have done. That's life.

We have done six months of homework, and we have had experts, 23 sources of information, witnesses, panelists, government officials, private enterprise and reports which have told us that the way Bill C-2 is constructed right now does not meet its objective.

Hon. Grant Mitchell: I, too, don't doubt for a minute the chair's sincerity and enthusiasm for making this bill better. What's very interesting is we have one bill with a certain number of parameters in it, and he has taken those parameters essentially and completely and utterly changed them.

We have another bill just as complicated and just as impactful, but the first bill, the government bill, we studied at great length. In fact, he's drawn his conclusions, personal conclusions by and large, out of that study of great length.

Why is it we wouldn't now take the amendment, which is essentially a new bill changing each of those parameters at the guts of that bill, and take some time to study those, given that the new budget is coming out in January or February, and the minister could react at that time to a much more detailed study?

Senator Carignan: Question.

Senator Smith: You went so fast, Senator Mitchell. It was like this morning when you said you can change and we can all change in our Internal Economy meeting. This is not a complexity issue. This is not an issue that one individual has taken and tried to turn upside down.

Let's get to the base facts. There are five tax brackets. This affects the number 2 bracket. You are saying it affects all tax brackets. Wrong. I'm not trying to be condescending, but it is not right.

It affects the second bracket. As the taxes progress, the people at the higher levels under Bill C-2 get all the benefits or the majority of benefits. Sixty-five per cent of the people getting the benefits are making $100,000 to $200,000. It is the people outlined by the Prime Minister in his election campaign in the second tax bracket who we are trying to adjust to. That's where the adjustment is.

I would only ask you to be accurate in your statement. When you make a statement, you have to say it affects the second bracket. The amendment doesn't affect brackets 1, 3 and 4, they pay the same as in 2015. Under Bill C-2, there's a cumulative effect for the other brackets. As you go through the brackets, if you are earning $150,000, you are affected from $45,000 to $95,000, and then $95,000 and up. There are the three brackets before you get to your bracket. The people in the higher brackets benefit the most, because at the lower end, when you make changes, they get the biggest benefits. The biggest benefits, when you lower tax, go to the people in the upper end. That is the way it works.

The Hon. the Speaker: Senator Mitchell, this matter is rapidly turning into a debate. The debate belongs more properly at consideration of the report. There was a fair amount of leeway to ask questions with respect to the activity of a committee, but when it moves into debate, we're moving beyond. It should be taken at the time of the consideration of the report.

PRIME MINISTER'S OFFICE

LIBERAL PARTY FUNDRAISING DINNER— TRUDEAU FOUNDATION

Hon. Leo Housakos: My question is to the Leader of the Government in the Senate. As we know, recently there have been many questions in this chamber and the other chamber and across the country about the inappropriateness of the Prime Minister's attendance at an exclusive fundraising event with leaders of the Chinese community here in Canada, including one member on the list who is the founder of the Wealth One Bank of Canada. That leader received approval to operate in Canada.

On Tuesday, leader, I asked if the Prime Minister was using the Government of Canada to elicit donations for the Liberal Party, and you replied no. Also on Tuesday we heard about another guest at the fundraiser making a $1 million donation to the Trudeau Foundation. That included $50,000 for a statue of the Prime Minister's father.

I also asked if the Prime Minister was using the Government of Canada to elicit donations for the Trudeau Foundation, to which you replied about the great work that the foundation does, and of course no one will bring into question the great work of that foundation, as many other foundations across the country might be doing great work.

Allow me to clarify the question: Do we have a way of guaranteeing that the Prime Minister is not using his office to solicit donations on behalf of the Trudeau Foundation?

Hon. Peter Harder (Government Representative in the Senate): Thank you, honourable senators, for the interest in this subject. As I have stated previously, the Prime Minister has assured the other chamber and Canadians that all of the rules with respect to conflict of interest are being followed.

The rules that Canada enjoys are amongst the highest standards of ethical behaviour required of our senior ministers, and those are being followed and underscored by this Prime Minister.

Senator Housakos: Honourable senators, maybe he's following the fundraising electoral laws in this country, but clearly there are ethical guidelines when the Prime Minister is using his office to

support a foundation. As all parliamentarians know, the Governor General, the Speaker of the Senate, all parliamentarians, particularly the Prime Minister, should be cognizant that they cannot use these high offices to promote charitable interests.

I will ask the question in another way: Is this Prime Minister using his office to reward people who have done work or have raised funds for this foundation in the past?

Senator Harder: Not to my knowledge.

Hon. David Tkachuk: Senator Harder, although the Prime Minister did try and make it clear that he had no connection with the Trudeau Foundation, he does have a slight connection. His brother, Alexandre Trudeau, is a board member. His brother also wrote a book quite sympathetic to China. In a recent interview on Power & Politics, he called for Canada to develop a unique relationship with China that would supplant the one we have with the United States, where we are, in his words, just a follower.

Can you tell me if the Trudeau Foundation board member, Alexandre Trudeau, attended the fundraising dinner in May with the Chinese businessman who later donated $200,000 to the foundation that bears his father's name and of which he is a board member?

Senator Harder: Honourable senators, it is important for us to take a measured view of these matters.

Alexandre Trudeau has been active in the foundation for many years. He is a distinguished journalist and filmmaker, and I don't think we should at all denigrate his academic, intellectual, journalistic or charitable work. I think it behooves us all to reflect more prudently on our questions.

• (1420)

Senator Tkachuk: I don't think I was trying to denigrate his intellect or his capability. It was an ethical question. I asked if he was a member of the board and whether he was at the dinner. I didn't try and relate how smart he was or whether he was intelligent enough to be a journalist.

Can you confirm that you were also a mentor at the Trudeau Foundation and that two of the members of the advisory panel that recommended you for appointment to the Senate, Huguette Labelle, the chair, and Dawn Lavell-Harvard, who were mentor and scholar respectively at the Trudeau Foundation?

Senator Harder: I can confirm that, along with many Canadians, I have had the honour of being a mentor in the Trudeau Foundation program. I could name a number of others.

As to the names you have referenced, I wouldn't know, frankly, whether they have been involved in the past with the foundation mentorship program as it has been broadly used by a number of Canadians who have participated in it. It is all publicly available, to my knowledge, on the Trudeau Foundation website, including who is on the board of directors and who has in the past been a mentor.

INTERNAL ECONOMY

TERMINATION OF DARSHAN SINGH

Hon. Pierrette Ringuette: My question is to the Chair of Senate Internal Economy Committee, Senator Housakos. Colleagues, this is very important. I have been informed that the —

An Hon. Senator: Oh, oh.

Senator Ringuette: Senator Carignan, do you have something to say?

I have been informed that the public service labour tribunal will hold hearings on December 12 regarding the firing of the former Senate Director of Human Resources, Mr. Darshan Singh, who was the first visible minority hired by the Senate in a senior management capacity in over 149 years.

This was a decision taken by the steering committee of Internal Economy on behalf of all senators, notwithstanding that I consider such a decision outside the powers of a steering committee, be it a Senate steering committee or House of Commons steering committee.

This termination and subsequent tribunal hearings will reflect on all of us as it has been reported that he will bring forward a claim of discrimination against the Senate for wrongful termination and possible damage to his reputation. This will surely be a very public and noteworthy five days of hearings, and all senators should know what is going on.

I ask the Chair of the Internal Economy Committee to please inform us as to the Senate's position on this firing and how it occurred.

Hon. Leo Housakos: First and foremost, the steering committee of the Internal Economy Committee acted well within its authority when it came to that termination. Second, it gave a full briefing in camera to members of Internal Economy on a number of occasions throughout the process. Right now that process is, as you appropriately point out, before the labour arbitration board, and as a result I won't comment until the end of that arbitration.

Senator Ringuette: Since the matter concerns all of us, the entirety of this institution, would it be possible for all senators, not only those who sit on the Internal Economy Committee, to have an in camera briefing, and when can we make that happen as soon as possible?

Senator Housakos: All senators are more than welcome to go before the Law Clerk of the Senate and be briefed in camera. Of course, you have to be cognizant of the fact that the matter is before a labour arbitration process and it would be highly inappropriate to comment on the details.

THE SENATE

ROLE OF OPPOSITION

Hon. Denise Batters: My question is for the Leader of the Government in the Senate. Senator Harder, when you testified at the Senate Modernization Committee you said this:

> . . . in a more independent complementary and less partisan Senate . . . there should no longer be an organized official opposition caucus.

Senator Harder, you are the Leader of the Government in the Senate. You willingly referred to yourself as the Government Representative in the Senate. From the answers you gave me here last week, clearly you aren't getting your direction to make such a shocking statement from the cabinet committee table.

Senator Harder, you represent the views of the Trudeau government to the Senate. So who in the Trudeau government gave you the direction to advocate for the destruction of the opposition in a democratic chamber of Parliament? Any chance Gerry Butts is the man behind that curtain?

Hon. Peter Harder (Government Representative in the Senate): Thank you for the question. I would refer you to the broader testimony in which I indicated that I was presenting my views for consideration.

I can assure the honourable senator that these views are views that I have written about and spoken about before the Modernization Committee, and I would encourage an engagement with all senators on how we should shape the Senate as it evolves.

Senator Batters: Senator Harder, you are the Government Representative in the Senate. They're not your personal views. You represent the views of the Trudeau government to the Senate. So I realize opposition may be inconvenient for the Trudeau government, but you didn't answer my question, so I will ask it once again.

Who in the Trudeau government gave you the direction to advocate for the destruction of the opposition in a democratic chamber of Parliament?

Senator Harder: Again I would refer the honourable senator to my testimony as well as more recently an article published by *Policy Options* in which I talk about how an evolving Senate might — might — consider the office of the representative of the opposition in the Senate.

HEALTH

THALIDOMIDE SURVIVORS COMPENSATION PROGRAM

Hon. David M. Wells: My question is for the government leader in the Senate. Senator Harder, I wanted to ask Minister Philpott a question regarding Thalidomide. I would ask that question as I had it prepared. I would ask you to pass it along to her unless you are able to answer.

There are a number of survivor victims of Thalidomide that are unable to access the federal government's Thalidomide compensation program because of lost and destroyed documents dating back 50 years. We all understand that in the pre-electronic days documents were not as safeguarded and retrievable as they are today.

These victims were recently on Parliament Hill seeking help from the minister, seeking help from you and the Trudeau government to change the requirements for compensation to include a professional in-person evaluation as has been proposed. I believe this is a reasonable request. These people have obvious physical evidence of Thalidomide, yet they have all received final rejection letters.

I would ask the minister: Are you open to addressing this obvious unfairness? If so, exactly what will you do, and if it is your plan to do nothing, please say so.

I can provide this to you, senator. Obviously you can read it from the record as well, but if you could provide an answer to that.

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question and can assure him I will bring this to the minister's attention and will seek to provide an appropriate response as soon as possible.

MEDICAL ISOTOPES

Hon. Elizabeth (Beth) Marshall: Leader, my question was also intended for the Minister of Health yesterday. I'm hoping you would be able to answer the question or refer it to the minister.

One of the issues that had been discussed at the Standing Senate Committee on National Finance has been the production of medical isotopes. It came up on a couple of occasions in the past regarding the production of the isotopes at the Chalk River nuclear facility.

Many of us will recall that back in 2009 the reactor at Chalk River was shut down for I think it was in excess of a year, and there was a global shortage of medical isotopes, and of course Canadians were very concerned.

Medical isotopes are used in the diagnosis of many health conditions. There are 30,000 nuclear medical diagnostic scans each week in Canada, so the shortage in 2009 alarmed many Canadians.

At that time, a commitment was made to continue production of the medical isotopes at Chalk River until 2016, until this year, and it was later extended to 2018, but we haven't heard anything about it since. I can't find any information about it on the Internet with regard to what is happening with the production of medical isotopes.

Could you ask the minister to inform us as to current and future arrangements for the supply of medical isotopes to assure Canadians that we will not experience a shortage as we did in 2009?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for the question. It is an important issue, and I will inquire of the minister and ensure that a response is provided.

• (1430)

Senator Marshall: Could you also confirm whether the isotopes at Chalk River will actually cease in 2018, or has that date been extended? If there are alternative sources, could we also find out what they are?

Senator Harder: I will indeed.

Senator Marshall: Thank you.

SUICIDE PREVENTION

Hon. Paul E. McIntyre: Honourable senators, my question is for the Government Representative, and it's on suicide prevention. Actually, this question was intended for the Minister of Health, but because of lack of time, I didn't have an opportunity to ask it.

In 2012, Royal Assent was given to Bill C-300 respecting a Federal Framework for Suicide Prevention. As specified under the act, a progress report must be provided in December of this year.

Government Representative, could you inquire on the current status of the Federal Framework for Suicide Prevention? Has it been finalized? If not, when do you expect that will happen?

Hon. Peter Harder (Government Representative in the Senate): I would be happy to do that.

Senator McIntyre: Could you also inform us if the framework will include a national 24-hour helpline that people in crisis who are contemplating suicide can call to get help?

Senator Harder: I will indeed.

PALLIATIVE CARE

Hon. Nicole Eaton: Senator Harder, again this is a question I had for Minister Philpott, and I think it's relevant because we passed the medical assistance in dying bill in June. As you may know, 96 per cent of Canadians support the provision of palliative care. This government has said in this chamber that up to $3 billion would be invested in palliative care across Canada.

Can you tell me or give me some idea of when the government will start to invest in the provinces and territories to help formulate a plan for palliative care?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her question on this important issue, which we debated in the context of medical assistance in dying. I do believe that the minister has raised this in the federal-provincial context, but I will seek an update to answer more specifically the questions that have been posed.

ORDERS OF THE DAY

INCOME TAX ACT

BILL TO AMEND—EIGHTH REPORT OF NATIONAL FINANCE COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the eighth report of the Standing Senate Committee on National Finance (Bill C-2, An Act to amend the Income Tax Act, with an amendment), presented in the Senate on November 23, 2016.

Hon. Larry W. Smith moved the adoption of the report.

POINT OF ORDER

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I rise on a point of order respecting the proposed amendment that was adopted by the National Finance Committee in respect of Bill C-2, An Act to amend the Income Tax Act. The amendment in question would have the effect of increasing the tax burden on certain individuals, and therefore I submit that this proposed amendment should be ruled out of order.

Section 53 of the Constitution Act, 1867, states:

> Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.

In 1998, in the *Eurig* case, the Supreme Court provided some insight into the rationale behind section 53. In the words of Justice Major:

> The provision codifies the principle of no taxation without representation. . . . it prohibits not only the Senate, but also any other body other than the directly elected legislature, from imposing a tax on its own accord.

Along these lines, Elmer Driedger, a leading authority on statutory interpretation, explains that this restriction is an acknowledgment that:

> The elected representatives of the people sit in the Commons, and not in the Senate, and, consistently with history and tradition, they may well insist that they alone have the right to decide to the last cent what money is to be granted and what taxes are to be imposed.

This is consistent with the Ross report adopted by the Senate on May 22, 1918, concerning the rights of the Senate in matters of financial legislation. The report states:

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

The report also states that:

> The foundation of all Parliamentary taxation is the necessity for the public service as declared by the Crown through its constitutional advisers. The Senate therefore cannot directly or indirectly originate one cent of expenditure of public funds or impose a cent of taxation on the people.

Page 142 of *Senate Procedure in Practice* concerning the admissibility of the amendments states:

> The Senate respects the constitutional provisions relating to the initiation of financial legislation . . . . Senate committees in turn respect the Senate's interpretation of these provisions. In keeping with the Senate's asserted powers in this field, a committee may amend financial legislation, provided that it does not increase the amount of the appropriation or tax.

I submit that this would be the precise effect of the amendment that was adopted by the National Finance Committee in relation to Bill C-2. While reducing taxes for certain individuals relative to Bill C-2, the amendment also raises taxes on certain individuals.

Under Bill C-2, individuals with taxable income over $90,563 will have to calculate two amounts to determine their tax liability and pay the lesser. The tax reduction proposed by the amendment would start to be clawed back as soon as the taxable increase exceeds $90,563, using a tax rate of 50 per cent to do this, and would be fully eliminated when the taxable income reaches $94,679.

Relative to Bill C-2, the proposed amendment would increase the tax burden on individuals with taxable income above $91,851, with an additional tax burden of $679 in almost all cases.

If one is to compare the result of the proposed amendment with the income tax as it currently stands, the proposed amendment would also create an additional tax increase on the tax burden for individuals earning more than $200,000 in comparison to the act as it is currently written. For instance, an individual earning $216,975 would be subject to an additional tax burden of, again, $679. This increase of $679 would be in addition to the tax increase resulting from the introduction of the new top income tax rate of 33 per cent contained in Bill C-2.

While some senators may see the policy merit in proposing this amendment, it is inadmissible on procedural grounds. It follows that for some individuals, this amendment is a tax increase relative to Bill C-2 but also relative to the law as it currently stands. The change is therefore out of order.

In summary, relative to Bill C-2, the proposed amendment would increase the tax burden on individuals with taxable income above $91,851 with an additional tax burden of $679 in almost all cases. While some senators may see the policy merit, again, it is inadmissible on procedural grounds.

Honourable senators, pages 775 of the twenty-fourth edition of *Erskine May Parliamentary Practice* states:

> Not only is it out of order to seek to amend a bill [founded upon a Ways and Means resolution] so as to increase the rate or extend the incidence of a tax beyond that authorized in the relevant founding Ways and Means resolution, but it also is out of order to seek to introduce new material . . . which is not covered by the founding resolutions.

On December 9, 2015, the other place adopted a ways and means motion respecting Bill C-2, An Act to amend the Income Tax Act. That resolution set the terms of taxation and authorized the taxation for the purposes set out in Bill C-2.

I submit that the amendments adopted by the National Finance Committee seek to give the Senate the authority to raise taxes, a power that not only exceeds the authority of the Senate but is arguably against both its Rules and practices. Therefore, the report should be ruled out of order and should not be considered by the Senate.

Hon. Larry W. Smith: Honourable senators, this is a very interesting discussion. Thank you for giving me the opportunity to address this issue.

• (1440)

Currently, there are four marginal tax brackets in the Income Tax Act, and I think it's important to go through this, because it positions the whole issue of whether there's an increase or not. They are 15 per cent, 22 per cent, 26 per cent and 29 per cent. That's what exists in the Income Tax Act. Bill C-2 proposes two changes. It reduces from 22 per cent to 20.5 per cent the second tax bracket. It creates a fifth tax bracket of 33 per cent for people earning income above $200,000.

Going back to what I said earlier, if you remember the Prime Minister said that he wants the wealthy people to contribute a little more to help the middle-income individuals, because no one can define what middle class is.

The amendment proposes two changes. It limits the reduction from 22 per cent to 20.5 per cent to the taxpayers who have a total income within that tax bracket, which is the second tax bracket, and provides a further tax reduction for those individuals for the money earned at the beginning of the second tax bracket, 16.5 per cent between $45,000 and $52,000.

So in this second tax bracket, that's where this amendment changes and reduces taxes to give more to those people in terms of a tax credit. It is alleged that the amendment is inadmissible as it would increase taxes. The argument is the amendment increases taxes because taxpayers with an income above $200,000 will pay more taxes as they would not benefit from the tax reduction from 22 per cent to 20.5 per cent in the lower end, which would, with the amendment, be limited to the middle class, those with income between $45,000 and $95,000.

I believe you should reject the point of order on two grounds. First, the amendment does not raise taxes. Bill C-2 does raise taxes.

Second, I respectfully submit that it's beyond the authority of the Speaker to rule on that point of order. Currently, in the second marginal rate of the Income Tax Act, it is 22 per cent. This rate is found in section 117(2)(b) of the Income Tax Act.

Bill C-2 proposes to reduce that rate to 20.5 per cent. The amendment proposed by the committee accepts in part the amendment proposed by Bill C-2; it maintains that the reduction for individuals with total taxable income within the second bracket, within more or less than $45,000 and $95,000. The amendment also provides them with an additional tax reduction for their income earned at the beginning of the second marginal rate. The amendment does in no way go beyond the marginal rate of 22 per cent currently provided in the Income Tax Act. That's an important phrase. Any increase in taxation that would result from Bill C-2 does not derive from changes proposed by the amendment in sections 117(2)(b) and (c) of the Income Tax Act. Any increase in taxation results from the new fifth marginal rate proposed by the government in Bill C-2. It is argued that indirectly the amendment increases taxes on individuals earning more than $200,000 as they would not benefit from the tax reduction from 22 per cent to 20.5 per cent for the money earned between $45,000 and $95,000.

I respectfully submit that the proposed amendment must be evaluated with respect to the law as it is at 22 per cent and not, with respect, by the measures proposed by Bill C-2. You have to go back to the law, because the ways and means measure is not in law at this particular time.

I will provide the example to illustrate my point. Let's say an existing tax is at 10 per cent. A bill from the House of Commons proposes to reduce the rate to 7 per cent. Then if we adopt the position that the amendment must be assessed with a bill and not the current law, it implies that the Senate could not accept in part the reduction to establish it at 8 per cent or 9 per cent. But the Senate could — and the right of Senate to vote against taxation bills has never been challenged — vote against the entire proposal, which would have the effect of maintaining the rate at 10 per cent. I therefore submit that this amendment does not raise taxes. Bill C-2 does.

I turn now to my second point respecting the authority to rule on the point of order. Rule 2-1(1)(b) states that the Speaker shall rule on points of order.

I submit to you that the point of order raised is not a valid point of order. The only argument that could be made against the amendment is that it indirectly raises taxes, and it is therefore infringing on the privileges of the House of Commons, stated in section 53 of the Constitution Act of 1867, to initiate taxation bills. Section 53 reads as follows:

> Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons

The amendment does not appropriate any part of public revenue or of any tax or impost. It does not appropriate public money. There is no issue with the amendment as to be potentially contrary to our rule 10-7, which embodies section 54 of the Constitution Act of 1867.

As a purely tax-related amendment, the only provision the amendment could infringe upon is section 53 of the Constitution Act of 1867. This Constitution provision is, however, not reproduced in our Rules. The wording of rule 10-7 is clear. It only imposes a limitation on the Senate for appropriation bills, not taxation bills. Rule 10-7 embodies the exclusive initiative of the Crown for spending bills. It mirrors section 54 of the Constitution Act of 1867.

The reference after rule 10-7 makes that clear. There is nothing in our Rules that embodies the privilege of the House of Commons in respect of taxation bills, and section 53 of the Constitution Act of 1867 tax legislation is only referred once, and it is the mandate for the Standing Senate Committee on Banking, Trade and Commerce rule 12-7(8). There is also no reference in our Rules to section 54 of the Constitution Act of 1867.

The question is, therefore, a question of law, of constitutional law, and the relationship between the two houses. It is a well-established principle of parliamentary law and procedure that the Speaker does not have the authority to rule on questions of law, constitutional questions. I refer to a ruling rendered by one of your predecessors on December 8, 2011, reproduced on pages 719 and 720 of our journals:

> As previously indicated, the putative question of privilege pertains to the introduction of Bill C-18. Basically, this question involves the interpretation of law. Thus, it does not fall under the Speaker's authority. The chair refers to the fundamental principle that the Speaker can rule only on procedural matters and not on questions of law. Page 636 of the second edition of *House of Commons Procedure and Practice* says that constitutional questions or questions of law cannot be addressed to the Speaker. Other Canadian works on parliamentary procedure and other decisions rendered in this chamber have emphasized this point.

I would also refer you to precedents from the other place where so-called taxation bills initiated in the Senate were ruled out of order. The other place or the House of Commons has specific rules of procedure dealing with the ways and means process, which gives the government the exclusivity of tabled ways and means motions and therefore bills that are based on ways and means motions, which includes bills that raise taxes.

I refer you to section 83-1 of the Standing Orders of the House of Commons. These rules were relied upon by the Speaker of the other place when taxation bills initiated in the Senate were considered and ruled upon.

On December 2, 1998, Speaker Parent concluded his rulings on the inadmissibility of Bill S-13 as follows:

> Simply put, any bill imposing a tax must originate in the House of Commons and must be preceded by a ways and means motion. Since Bill S-13 proposes a tax, did not originate in the House of Commons and thus was not preceded by a ways and means motion, I therefore find that it is not properly before the House.

I also refer you to a ruling rendered by Speaker Milliken on June 12, 2001 to the same effect. While there are rules of procedure in the House of Commons embodying and referring to its privileges in respect of taxation bills, there is nothing in the rules that does so.

I therefore respectfully submit that the Speaker does not have the jurisdiction to rule on this point of order as it involves a constitutional law question. It would be a question for the House of Commons to decide whether it insists upon its privileges.

I'm in a position to suggest that the point of order should be rejected.

Now, I have just a quick point, Your Honour. I would reinforce for all senators that under no circumstances would a Canadian pay more tax dollars or a higher overall rate than what was paid in 2015.

• (1450)

Our calculations are based on the laws of 2015, which are the laws in the Income Tax Act. Until the bill is passed on third reading and becomes law, that's when Bill C-2 bill comes into force.

For individuals just above the second bracket, they pay the second bracket at 16.5 per cent, up to $52,999, then the balance at 20.5 per cent. As they earn income in the third bracket, the formula calculates half of the third bracket earnings until the total reaches the amount of the second bracket. That can be complex to understand.

Here is the issue at hand. The resulting formula allows between $90,000 and $95,000. What was created in our approach is a soft landing for people so that after you get past $90,653, your taxes don't take a big jump. It's a gradual landing down to $95,000, so the tax credit is reduced to the level of the next bracket. The next bracket is $87.14 when you hit the $95,000 to $140,000.

At $90,563, the tax paid would be $15,766.23 equal to 17.4 per cent, Bill C-2 as amended. In the original Bill C-2, they paid 17.7 per cent. So you pay more as you're going down the bridge in Bill C-2, not the amended Bill C-2. At $91,000, they pay $15,984.73, which is 17.6 per cent as amended. The original Bill C-2 is 17.8 per cent.

You see the gradual decline. People who panic and say, "If I earn more than $90,563, I will be hammered," that is not true. It's a gradual descent so that people are treated fairly and recognize the fact they are going into a higher tax bracket.

It addresses Senator Bellemare's question raised in committee about creating a disincentive. You're not going to create a disincentive because you're gradually changing that credit for people as their income increases. You're not just going right down to the bottom.

At $93,000, they pay $16,984.73, which is 18.2 per cent, Bill C-2 as amended. Bill C-2 as it exists today is 18 per cent. So there you have a 0.2 per cent difference. At $95,000, they pay $17,907, which is equal to 18.8 per cent, Bill C-2 as amended. In Bill C-2 as originally documented, it is 18.1 per cent.

The way this is set up is that there's a difference between the ways and means approach. The approach we've taken, which is 2015 tax law in place; there will be no increase. The increase here is for people earning over $200,000.

The question that has to be asked of all senators: Do you want to help people in the second tax bracket earning between $45,000 and $90,000 who are struggling to be middle-income Canadians? Do you want to do that? Is it the right thing to do? Does Bill C-2 in its actual form deliver that? The answer is clearly no, because Bill C-2 as amended will give a doubling of the credit in each of the brackets for people between $45,000 and $90,000.

So that's the question we have to ask: Are we willing to do something to help Canadians and help the Prime Minister, who made the promise to this mid-range group of Canadians? He said, "I will take care of you." We haven't taken care of those people. We're helping to make the bill better. We will eliminate the $1.7 billion deficit that exists under the present bill.

Question 2: Do you want to pay and have your grandchildren pay $1.7 billion of deficits, which will accumulate on top of the deficits we have today? We have to understand that we can't spend more than we have in our pockets.

The government will say, "We have the benefit of the child benefit program." The child benefit program, which has been added, is a great deal, but it is something that we can discuss when we get into the presentation, if you allow me to make the presentation. We're prepared for the onslaught. When you combine all these taxes together, there's a benefit.

We were asked to study Bill C-2. We weren't asked to study the child benefit program. That adds $4 billion on to the billions of dollars the Conservative government had in that program. It is a good program, but not relevant to our discussion. Our discussion is Bill C-2. Are we going to help people between $45,000 and $90,000? That's what it's all about. We want to eliminate the deficit. We want to move forward and have something that's going to make it better.

[*Translation*]

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, I am rising to speak to the point of order, not the amendment. We discussed this amendment at the most recent committee meeting on Tuesday morning.

With regard to the point of order, I would ask you, Mr. Speaker, to take into account the fact that Senator Smith's amendment is not a direct amendment to the Income Tax Act. Senator Smith is claiming that it amends the Income Tax Act, but it actually amends a government bill, Bill C-2, which was passed in the other place in December 2015 as a ways and means motion and has been in effect since January 2016.

Effective January 2016, all Canadians who earn between $45,000 and $90,000 a year are no longer taxed at 22 per cent but at 21.5 per cent. All Canadians with an income greater than

$45,000 a year have benefited from this tax cut since January 2016.

Senator Smith's amendment seeks to reduce the tax rate of individuals whose total annual income is less than $90,000. During debate, when Senator Smith presented this amendment in committee, he clearly indicated that it was revenue neutral.

It therefore introduces two tax rates, one for people who earn $45,000 to $53,000 a year, who will now be taxed at a rate of 16.5 per cent rather than 20.5 per cent, and another for people who earn $53,000 to $90,563, who will be taxed at a rate of 20 per cent, the rate proposed in Bill C-2. Those who earn over $94,000 will pay 22 per cent on their income in the $45,000 to $90,000 tax bracket. As a result, the amendment will reduce taxes for some and increase them for others.

That is why Senator Smith says the proposal is revenue neutral. However, for it to be neutral, if there is a decrease there has to be an increase. By passing this amendment we are effectively raising taxes on Canadians who earn more than $95,000, whose tax rate will be 22 per cent.

Moreover, there is a second element to this amendment that seeks to reduce the negative impact of these two rates. From the outset, in committee, I noticed that there was a problem with this taxation because this amendment proposes two sets of tax rates based on an individual's total annual income. In the case of those who earn roughly $90,000 a year, the goal seems to be to reduce the net income of some people who might earn more than $90,000, while those who earn a little less than $90,000 would have a higher net income, just to show this inconsistency.

• (1500)

Senator Smith's amendment proposes the following, and I quote:

> (c) if the amount taxable is greater than $90,563, but is equal to or less than $140,388, the lesser of
>
> (i) the maximum amount determinable in respect of the taxation year under paragraph (b), plus one-half of the amount by which the amount taxable exceeds $90,563 for the year, and

And there is a (ii).

However, this first subparagraph, Mr. Speaker, honourable senators, would result in a new tax rate of 50 per cent for individuals who earn more than $90,000 and up to $94,000 annually. This marginal rate of 50 per cent added to the provincial tax means that, in some cases, the tax rate could be as high as 75 per cent. This situation creates perhaps unintended distortions, precisely because this amendment was not carefully examined by the committee. Considering what this amendment actually does, I believe that it is out of order. It is well and truly out of order because it raises taxes, or at least one of the tax rates, and it imposes a considerable fiscal burden because people who earn over $94,000 annually will have to pay 22 per cent in taxes on all income between $45,000 and $90,000.

This bill is very complicated, and administering it will definitely impose additional costs on the CRA, but I acknowledge that this is not part of the point of order.

Senator Smith is proposing these amendments because he claims that this will better meet the needs of the middle class. I would like to point out, honourable senators, that we heard from a number of experts in committee. None of those experts was able to define what the middle class is, and the only consensus among all the experts was this: please do not make our tax system any more complicated; rather, simplify it.

By creating double taxation for individuals, this amendment will certainly lower taxes for some, but also raise taxes for others and even create a 50 per cent tax rate, which will have a disastrous effect on the understanding and consistency of our tax system.

Thank you.

Some Hon. Senators: Hear, hear!

[*English*]

Hon. Joan Fraser: I listened as carefully as I could to the arguments advanced, Your Honour, and with the exception of Senator Smith's intensely political peroration, I found them interesting, but Lord knows, I am no expert on the Income Tax Act, nor, I suspect, are most of the people here.

What I would like to respond to is Senator Smith's assertion that this is beyond your jurisdiction for ruling. Quite the contrary, it seems to me this is squarely within the realm of business that we need Speakers to rule on.

Your job is not to determine whether the proposed amendment is desirable politically, socially or even economically. Your job is to determine whether or not it is technically in order. In order to do that, one of the things you have to look at is whether this is a matter of law or parliamentary amendment to a bill before us.

It seems pretty clear to me that this is not a matter of law; it is a matter of what is parliamentarily admissible.

The second question, then, for you to examine is whether it is an amendment that the Senate has the jurisdiction to make.

My understanding of these matters is that the Senate can amend bills to reduce taxation. The Senate can pass bills to impose specific, purpose-oriented levies.

In this case, even Senator Smith agreed, as the other speakers have asserted, that part of the effect of this amendment would be to raise income taxes for a certain class of persons. That is not a purpose-focused levy. That is a general group of Canadians who would find their income taxes raised beyond what is, as I understand it, now the case, and certainly beyond what would be the case under the terms of this bill.

Therefore, it sounds to me — and I will trust your interpretation of the facts when you get to study the numbers

— as if the amendment is inadmissible, because it does raise income taxes — not for everyone, but for a general group of Canadians.

I further think, as I suggested, that it is admissible because it is not a matter of law; it is the matter of amendment to a bill.

I look forward to your ruling, which I hope will come quickly. I don't envy you the job of trying to wend your way through this thicket.

Hon. Anne C. Cools: Honourable senators, I begin by making a little confession. Perhaps because my days are limited here now to a year and eight months, I am freer.

Colleagues, and Your Honour, I say that you have been asked to do a most unparliamentary thing. In my view, the issue here is much more than a procedural question. You have been asked here to make a decision that will have the effect of overturning a committee report.

That is exceptional. Your Honour, with all due respect, I think you should avoid doing it. But you should base your reasons in what I call "parliamentary process."

It is an extremely disturbing thing that some senators have risen and asked the Speaker of the Senate, whose powers are quite limited in these regards, to overturn and discard a report of a committee no less prestigious and important to the system of Parliament than the Standing Senate Committee on National Finance.

I would also like to say that early in this process, Your Honour, I had a very brief discussion with Senator Harder, and I questioned the fact that he wanted to refer Bill C-2 to the Standing Senate Committee on National Finance. Our Senate Rules are very clear.

I see Senator Day nodding. We have worked on the Senate National Finance Committee over the years.

Do note that our rule says:

> 12-7(8) the Standing Senate Committee on Banking, Trade and Commerce, to which may be referred matters relating to banking, trade and commerce generally, including:
>
> (a) banking, insurance, trust and loan companies, credit societies, *caisses populaires* and small loans companies,
>
> (b) customs and excise,
>
> (c) taxation legislation,

I do not understand why this bill was ever referred to the Senate National Finance Committee and not to the Senate Banking Committee, its rightful destination. I have been in this place for 32 years, and I have seen — usually, unless there is a special reason to make an exception, such as a senator being sick, or a committee not functioning — all measures respecting taxation and the raising of taxes have been referred to the Standing Senate Committee on Banking, Trade and Commerce.

• (1510)

I just wanted to be clear on this point.

Those of us who have been here for a while, such as Senator Colin Kenny, would remember the GST fight here. The GST was studied in the Standing Senate Committee on Banking, Trade and Commerce. I remember this very well because we had to arrange an exchange of committee chairmen to be sure we had a chairman knowledgeable in tax bills.

I urge senators with a full conscience to reject a motion from an individual senator or some individual senators, who seek the total overturn of a Senate committee report. I suggest to you, Your Honour, that these questions before you are not procedural. Some senators here simply disagree with the amendment, and wish it set aside.

This is not unusual. For those of us who have served here for many years, it is frequent that the House of Commons and the government send us bills expecting them to be returned to them, most of the time, if not all the time, without a comma change. I would suggest to you, our dear Speaker — the Honourable Senator Furey — that senators in the past have battled hard to defeat that expectation of governments and the House of Commons in this regard.

Honourable senators, what our National Finance Committee did is perfectly in order. Our committee exercised what it thought to be its duty to make an amendment that, in the mover's view, was beneficial to the government, because it was assisting the government, in his view, to meet its purpose, the Senate does not have to prove that we can amend bills.

I say, Your Honour, we must be mindful that this question as to whether the Senate is rightfully within the constitutional role to amend bills. I commend a Senate report that has been cited here many times. Perhaps it is time to refresh ourselves.

I speak of the Senate Ross report of 1918. In actual fact, the special committee and Senator Ross, the chairman established that the Senate of Canada has always had, from its inception, and I quote Senator Ross on the first page that:—

> 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.

We should know what "the consent of the Crown" is. As found in section 54 of the British North America Act, 1867, called "the financial initiative of the Crown." I am sure that we know this term. Section 54 says:

> It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address, or Bill for the Appropriation of any Part of the Public Revenue, or of any

> Tax or Impost, to any Purpose that has not been first recommended to that House by Message of the Governor General in the Session in which such Vote, Resolution, Address, or Bill is proposed.

Bill C-2 is quite in order. At the opening page, you will see — and to new senators here — on the entry page, it says "recommendation," that is the Royal Recommendation without which no bill can come before us.

To our new colleagues, I encourage you to abandon any notions that are fed by the unlearned who insist that in Canada the Queen is a mere symbol, a mere ceremony. This is not true. Her Majesty the Queen Elizabeth II is the actuating and enacting power of our constitution.

That Royal Recommendation per section 54 of the British North America Act, 1867, is on the front page of Bill C-2. Without such recommendation, we could not consider the bill in the Senate.

Bill C-2 was recommended by the Governor General. It is a good bill and it is in order. Your Honour, it is hard for me to support a request to the Honourable Speaker to discard the report of a committee whose work is indispensable to the role of both houses of Parliament in the consideration of national finance.

I cannot recall a precedent for this.

I also cite here section 53 of the British North America Act, 1867, this is the sole limitation on the Senate in the financial legislation. It reads:

> Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.

Colleagues, I come back to the Ross report and commend it for senators' reading. It is a must-read for every new member. In submitting his report, Senator Ross on the first page said:

> 2. That this power was given as an essential part of the Confederation contract."

The Ross report continues:

> 3. That the practice of the imperial houses of Parliament in respect of money bills is no part of the Constitution of the Dominion of Canada. That the Senate in the past has repeatedly amended so-called money bills, in some cases without protest from the Commons, while in other cases the Bills, were allowed to pass, the Commons protesting or claiming that the Senate could not amend a Money Bill.

Honourable senators, I seems this boogeyman raises its head that the Senate is out of order to amend a money bill, even though the term "money bill" has no existence in Canadian parliamentary life. The term "money bill" is — because Canadians don't really have it in our practice — is taken from the 1911 Parliament Act of the U.K. We have had to defeat this false notion time and time again.

Your Honour, in 1911, the U.K. House of Commons carried a bill where they essentially destroyed the power of the House of Lords to defeat or alter a money bill.

Colleagues, in the time leading to Confederation, and in all the discussions, the Fathers of Confederation were aware of the movement then afoot in Britain to cut down the powers of the House of Lords in financial affairs. They chose to insert into our British North America Act sections 53 and 54, already read to you clearly. There are still remnants of this thinking, that somehow a senator is acting in an irregular manner if he dares to amend a clause of a bill.

Your Honour, this point of order is not a procedural question. There is a substantive public policy and parliamentary disagreement between a few senators here and the majority of members of the Senate Finance committee. This is not a procedural question; it is a substantive question respecting this Senate's proper, fair and just amendment to a bill.

Your Honour, I submit that we senators have a fair and just right to make amendments to Bill C-2, and to have the Senate debate our report and its proposed amendments.

• (1520)

Your Honour, I served with you on the Senate Legal and Constitutional Affairs Committee. I remember us having this same fight as to whether or not we could amend bills.

At that time we took the principled position that not only did we have a right but we had a duty to amend those bills some of which, quite frankly, were badly drafted.

The Hon. the Speaker: Excuse me, Senator Cools, while I very much appreciate your long history and comments, for the sake of efficiency I would ask you to restrict your comments to the point of order, please, in case there are others who may wish to speak to this.

Senator Cools: Your Honour, I thought I was on the point of order the whole time. The point of order is the right and duty of senators to amend this bill should be upheld. It is an injury to the Senate that some members are — seeking to defeat a Senate committee report.

If the feeling against the committee report is strong, then it is a matter to be handled in a parliamentary way, by debate.

I suggest that the authors of this point of order are asking for something which is unfair.

Thank you, colleagues.

The Hon. the Speaker: I want to thank all senators for their input into this point of order. I will take it under advisement. Accordingly, further debate on the consideration of the report is suspended.

[*Translation*]

TAX CONVENTION AND ARRANGEMENT IMPLEMENTATION BILL, 2016

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Greene, seconded by the Honourable Senator Runciman, for the second reading of Bill S-4, An Act to implement a Convention and an Arrangement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and to amend an Act in respect of a similar Agreement.

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, I will be brief. I just wanted to share the content of Bill S-4, which as you know and for the new senators here, is a government bill introduced in the Senate. For it to receive Royal Assent, after being reviewed in committee and passed at third reading in this chamber, it has to be sent to the House of Commons.

Bill S-4 was seconded by Senator Greene.

[*English*]

This bill is an Act to implement a Convention and an Arrangement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and to amend an Act in respect of a similar Agreement.

[*Translation*]

The primary purpose of the bill is to implement a convention that was already announced and concluded with the State of Israel and an arrangement signed with the jurisdiction of Taiwan. It also amends the Canada—Hong Kong Tax Agreement Act to add greater certainty.

The bill would implement provisions to avoid double taxation by the Government of Canada and the State of Israel, thereby preventing double taxation and fiscal evasion with respect to income tax.

Part 2 implements an arrangement between the Canadian Trade Office in Taipei and the Taipei Economic and Cultural Office in Canada for the avoidance of double taxation and the prevention of fiscal evasion with respect to income taxes. This agreement was signed on January 15, 2016, and the agreement with Israel was signed on September 21, 2016.

It is urgent that we move forward with the study of this bill because if we want the agreements on double taxation to go into effect in 2017, the bill must receive Royal Assent by the end of 2016. Therefore, I invite all honourable Senators who wish to speak to this bill to do so as quickly as possible so that the bill may be referred to a committee as soon as possible.

Hon. Pierrette Ringuette: It is in Canada's interest, as a member of the World Trade Organization, to maintain certain agreements with all members of this organization in order to facilitate trade, investment and labour mobility.

In your opinion, does the bill before us pertain to our participation in the WTO?

Senator Bellemare: I do not know much about this bill. However, I do know that it is important, that it is urgent that we move it along, and that it has significant consequences.

Senator Ringuette: I intend to speak to this bill Monday evening. Therefore, I move the adjournment of the debate in my name.

(On motion of Senator Ringuette, debate adjourned.)

CITIZENSHIP ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Omidvar, seconded by the Honourable Senator Gagné, for the second reading of Bill C-6, An Act to amend the Citizenship Act and to make consequential amendments to another Act.

Hon. Pierrette Ringuette: Honourable senators, I rise to speak today in support of Bill C-6, which passed in the other place on June 17 and was introduced at first reading in the Senate that same day. Second reading was moved on September 27 by our colleague Senator Omidvar.

Before I continue, I would like to point out that, contrary to our experience under the former government, Bill C-6, after being reviewed in committee in the other place at five committee meetings, was amended to include measures to respond to the needs of applicants who are handicapped as well as those in a specific situation, that is, "the stateless."

During her excellent speech to the Senate, Senator Omidvar, the bill's sponsor, also made it clear that she would like to see Bill C-6 go before the Senate committee quickly so that a large number of interested parties can be heard and so that, if necessary, improvements can be made.

• (1530)

I must admit that it has been quite some time since the Hill has witnessed such openness to the parliamentary responsibilities of senators.

The fact is that Bill C-6 stands in opposition to the policies of Bill C-24 in several respects. I and many others felt that Bill C-24 flouted our Constitution, our Charter of Rights and Freedoms, particularly section 6 on mobility, and certain international laws.

The constraints and restrictions that Bill C-24 imposed were the opposite of what we are as a society and our hopes for the success of future generations of Canadians. In short, Bill C-24 created fundamental inequalities in the way different citizens are treated. One might also say that this double standard in the treatment of Canadian citizens is still practiced even here in the Senate.

The part of Bill C-6 of which I particularly approve is the principle of recognizing and reducing the duration of residency required for temporary residents.

The problem of our aging population added to that of the need for specialized workers in certain sectors of our economy must be addressed. The last time I looked at the statistics, honourable senators, there were about 271,000 temporary workers here, and the time they spend in Canada in service to our economy should be recognized, just as the thousands of foreign students should have their time in Canada recognized in their citizenship application. Bill C-6 reduces the residency requirement from four years out of six to three years out of five, so from 66 per cent to 60 per cent of the period in question. It will benefit us to have educated young citizens here who are ready to be proud Canadians in our communities and participants in Canada's future.

Obviously, our citizenship legislation isn't perfect, but Bill C-6 improves it. I have been a legislator for nearly 30 years, and what I see here is a piece of legislation that has been amended so many times that it's becoming too difficult to read. Our citizenship legislation could stand to undergo a complete review so that we can make it easier to understand. That would be a fine project for the Senate. It would be a great gift for the Senate and senators to give to our country and Canadians for the 150th anniversary of Confederation. In the meantime, we need to at least set things right, and that's what Bill C-6 seeks to do.

Before I close, I would like to say that I find it unfortunate that, because Senator Omidvar is not a member of the Standing Senate Committee on Social Affairs, Science and Technology, she will not be able to vote or propose amendments to this bill, if need be, when she has already consulted with a number of organizations. That is because, unlike senators who belong to partisan caucuses, independent senators are not able to replace other members in committee. It is sad that independent senators are being treated like that.

Honourable senators, I would like the bill to be referred to committee so that we can hear from interested individuals and groups as soon as possible and pass this bill in 2016. Thank you.

Some Hon. Senators: Hear, hear!

(On the motion of Senator Ngo, debate adjourned.)

THE SENATE

MOTION TO AFFECT QUESTION PERIOD ON NOVEMBER 29, 2016, ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of November 23, 2016, moved:

> 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, November 29, 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.

The Hon. the Speaker: Is there a question?

Hon. Joan Fraser: Yes, may I ask who is appearing?

Senator Bellemare: Minister Joly, the Minister of Canadian Heritage.

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

Hon Senators: Agreed.

(Motion agreed to.)

[*English*]

ADJOURNMENT

MOTION ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of November 23, 2016, moved:

> That when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Monday, November 28, 2016 at 6 p.m.;
>
> That committees of the Senate scheduled to meet on Monday, November 28, 2016 be authorized to sit even though the Senate may then be sitting and that rule 12-18(1) be suspended in relation thereto; and
>
> That rule 3-3(1) be suspended on that day.

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

Hon. David Tkachuk: My understanding is that this motion means that we'll be coming back on Monday evening.

Senator Bellemare: At 6 p.m.

Senator Tkachuk: Perhaps you can explain to the Senate why we will be coming back on Monday evening, rather than our regular agenda.

Senator Bellemare: Yes. The *Rules of the Senate* say that the Senate sits on Monday until Friday, and it's by exception that we always have a different calendar. On Monday night we will be talking about Government Business, and we will try to deal with the business of the Senate as much as we can.

Senator Tkachuk: The Rules say that we sit Monday through Friday. We sit, by exception, Tuesday, Wednesday, Thursday, but we're going to make an exception for Monday but not for Friday? Oh, isn't that interesting.

Senator Bellemare: No. We don't know yet. We don't sit tomorrow.

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

Hon. Donald Neil Plett: A question: I want a clarification on the Rules. First of all I support the motion, but I would like a clarification on the Rules. I thought our regular sitting was Tuesday, Wednesday, Thursday and Friday, and by exception we do not sit on Friday.

Some Hon. Senators: No.

Senator Plett: This is what the table officers told us, so don't say no, please. I'll let the Speaker tell me. Thank you, Senator Mercer. I appreciate your help.

Your Honour, what are the regular sitting days?

The Hon. the Speaker: Rule 3-1(1):

> Except as otherwise ordered by the Senate, the Senate shall meet at 2 p.m. on Mondays through Thursdays and at 9 a.m. on Fridays.

Senator Plett: Thank you.

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.)

• (1540)

STUDY ON MATTERS PERTAINING TO DELAYS IN CANADA'S CRIMINAL JUSTICE SYSTEM AND REVIEW THE ROLES OF THE GOVERNMENT OF CANADA AND PARLIAMENT IN ADDRESSING SUCH DELAYS

EIGHTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the eighth report of the Standing Senate Committee on Legal and Constitutional Affairs, entitled: *Delaying Justice is Denying Justice: An Urgent Need to Address Lengthy Court Delays in Canada*, deposited with the Clerk of the Senate on August 12, 2016.

Hon. Bob Runciman: Honourable senators, I am advised that this report will fall off the Order Paper next week at some point if the clock is not rewound.

The Hon. the Speaker: It's at day 11 now, Senator Runciman. It can go to 15.

Senator Runciman: It can go to 15, which is next week. I know that a number of members of the committee have indicated an interest in speaking to it, so I'm not sure when the appropriate time is to ask for the clock to be rewound.

The Hon. the Speaker: You can do it now, if you wish.

Senator Runciman: That's my request, Your Honour.

(On motion of Senator Runciman, debate adjourned.)

THE SENATE

MOTION TO URGE THE GOVERNMENT TO TAKE THE STEPS NECESSARY TO DE-ESCALATE TENSIONS AND RESTORE PEACE AND STABILITY IN THE SOUTH CHINA SEA— DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Ngo, seconded by the Honourable Senator Cowan:
>
> That the Senate note with concern the escalating and hostile behaviour exhibited by the People's Republic of China in the South China Sea and consequently urge the Government of Canada to encourage all parties involved, and in particular the People's Republic of China, to:
>
> (*a*) recognize and uphold the rights of freedom of navigation and overflight as enshrined in customary international law and in the United Nations Convention on the Law of the Sea;
>
> (*b*) cease all activities that would complicate or escalate the disputes, such as the construction of artificial islands, land reclamation, and further militarization of the region;

(*c*) abide by all previous multilateral efforts to resolve the disputes and commit to the successful implementation of a binding Code of Conduct in the South China Sea;

(*d*) commit to finding a peaceful and diplomatic solution to the disputes in line with the provisions of the UN Convention on the Law of the Sea and respect the settlements reached through international arbitration; and

(*e*) strengthen efforts to significantly reduce the environmental impacts of the disputes upon the fragile ecosystem of the South China Sea;

That the Senate also urge the Government of Canada to support its regional partners and allies and to take additional steps necessary to de-escalate tensions and restore the peace and stability of the region; and

That a message be sent to the House of Commons to acquaint it with the foregoing.

Hon. Victor Oh: Honourable senators, I rise today to speak to the motion introduced by Senator Ngo, calling on the government to take steps to restore peace and stability in the South China Sea. I will use this opportunity to do two things. First, I want to draw your attention to recent developments in the management of the dispute in the South China Sea. Second, I want to call for a deeper examination of the complex and often poorly understood factors contributing to the intractability of this situation.

The South China Sea is strategically important and resource rich. It is home to a quarter of the world's population and contains a wealth of natural resources. It is also one of the major sea lanes in the world, which makes maintaining uninterrupted passage for commercial shipping a key concern. The South China Sea is also the site of several territorial and maritime disputes. Brunei, China, Indonesia, Malaysia, Taiwan and the Philippines have made claims to its land, sea and resources. The United States, Japan and Australia also have substantial interest in the region.

The disputes in the South China Sea are not new, but they have received attention in recent years due to incidents that have led to fluctuating tensions. The most recent round of tensions can be traced to a lengthy standoff in 2012 between the Philippines and China in the Scarborough Shoal — a region rich in fish stocks claimed by both countries.

Relations between the two countries deteriorated as a result of ongoing clashes between military and fishing vessels.

In 2013, the Philippines launched an arbitration case against Chinese claims in the South China Sea in accordance with the United Nations Convention on the Law of the Sea. China refused to take part in the proceedings, arguing that the tribunal had no jurisdiction on the matter and that it would not abide by its decision.

It is important to note that China made a declaration in 2006, under Article 298 of the Convention, to exclude matters relating to maritime-boundary delimitation from compulsory arbitration. Various countries, including Canada, filed similar declarations.

After the tribunal sided in favour of the Philippines this past July, some argued that the proceedings had a limited impact on the situation. Following reports of escalating tensions and military conflicts, there were concerns that the region was spiralling toward a full-scale disaster.

These fears did not materialize. In the past months, there has been a complete reversal in the diplomatic relations between the Philippines and China.

On October 20, China's leader, Xi Jinping, welcomed the newly elected President of the Philippines, Rodrigo Duterte, to Beijing. During the official state visit, both countries agreed to resume direct talks on their disputes in the South China Sea. They also set out to establish a joint coast guard committee on maritime cooperation.

A week following the visit, it was reported that Philippine fishing boats returned to the Scarborough Shoal. This outcome would have been unimaginable when Manila and Beijing were at a standstill, especially because the Chinese Coast Guard has restricted access to this area for the past four years.

This past Monday, it was reported that the Philippines declared a marine sanctuary and no-fishing zone at a lagoon within the Scarborough Shoal. China has yet to officially confirm whether it would support this move. The establishment of a marine protected zone, if successful, could contribute to the reconciliation efforts between the Philippines and China.

Honourable colleagues, I'm cautiously optimistic about this new development.

Due to the number of claimants and the complexity of the claims, a permanent solution to the disputes in the South China Sea is not yet in sight. The fact of the matter is that the historical, political and emotional elements involved often contribute to minimizing opportunity for cooperation. For countries with competing claims, the South China Sea is a core component of their identity, sovereignty and interest. Even a small loss of a claimed area can be seen as a direct threat to the integrity of the country and provide the basis for nationalist narratives. It is for this reason that the importance of using less inflammatory language and exercising restraint cannot be understated.

Claimant countries need a conducive atmosphere to build trust and find common ground. To this end, this chamber should focus on promoting dialogue and cooperation and not adding fuel to an already burning fire.

Throughout our debate, there have been growing concerns over China's action in the South China Sea. A fact that continues to be disregarded is that China has frequently used cooperative means to manage its territorial conflicts. China has settled 12 out of its 14 land-border disputes, usually receiving less than 50 per cent of the contested land. These precedents demonstrate that it is possible for China to engage in the peaceful settlement of disputes. Countries in the region have engaged in friendly negotiations on and off for years, with varying degrees of success.

• (1550)

In fact, it took Vietnam and China over four decades to reach a mutually accepted boundary and fishing agreement in the Gulf of Tonkin in 2000. This is the first agreement that China has signed with one of its neighbours to delimit maritime boundaries.

Another aspect to consider is that China has shown flexibility by suggesting that disputes be set aside in favour of the joint development of natural resources. Most of the claimant countries in the South China Sea have shown interest in these types of arrangements, especially for the joint exploration of oil and natural gas resources. Examples include Japan and China in 2008, China and Vietnam in 2009, and Malaysia and Brunei in 2009.

More recently, China and the Philippines have also discussed the potential of working together to discover and exploit offshore energy deposits in the Scarborough Shoal.

These examples show that countries in the region can come together in the spirit of cooperation to reduce tensions and mitigate conflict. While it may seem difficult for countries in the region to abandon their hardline positions and agree that their shared aim is cooperation, it is not without precedent.

Colleagues, progress takes time. We need to understand that it may take years to formally manage and settle the disputes in the South China Sea.

It is my opinion that our current debate requires more context. This is not entirely our fault but rather a result of time constraints.

In order to fully understand why disputes in the South China Sea continue to seem difficult to resolve, we need to have a better understanding of it.

I am not an expert on this matter, but I believe that all countries in the region have vested interests in maintaining peace and stability. After all, failing to do so could have considerable economic, political and humanitarian consequences.

China is no exception because its continued economic and social development is heavily dependent on trade and resources. Maintaining open waterways in the South China Sea for commercial shipping is to China's long-term advantage. A potential military conflict could not only slow down domestic progress and development but also seriously disrupt neighbouring economies and their populations.

Given that countries in the region are so interconnected and reliant on each other, the stakes are simply too high. I am therefore inclined to believe that China, like its neighbours, has every incentive to restore stability and minimize risks.

Let me be perfectly clear. I do not mean to condone the actions of any of the claimant countries in the South China Sea. I simply mean to say that it is in the interest of all countries to ensure that the region remains peaceful and prosperous.

Honourable senators, there has been no shortage of recommendations on how to settle the disputes. Most countries have supported the use of international law, yet these same countries are not always willing to abide by such norms, particularly when national interests are perceived to be threatened. This is evidenced by the fact that no permanent member of the United Nations Security Council has ever complied with a ruling by the Permanent Court of Arbitration or the International Court of Justice.

I do not want to diminish the importance of international law. However, we cannot disregard the role of bilateral and multilateral arrangements in promoting conflict resolution.

In the context of the South China Sea, myself and others would defend the use of negotiations and dialogues in accordance with international law, especially because these exchanges have set the foundation for how disputes have and will continue to be resolved.

Colleagues, I have lived in Malaysia and Singapore. I have travelled extensively throughout Asia Pacific. I not only maintain strong family and friendship ties in the region but have also gained a deep understanding and appreciation for this part of the world. I am hopeful that claimant countries in the South China Sea will find a mutually acceptable solution, if not during my lifetime, then in the lifetime of the next generation. I know that this is the only way to ensure the security and prosperity of the people in the region and the rest of the world.

Colleagues, as Senator Martin noted in June, the Government of Canada has previously abstained from taking sides on territorial and maritime disputes in which it is not directly involved.

Previous experiences have taught us that our perceived neutrality better positions us to bring opposite sides to consensus. We did so successfully during the South China Sea dialogues in the 1990s, which acted as confidence-building measures at a time of escalating tensions.

While there are various measures that could help restore trust and confidence among countries in the South China Sea, one of our main concerns should be to ensure that our involvement is amicable and effective. These are discussions that we need to have to ensure that we are part of the solution and not the problem.

Before I conclude, I would like you to think about the following: This motion asks us to take a collective position regarding the disputes in the South China Sea, but it does not provide us with an opportunity to fully consider the complexity of these disputes. I strongly feel that it is not appropriate to make this decision without giving this matter the attention it deserves. For these reasons, I will not support this motion.

Colleagues, I urge you to carefully consider why this chamber should not support this motion.

The Hon. the Speaker: On debate, Senator Woo.

Hon. Yuen Pau Woo: Honourable senators, I rise to speak on Motion No. 92 concerning the reduction of tensions in the South China Sea.

I had not anticipated that I would deliver my maiden speech so soon after being sworn in as a senator, and I would rather that my premiere had been on a topic other than this one. But I was

summoned to the Senate in part because I am alleged to have some knowledge about international affairs and in particular about contemporary Asia and the Canada-Asia relationship. Hence it would be a betrayal of my summons if I did not, as it were, rise to the occasion.

I have read closely the previous statements on this topic by fellow honourable senators, and I listened very carefully to Senator Oh's intervention just now. And I'm struck by Senator Ngo's passion in raising the issue and his sincere effort in trying to reduce tensions in the South China Sea.

I am grateful to Senator Enverga for drawing our attention to the special concerns faced by his native country of the Philippines. Senators Martin, MacDonald and Munson have in turn reminded us of Canada's long-standing commitment to the rule of law in international relations, and Senator Cools, who opposes the motion, has raised some important questions about the substance, the tone and indeed the legitimacy of Motion No. 92.

I am especially appreciative of the Government Representative in the Senate for his review of Canada's contribution to maritime cooperation in the South China Sea and his review of what the government has done so far.

In his speech, Senator Harder also summarized the recent actions of the Government of Canada not just in response to the rising tensions in the South China Sea but also in response to the ruling by the Permanent Court of Arbitration on the matter brought to its attention by the Government of the Philippines.

I commend to all members a very careful reading of Senator Harder's speech. It consists of 1,104 words. I agree with 1,089 of those words. I disagree with only his last sentence, in which he declares the government's support for the motion.

• (1600)

I draw a very different conclusion from 99 per cent of Senator Harder's remarks, and I believe my conclusion is also one that you can justifiably come to.

Now, while I have expressed my reservations about delivering my maiden speech on this delicate topic, I have no reservations about voicing a position on Motion No. 92 that is contrary to that of the government. For the skeptical public and perhaps some of you in this chamber who define independence narrowly as a test of whether independent senators will always vote with the government, I hope my example puts that question to rest.

Some Hon. Senators: Hear, hear.

Senator Woo: There is much commonality in the views expressed by previous speakers on this motion, and I count myself in that company. We have a shared desire for reducing tensions in the South China Sea, encouraging cooperation among littoral states, promoting adherence to international law and resolving disputes, and protecting the sensitive marine environment that is the unfortunate arena for the current conflict.

However, I am not persuaded that Motion No. 92 will do any of the above, and more importantly, from the perspective of a chamber that first and foremost represents Canada, I am unconvinced that it addresses Canadian interests in the short term or the long term. There are three principal sets of reasons.

First, as Senator Oh has pointed out, it has been four months since the court of arbitration released its ruling. In that time, there have been dramatic political developments that have already had an impact on the South China Sea. The most immediate is the May 2016 election of Rodrigo Duterte as President of the Philippines and his subsequent rapprochement with China to the extent of essentially setting aside the arbitration ruling and pursuing instead a bilateral solution to his country's boundary dispute with Beijing. In effect, the country that "won" the ruling has chosen to not push for its implementation and is instead seeking a political resolution to the problem.

As some of you know, President Duterte has gone even further by publicly aligning the Philippines with China as a political ally and threatening to end his country's military alliance with the United States. It would seem that president-elect Trump is not inclined to protest — if we take his statements during the election campaign about disentangling U.S. commitments overseas at face value. At the very least, I think we can say that President Obama's pivot to Asia is over. A new chapter, honourable senators, perhaps a new volume, in the saga of maritime disputes in the South China Sea was opened in 2016, ushered not by a ruling of the international court but by the revenge of geopolitics.

The most immediate result of Manila's *volte-face* on this issue appears to be a breakthrough on one of the core issues in the arbitration ruling, namely access for Filipino vessels to fish in the waters around Scarborough Shoal. As Senator Oh has pointed out, there are reports that boats from the Philippines have been allowed to cast their nets in those waters for the first time in four years. If this is true, it would suggest that the Chinese are acquiescing to this central finding of the court, even as Beijing continues to vigorously denounce the decision itself.

President Xi Jinping and Rodrigo Duterte confirmed again a few days ago on the margins of the APEC meeting in Peru that Filipino vessels would indeed be allowed to access the waters around Scarborough Shoal. President Duterte went even further two days ago by proclaiming a marine sanctuary in the lagoon within Scarborough Shoal, a site of particular environmental concern given its sensitive ecosystem. So far, the Chinese government has not opposed this unilateral initiative by Manila, which to my mind amounts to a tacit acknowledgment of the Philippine's territorial claim over Scarborough Shoal.

Second, as Senator Cools has pointed out, and now Senator Oh as well, there has been little evidence or context provided in support of the strident language of Motion No. 92, much less an analysis of what is driving the conflict and how Canada can be helpful. This chamber has not had the benefit of a thorough review of boundary conflicts in the South China Sea. I am not just referring to a recitation of the timeline for the current disputes or reproduction of the legal arguments and the arbitration ruling.

It would be naive of us to imagine that the disputes in the South China Sea are purely a matter of international law.

What we are witnessing, honourable senators, is power politics of the highest order at a moment in history when the unipolar dominance of the United States is giving way to a more diffuse global balance of power. China, of course, looms the largest in the so-called power transition that we are witnesses to, and it is in the

interest of all states, including Canada, maybe especially Canada, to avoid the Thucydides trap of great power conflict.

International law, for example in form of the court of arbitration's ruling, may well be a way to avoid great power conflict. From a Canadian perspective, that is the best way. But a dogmatic and trenchant insistence on international law could also be the very precipitant of conflict.

I do not believe that Motion No. 92 is helpful in steering us away from great power conflict. On the contrary, it will come across at best as an anachronistic pronouncement that embarrasses this chamber or, worse, one that damages Canada's long-term interest as an informed, credible and engaged player in the region.

This brings me to my third point: This motion does not provide any reflection on what Canada's longer-term interest in the Asia-Pacific is, and it does not add anything, except some sharp language, to actions already taken by the Government of Canada. For example, we have for many years under both Conservative and Liberal governments been seeking entry into the East Asia Summit. This is a regional grouping that includes all East Asian countries, as well as the United States, Australia, New Zealand and India, but not Canada. Likewise, the ASEAN Defence Ministers' Meeting Plus has all of these countries as members, plus Russia, but not Canada. If we are concerned about maritime security and building stronger political and economic ties with Asian countries, we need to be part of these kinds of regional fora. But we will do ourselves no favours by passing a motion that will come across in Asia, including by claimants in Southeast Asia, as gratuitous.

In any case, the motion at best repeats a number of points that the government has already made and I would submit has made more fulsomely, for that matter, in its official statements. Minister Dion's statement on July 21, for example, calls for the peaceful management and resolution of disputes in accordance with international law, and the need for parties to refrain from land reclamation, militarization and other actions that can undermine regional security and stability.

Some of you will be wondering: "If this rookie senator is right that the motion is so damaging to Canadian interests in Asia, why is the government supporting it?" I cannot speak for the government, but I can surmise that it has to do with the short-term political cost of opposing the motion. Insofar as a vote against the motion boils down to being soft on China and against peace and security in the South China Sea, it is a political loser, big time, which is precisely why, honourable senators, as a senator who feels unencumbered by political and partisan calculation, I'm looking at the bigger picture, taking the longer view and choosing, in this case, the less popular or, should I say, less populist position.

Finally, I'm also concerned about the framing, language and tone of this motion. If Canada's official position is to not take sides on the boundary dispute, again as Senator Oh has reminded us of, why would we single out one of the claimants for special mention? If militarization of the South China Sea is deemed to exacerbate tensions, does it make sense to deem one party as hostile when other claimants and non-claimants are also stepping up their military presence in the area?

Is the point of a motion on the South China Sea to feel virtuous about having made a motion, or is it to make a constructive contribution to peace and security in the region, and to serve Canadian interests? If we are the chamber of sober second thought, surely we should offer our second thoughts with sober words.

Let me sum up by reiterating my respect for Senator Ngo and other honourable senators who spoke in favour of the motion, and let me again state that we share a common view about the need to reduce tensions in the South China Sea and the importance of international law in resolving disputes. But, honourable senators, Motion No. 92 will not serve those purposes and could in fact do great harm to Canadian interests in the region. I hope you will join me in opposing the motion.

Hon. Tobias C. Enverga, Jr.: I have a question for Senator Woo.

The Hon. the Speaker: Senator Woo, are you prepared to take a question?

• (1610)

Senator Woo: Yes.

Senator Enverga: Thank you for your very eloquent speech, Senator Woo, and for your first speech as a senator. It was great.

I am so impassioned and I feel so proud to be part of the Asian community. We have a senator from Vietnam, a senator from Singapore and now a senator from Malaysia. We even have an islander, a senator from Barbados.

Senator Cools: That's me.

Senator Enverga: There you go. A senator from Barbados has spoken. It looks like all the islanders are speaking about this, even the senator from Korea. Look at this. We have such great dedication for preserving our oceans, something that we are so passionate about and so willing to speak about.

I spoke earlier about this, and you must have read it; however, you know for a fact, Senator Woo, the dispute was before the Permanent Court of Arbitration working under Annex VII of the United Nations Convention on the Law of the Sea. UNCLOS Annex VII sets out the dispute resolution procedure when one party does not agree with the listed means of settling disputes.

What I'm worried about, without this motion, is why would we allow a big nation like China to control an international tribunal? Think about this. Would you think that the chamber would see bilateral moves as a victory? I see it as a potential retreat to avoid being further bullied by a strong military aggressor. We cannot let this happen in the West Philippine Sea because then Russia and the United States of America can do the same to us in the future as Canadians.

Don't you think that it is unlawful for China to build an island in a sea that the Philippines own? It is just like my big friend here Senator White putting his plate on my table. How can I complain

to him when, in fact, he's a big guy, he is strong and I cannot fight him?

So what did President Duterte say? As soon as he came back from China, he said,

"There will be no war." That was his statement, "There will be no war." A small country like the Philippines cannot fight.

The Hon. the Speaker: Senator Woo's time has expired. In order to answer a question, I am asking Senator Woo if he's asking for five more minutes. Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Senator Enverga, question?

Senator Enverga: Yes, thank you, honourable senators.

As I was saying, what is happening right now, if I could explain to you before I ask my question, think of us as an island. You are in Malaysia, somebody is in Singapore, somebody is in Korea, somebody is in Vietnam and I am in the Philippines. Suddenly this big guy here puts a folder on my desk, which is part of my 200-mile region. What am I going to do with this guy? He says, "If you take it, you are going to be in trouble. If you take this, it will not be good for your country."

What would you do as the Philippines? The Philippines has a sense of pride and patriotism in its citizens, and we have our president, who loves the Philippines and doesn't like war. What are you going to do?

Your first reaction is to make peace because you have no choice. Honourable senators, I ask, what are we going to do with this? If a big, powerful country takes your property, are we going to allow it? Are we going to allow other countries to grab your property and say, "This is mine and you cannot touch it"? I know that in the Philippines, you mentioned that fishermen are now allowed to go around the island.

Senator Mercer: Question.

Senator Enverga: The fact is it's not —

The Hon. the Speaker: I'm sorry, Senator Enverga, but time is running out. Do you have a question for Senator Woo?

Senator Enverga: My question is: Are you allowing a big, powerful country to grab the property of another nation?

Senator Woo: I thank Senator Enverga for his question. Let me say that I sympathize with his problem with neighbours encroaching on his territory. Senator Cools has a number of times put her books on my desk. It has been very annoying. I have thought of going to the Speaker for a ruling on this, but I spoke to her kindly —

Senator Cools: Yes, yes.

Senator Woo: — and asked her to please put the books back in place and she has done so.

Senator Cools: A peaceful settlement.

Senator Woo: The principle is this: We want to solve problems peacefully and we want to avoid conflict. From a Canadian perspective, we are a middle-sized country without a substantial military. We are not a great power. It is in our interest to promote international law, and that should be our first position on all conflicts, whether we are part of it or they are in another part of the world. This is clearly stated in my speech.

But when there is a real and pressing conflict, as there is in the South China Sea, and we see progress being made by leaders of those countries willing to talk about a peaceful solution, we should be supportive rather than, as Senator Oh has said, to pour fuel on flames.

Let me also just point to the specific ruling of the court of arbitration in its concluding statement, which I think is one that will be very helpful for all of us to think about before we jump to take one side or another.

The tribunal said in its concluding statement on the ruling that it considered the root of the disputes at issue in the arbitration to lie not in any intention on the part of China or the Philippines to infringe on the legal rights of the other, but rather in fundamentally different understandings of their respective rights under the convention on the waters of the South China Sea.

I think this is the position that Canada should also take while upholding international law and promoting every means possible to avoid conflict in the South China Sea.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: Senator Enverga, do you have a supplementary question? Senator Woo will have to ask for more time.

Are you planning on entering debate, Senator Meredith, or asking a question?

Hon. Don Meredith: I have a question.

The Hon. the Speaker: First we have to go to Senator Woo. Senator Woo, are you asking for another five minutes?

Senator Woo: Three minutes.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: I heard a "no." No leave is granted.

(On motion of Senator Meredith, debate adjourned.)

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

On the Order:

Resuming debate on the motion of the Honourable Senator Wallace, seconded by the Honourable Senator Demers:

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

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

"Appointment of Committee

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

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

"Election of members

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

Presentation and adoption of motion

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

Chair

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

Hon. Pierrette Ringuette: Honourable senators, I rise today to speak and offer a modification to Senator Wallace's much-needed motion to get the Ethics Committee established with adequate representation for all senators.

• (1620)

The Senate is changing, and we are not talking about some potential change somewhere down the road. It is happening now, and has been happening for a while.

When this motion was first presented, independents were a small group. Months later, independents represented the second-largest group in the chamber. With the recent appointments, we have the plurality.

We, the Senate, are still operating under outdated rules and we are endlessly debating changing them without actually changing them. I guess, as some would say, this chamber is a debating chamber, but not a resolving chamber. We should have had proportionality long ago, when we knew that this was the way it was going.

Under the current system, independents would have no voice on the ethics committee, a committee that is in place to rule on the activities of senators of all political and nonpolitical stripes.

I don't wish to question the motives of the honourable senators on the committee, but they are all part of partisan caucuses, even if it is only a matter of perception. This set-up appears to have a vested interest in the affairs of those political caucuses.

As an independent, nonpartisan senator, I do not feel that senators should be ruled by those in partisan caucuses. I believe strongly that no one group, partisan or independent, should control this institution.

Last session, the Ethics Committee met 29 times, all of which were in camera. This makes it even more important that independents be on the committee.

There need to be senators in that rooms who can act as a check against the partisan majority, someone who can represent our interests when we cannot even see what is transpiring at those committees. I understand there are sensitive issues.

Further independence for senators is where the Senate is going. The founders wanted a chamber of sober second thought. Canadians want a complementary institution that is an independent check on legislation and to represent Canada, not necessarily political parties.

We have already a partisan body that rules by majority in the other place. It is important to note that the popularly elected leader of the other place has determined that the Senate should be an independent body. His intentions were made clear and passed with the election.

Let's be clear: We want the Ethics Committee to be up and running. It is almost a year now. It is important and vital to our institution and its members, but it needs to be reflective of the membership reality in the chamber.

Senator Wallace's motion seeks to remedy this situation by allowing independent senators on the committee, ensuring it works for all of us, not only a few of us, and all senators should be equally represented on the committee.

With this in mind, this motion needs to be modified to account for the constantly changing demographics in the chamber. In less than a year since the motion was tabled we have seen such a dramatic shift that it makes this necessary.

MOTION IN MODIFICATION DEFEATED

Hon. Pierrette Ringuette: Therefore, honourable senators, after consultation with Senator Wallace, and pursuant to rule 5-10(1), I move that Motion No. 60 be modified as follows:

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

1. The *Rules of the Senate* be amended:

(*a*) by replacing rule 12-27(1) by the following:

"Appointment of Committee

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

(*b*) by adding the following in alphabetical order in the Definitions in Appendix I:

"Senatorial group

A recognized party or the gathering of all Senators who are not members of a recognized party assembled to elect members of the Standing Committee on Ethics and Conflict of Interest for Senators. (*Groupe sénatorial*)**"; and**

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

"Election of members

(4) Two of the Committee members shall be elected by secret ballot in the senatorial group with the largest number of Senators; two of the Committee members shall be elected by secret ballot in the senatorial group with the second largest number of Senators; one member shall be elected by secret ballot in the senatorial group with the third largest number of Senators; any election by a senatorial group that is not a recognized party shall be held at an in camera meeting called by the Clerk of the Senate for that purpose.

Presentation and adoption of motion

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

Senatorial group

(5.1) For the purpose of subsections (4) and (5), senatorial group means a recognized party or the gathering of all Senators who are not members of a recognized party assembled to elect members of the Committee.

Chair

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

So, honourable colleagues, I think that this is an excellent proposal. It mirrors the disposition that is currently there. But it provides for two very special things.

The Hon. the Speaker: Senator Ringuette, before debate on the modification, leave needs to be granted.

• (1630)

Honourable senators, is leave granted to modify the existing motion as set out by Senator Ringuette?

Hon. Senators: Agreed.

The Hon. the Speaker: Senator Raine, question?

Hon. Nancy Greene Raine: Yes. I'm finding this very complicated, and I don't have a piece of paper to follow it on. You're modifying a motion. It seems almost like a replacement of the motion, and I would request clarification.

The Hon. the Speaker: Senator Ringuette, we have copies to distribute. Do you want to distribute copies now?

Senator Ringuette: I have a few copies here, Senator Raine.

Senator Raine, the intent is not for the chamber to adopt this motion today. The intent is for us to have this discussion and move forward. You will have the opportunity to look at this proposal.

There are two things that we have to bear in mind.

The Hon. the Speaker: Could the pages please distribute the modification?

Senator Ringuette.

Senator Ringuette: You already have copies. The table is very effective. Thank you.

There are two important principles that this seeks. The Senate Ethics Committee deals with very sensitive issues. It has not been doing what they're supposed to be doing for almost 10 months now. I strongly believe that we need to move forward and recognize that we will have 43 independent senators, which is a plurality. It is only reasonable that we deal with that reality. We need to ensure the representation of independent senators at the Ethics Committee while they deal with those very sensitive issues.

The distribution is based on three groups that we have currently. If that changes over time, when the change happens, we shall look at changing this. Two members would be elected by secret ballot from the largest group; two of the members of the committee would be elected by secret ballot from the second largest group; and one member of the committee would be elected from the third group.

The act that we have, which is unique to us, would also respect the fact that we maintain the five senators on that very special committee.

If you have any questions now, I would be more than happy to answer.

I don't know if we have an ethics issue to deal with. Regardless of whether or not we have anything in the queue to be looked at by senators, I honestly believe that we must move forward. We must adopt this motion and move on with the job that we have to do.

The Hon. the Speaker: Senator Ringuette, colleagues, seeking leave to modify an existing motion and make such a complicated modification makes it very difficult for senators. It's not like you're seeking an amendment that can be adjourned so people can study it. In this case we cannot adjourn until we seek leave. If leave is granted, then the modification exists without further contemplation. So it makes it very difficult, Senator Ringuette.

Is leave granted, honourable senators?

Some Hon. Senators: No.

Senator Ringuette: I thought you already asked for leave and leave was granted and that is why the document was circulated to all senators here.

The Hon. the Speaker: The document was circulated merely for the edification of senators so they could study a very complicated request to modify an existing motion.

I'm going to ask again, is leave granted for the modification?

Some Hon. Senators: No.

The Hon. the Speaker: Leave is not granted, so debate will continue on the motion as it exists.

(On motion of Senator Martin, debate adjourned.)

TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO DEPOSIT REPORT ON STUDY OF THE DEVELOPMENT OF A STRATEGY TO FACILITATE THE TRANSPORT OF CRUDE OIL TO EASTERN CANADIAN REFINERIES AND TO PORTS ON THE EAST AND WEST COASTS OF CANADA WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. Michael L. MacDonald, pursuant to notice of November 22, 2016, moved:

> That the Standing Senate Committee on Transport and Communications be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate a report relating to its study on the development of a strategy to facilitate the transport of crude oil to eastern Canadian refineries and to ports on the East and West coasts of Canada between December 7 and December 15, 2016, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Chamber.

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

Hon. Senators: Agreed.

(Motion agreed to.)

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Terry M. Mercer, for Senator Maltais, pursuant to notice of November 22, 2016, moved:

> That the Standing Senate Committee on Agriculture and Forestry have the power to meet on Tuesday, November 29, 2016, at 5 p.m., even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

He said: Honourable senators, by way of explanation, we have three provincial cabinet ministers from Western Canada agreeing to appear by teleconference at this meeting. That's why we're moving this motion now.

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

Hon. Senators: Agreed.

(Motion agreed to.)

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Bob Runciman, pursuant to notice of November 22, 2016, moved:

> That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to meet on Tuesday, November 29, 2016, even though the Senate may then be sitting, and that the application of rule 12-18(1) be suspended in relation thereto.

The Hon. the Speaker: Question for Senator Runciman, Senator Joyal?

Hon. Serge Joyal: Could you explain, Senator Runciman, why the Standing Senate Committee on Legal and Constitutional Affairs needs to meet on that specific date?

Senator Runciman: This is to accommodate the Minister of Justice. We've been working with her office for several months to try to find an opportunity to seek her views with respect to the committee's study on court delays.

Senator Joyal: Thank you.

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

Hon. Senators: Agreed.

(Motion agreed to.)

(The Senate adjourned until Monday, November 28, 2016, at 6 p.m.)

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