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OFFICIAL REPORT
(HANSARD)

Thursday, February 21, 2019

The Honourable GEORGE J. FUREY,
Speaker

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# THE SENATE

**Thursday, February 21, 2019**

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

Prayers.

## SENATORS' STATEMENTS

### THE HONOURABLE LILLIAN EVA DYCK

**Hon. Yvonne Boyer:** Honourable senators, today I rise in this chamber to recognize and celebrate our colleague, Senator Lillian Dyck, and to speak about the incredible play inspired by her life, *Café Daughter*. This play reflects Senator Dyck's experiences growing up as a child of a Chinese café operator and a Cree woman.

The play demonstrates the racism experienced by Indigenous peoples and Chinese Canadians. For example, there is a moment in the play where the main character's mother tells her that she must keep her Indigenous identity a secret. This exchange reflects the shame that has been instilled into Indigenous peoples as a result of the residential school system, the colonial institution that Senator Dyck's mother, Eva McNab, survived.

Senator Dyck's father, Yok Lee Quan, also experienced systemic racism, as he was forced to pay the Chinese head tax when he came to Canada in 1912. Despite the state-sanctioned discrimination experienced by Senator Dyck's family, Senator Dyck has become a catalyst for change.

In 2005, Senator Dyck was appointed to the Senate. She is the first female First Nations senator and the first Canadian-born Chinese senator. She is an academic who holds a Master of Science in biochemistry, a doctorate in biological psychiatry and has held full professorship in the Neuropsychiatry Research Unit at the University of Saskatchewan.

Senator Dyck's priority areas in the Senate include Indigenous peoples, particularly women, Chinese Canadians, women in science, engineering and technology, and post-secondary education.

Senator Dyck champions and speaks across Canada on these topics and others, such as changes to the Indian Act and the devastation of missing and murdered Indigenous women and girls. The root causes of such issues are explored in *Café Daughter*.

The play tells Senator Dyck's life story and educates the public on the difficult realities faced by Indigenous peoples and Chinese Canadians. Despite these grim realities, Senator Dyck's parents persevered. In her June 2011 address in this chamber, Senator Dyck humbly shared that, in her view, *Café Daughter* is a tribute to her parents:

> . . . who wanted the best for their daughter but never could have imagined that she would become a scientist, let alone a senator.

*Café Daughter* has played in venues across Canada to sold-out audiences. It is expected to play here in Ottawa in the near future.

I don't know about you, but I have never met anyone that has had a play written about their life. I hope you will join me in attending this wonderful event as we celebrate our colleague, Senator Lillian Dyck.

*Meegwetch*. Thank you.

### POLITICAL SPIN

**Hon. Fabian Manning:** Honourable senators, chapter 53 of Telling Our Story is coming soon but, for today, I would like to seek your indulgence to do something a little different than usual.

Colleagues, I have had the privilege and honour to be involved in municipal, provincial and federal politics for almost 30 years. It has been an incredible journey, complete with many lessons along the way. Early in my career, an elderly lady by the name of Lena in my hometown of St. Bride's, Newfoundland, offered this piece of valuable advice. She said:

> Fabian, believe half of what you see and nothing of what you hear.

In today's political environment, regardless of your political affiliation, there is a lot of emphasis placed on what we call political spin. With that in mind and remembering Mrs. Lena's advice, I came across a story that I thought would add some levity to the current situation, which I feel some of my friends here in the chamber might find interesting.

Judy Wallman, a professional genealogy researcher in southern Ontario, was doing some personal work on her family tree several years ago. She discovered that she and then United States Senator Majority Leader Harry Reid shared a common ancestor, Remus Reid, who died in Montana in 1889.

On the back of a picture Judy obtained during her research is the inscription:

> Remus Reid, horse thief, sent to Montana Territorial Prison, 1885; escaped 1887; robbed the Montana Flyer six times; caught by Pinkerton detectives, convicted and hanged in 1889.

Judy e-mailed congressman Harry Reid for information about their great-great uncle. Harry Reid's staff sent back the following biographical sketch for her genealogy research:

> Remus Reid was a famous cowboy in the Montana Territory. His business empire grew to include acquisition of valuable equestrian assets and intimate dealings with the Montana railroad.

Beginning in 1883, he devoted several years of his life to government service, finally taking leave to resume his dealings with the railroad. In 1887, he was a key player in a vital investigation run by the renowned Pinkerton Detective Agency.

In 1889, Remus passed away during an important civic function held in his honour when the platform upon which he was standing collapsed.

Honourable Senators, this is a good example of what is commonly referred to as political spin. The words we hear and the explanations we receive are not always to be taken at face value.

Mrs. Lena wasn't far off.

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of student representatives from the Foreign Affairs Council of Glendon College, York University. They are the guests of the Honourable Senator Gold.

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

**Hon. Senators:** Hear, hear!

## THE HONOURABLE SCOTT BRISON, P.C.

**Hon. Terry M. Mercer (Deputy Leader of the Senate Liberals):** Honourable senators, I rise today to pay tribute to a long-serving Member of Parliament and my friend and Member of Parliament, the Honourable Scott Brison.

Scott decided it was time for a change so he could spend more time with his growing family and will not seek re-election.

Former Minister Brison was first elected in 1997, an impressive 22 years ago. Since that first time, he was re-elected seven times for two parties and served under nine leaders, including as cabinet minister for two Prime Ministers.

Scott understands all too well that politics matters. He has served his constituents of Kings-Hants exceptionally well in his tenure as our MP, understanding that the simplest gesture can impact people in large ways.

I understand he will be hosting one last big barbecue in Cheverie this summer. I look forward to seeing him and his family and the hundreds of constituents and guests who attend every year.

• (1340)

Honourable senators, I'd like to thank Scott for his many years of dedicated service to his constituency, to his province and to his country. From my family to his, we wish him well, Max and their children Claire and Rose, and all the best for future success and happiness.

**Hon. Senators:** Hear, hear.

[*Translation*]

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of Ms. Irène George, Mr. Claude George and Mr. Laurent Gélinas. They are the guests of the Honourable Senator Gagné.

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

**Hon. Senators:** Hear, hear!

## THE LATE LUCIENNE BOUCHER

**Hon. Raymonde Gagné:** Esteemed colleagues, on December 30, Manitoba's francophone community lost one of its shining lights. Today I would like to honour the memory of Lucienne Boucher, née Gélinas, who passed away peacefully at home.

To me and to many others, Lucienne Boucher was a remarkable woman. She was engaged, strong, unpretentious and generous. She had a great sense of humour and a naturally optimistic outlook. People appreciated her authenticity, candour, analytical skills and joie de vivre. She also had nerves of steel. Those characteristics made her a respected police officer, an exceptional mother, and a much-admired mover and shaker in Manitoba's francophone community.

Born in Saint-Pierre-Jolys, Lucienne Boucher spent her career with the Winnipeg Police Force, which was one of the first police services in Canada to hire women as officers. Lucienne was one of the first eight women hired and the first francophone. In 1959, she took a job with the emergency call centre and later became a police officer with the vice squad. She capped her law enforcement career investigating young offenders. She was a trailblazer for women in her community.

Lucienne Boucher was also a courageous mother. She married Dr. Joseph Boucher from Sainte Anne, who had been widowed for a number of years. She took his seven young children under her wing. All seven are actively involved in the francophonie today.

This staunch advocate worked at community organizations such as *Francofonds*, the *Flavie-Laurent* Centre, the *Fédération des aînés franco-manitobains*, the Refugee Assistance Committee and the *Théâtre Cercle Molière*. In 2004, she was awarded the *Prix Réseau* for her contribution to the development of Manitoba's francophone community.

Lucienne Boucher had a passion for politics and was an activist. Her intervention in Manitoba's linguistic crisis of September 1983 showcased her intelligence and nerves of steel. She spoke at public hearings to set the record straight and call the

provincial government to task on linguistic rights. Her message to the Pawley government was that the time for fear and complacency was over. The history of linguistic rights in Manitoba can attest to that.

Lucienne often reminded us that political and social mobilization gives life to our rights. The community has to remain engaged and active to guarantee the survival and equality of our language and ensure that political leadership helps us get there.

Thank you, Lucienne Boucher. Rest assured that your voice will always be heard.

**Hon. Senators:** Hear, hear!

[*English*]

### BARHO FAMILY TRAGEDY

**Hon. Stan Kutcher:** Honourable senators, I rise today to express our deepest sympathies to the Barho family, who have endured such a tragic loss this week.

Seven children lost their lives in a house fire in Spryfield, Nova Scotia, a community that is very close to my own home. Ebraheim and Kawthar Barho arrived in Nova Scotia with their children in September 2017 and settled in Spryfield last summer.

These Syrian refugees were sponsored to come to Canada by the Hants East Assisting Refugee Team Society, known as HEART. Like so many other newcomers to our Nova Scotia shores, they were welcomed into our community with open arms.

On a personal note, I had the privilege to be part of the welcoming group to the earliest Syrian arrivals. My job was to collect toys and help establish the children's play area in the hotel in which they were staying.

Honourable senators, I ask that you remember Abdullah, Rana, Hala, Ola, Mohamad, Rola and Ahmed, all of whom lost their lives.

Ebraheim, their father, is still in critical condition and Kawthar is coping as best she can. I know all too well the effect that this type of tragedy, the loss of a child, can have on a person, on a family and on a community.

Our thoughts and prayers go out to Ebraheim and Kawthar during what only can be described as an unbearably difficult time.

Our support also goes out to the community of Spryfield and to the Syrian community at large across Canada to stay strong and support each other in the painful time ahead.

Thank you, honourable senators.

## ROUTINE PROCEEDINGS

### STUDY ON INTERNATIONAL AND NATIONAL HUMAN RIGHTS OBLIGATIONS

SEVENTEENTH REPORT OF HUMAN RIGHTS COMMITTEE TABLED

**Hon. Jane Cordy:** Honourable senators, I have the honour to table, in both official languages, the seventeenth report of the Standing Senate Committee on Human Rights entitled *An Ocean of Misery: The Rohingya Refugee Crisis* and I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

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

### ABORIGINAL PEOPLES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

**Hon. Lillian Eva Dyck:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That the Standing Senate Committee on Aboriginal Peoples be authorized to meet on Tuesday, April 2, 2019, at 4 p.m., even though the Senate may then be sitting, and that the application of rule 12-18(1) be suspended in relation thereto.

### ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO TRAVEL

**Hon. Rosa Galvez:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That the Standing Senate Committee on Energy, the Environment and Natural Resources have the power to travel within Canada, for the purpose of its examination and consideration of Bill C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts.

[*Translation*]

## BANK OF CANADA ACT

NOTICE OF INQUIRY

**Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate):** Honourable senators, I give notice that, two days hence:

> I will call the attention of the Senate to the need to review the *Bank of Canada Act* and to extend its mandate.

• (1350)

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[*English*]

# QUESTION PERIOD

## PRIME MINISTER'S OFFICE

SNC-LAVALIN

**Hon. Larry W. Smith (Leader of the Opposition):** Honourable senators, my question is for the Leader of the Government in the Senate.

Senator Harder, sources cited in the *Globe and Mail* article from yesterday say that the former Attorney General voiced her concerns to cabinet about Prime Minister Trudeau's interference in a criminal prosecution of SNC-Lavalin. We learned from the article that Ms. Wilson-Raybould told cabinet that, once the decision was made by the public prosecutor in early September to move the SNC-Lavalin case to trial, it was wrong for anyone, including the Prime Minister, his staff or any government official to approach her about this case.

Senator Harder, in relation to the SNC-Lavalin affair we know the Prime Minister met privately with the then Attorney General on September 17, and, of course, on September 4 the prosecutor had sent the notice that action was going to be taken. So on the 17th he met with the then Attorney General, two weeks after the director had decided to move forward with a trial.

My question is: Can you help us, who was present at the meeting? Were notes taken? Who asked for the meeting? How confident are you, Senator Harder, that there was absolutely no discussion of criminal prosecution?

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for the question. Let me remind the chamber, as his preamble suggests, that the citation from the *Globe and Mail* is from anonymous sources. I obviously am not in a position, nor is it appropriate to comment on what goes on in cabinet. Let me simply reiterate what has been on the public record, and that is that the Prime Minister has at no time given direction to the former Attorney General, Minister of Justice, nor to the present one. And for the record, I think you will find that those comments were corroborated in testimony this morning by the Clerk of the Privy Council.

**Senator Smith:** We can move on to the next questioner.

COMPOSITION OF OFFICE

**Hon. Donald Neil Plett:** Honourable senators, my question is also for the Leader of the Government in the Senate.

Senator Harder, yesterday during question period Senator Batters rose to ask you a very legitimate question about the serious allegations being faced by the Prime Minister's Office. Your answer shocked me. You began by quoting a line from a movie, *The Holly and the Ivy*, where one protagonist says to the other, "Why must you always crackle like ice?"

You commented that "It is fitting at a moment of this question for me to recall that movie." Then in answer to Senator Batters' second question, which was: "Who didn't understand the word "independent," you or Prime Minister Trudeau?" You retorted: "I suspect the questioner."

Senator Harder, I was troubled by your actions and your attitude. These comments were a personal slam against a member of our caucus and a member of the Senate. It was completely unnecessary, belittling and unbecoming of the Leader of the Government in the Senate. You know full well that we are at a time where society takes very seriously comments and attitudes meant to belittle or diminish others. Whether comments come in the form of racism, discrimination, bullying or personal accusations, such statements are completely unacceptable.

Senator Harder, will you withdraw the inappropriate comments you made yesterday and commit to answering questions in question period rather than hurling personal insults at questioners?

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for the question. Let me say that I find it hard to believe that quoting from a Christmas movie *The Holly and the Ivy* can be interpreted as unparliamentary or inappropriate. But let me say that if I crackled some ice, I withdraw my comments and will, of course, continue to respond to questions as appropriate.

**Senator Plett:** "Why must you always crackle like ice?" "I suspect the questioner." Those are belittling, Senator Harder.

Allow me to repeat the question, which you refused to answer yesterday. Before you were appointed as Leader of the Government in the Senate, Gerald Butts, through Justin Trudeau, chose you to be the head of the government transition team. In that role, you structured the PMO and its relationship with cabinet ministers. The current shocking allegations are that Prime Minister Trudeau's Office had complete disregard for the critical independent role of the Attorney General of Canada. Senator Harder, as transition team head, where did all this go wrong for you? Did the Prime Minister ignore your advice or did you fail to give it?

**Senator Harder:** Again, I thank the honourable senator for the question. Let me, first of all, clarify that at no time before my appointment as the transition adviser did Gerald Butts inquire as to whether or not I would do this. I spoke with the Prime Minister, the soon-to-be Prime Minister, about taking on this responsibility, as I said yesterday in answer to the question. It was an honour for me to so serve. But it would, of course, be inappropriate and unacceptable for me, in the role I have, to comment on conversations I had with the leader of the third party who had yet to win the election.

## FOREIGN AFFAIRS AND INTERNATIONAL TRADE

### SNC-LAVALIN

**Hon. Linda Frum:** Honourable senators, my question is for the Leader of the Government. On October 17 and November 7, 2018, Mr. Neil Bruce, CEO of SNC-Lavalin, met with Mr. David MacNaughton, Ambassador of Canada in Washington to discuss law enforcement and enforcement of justice issues. That was after the Director of Public Prosecutions refused SNC-Lavalin's request for a deferred prosecution agreement.

Senator Harder, why would a Canadian ambassador be involved in decisions regarding law and enforcement of justice? Did Mr. Bruce meet with Ambassador MacNaughton as ambassador to Washington or as a well-connected Liberal with a long-standing friendship with Gerald Butts?

**Hon. Peter Harder (Government Representative in the Senate):** Again, I thank the honourable senator for the question. Let me say that Ambassador MacNaughton can speak for himself, but, of course, he is, as Ambassador of Canada to the United States, deeply interested in the well-being and interests of Canadian enterprise and workers who depend on the success of Canadian enterprise. It would not be inappropriate for him, given the nature and the spread of SNC-Lavalin's global reach, for ambassadors in Washington or other jurisdictions to take, as they wish, appropriate meetings with the leadership of that company.

**Senator Frum:** Senator Harder, since we don't know what was discussed at that meeting, do you think it would be reasonable that we should invite representatives of SNC-Lavalin to testify at the Senate Legal Committee as per the motion put forward by Senator Smith so that we can find out why they spoke to Ambassador MacNaughton about law enforcement issues?

**Senator Harder:** Again, I thank the honourable senator for the question. I will be happy to express in a broader intervention my views at the time that motion is debated.

[*Translation*]

## JUSTICE

### CRIMINAL CODE—PUBLIC WORKS AND PROCUREMENT CANADA

**Hon. Claude Carignan:** My question is for the Leader of the Government. Leader, it seems that before tabling its bill concerning arrangements with individuals accused of fraud, the Government of Canada held a pre-consultation about amending the Criminal Code. The government prepared an information package entitled *Expanding Canada's Toolkit to Address Corporate Wrongdoing*, which was released in the fall of 2017, and a report on the consultations was published in February 2018.

Could you tell me why a consultation about amending the Criminal Code was conducted by Public Works Canada?

[*English*]

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for his question. Clearly, when consultations are undertaken, they are undertaken by the government as a whole on matters that the government wishes to seek advice on, and those consultations did take place. They form part of the public record of advice that the government took into consideration before amendments were brought forward.

[*Translation*]

**Senator Carignan:** To the best of your knowledge, how many times in history have consultations on an amendment to the Criminal Code been undertaken by Public Works Canada as opposed to the Department of Justice?

[*English*]

**Senator Harder:** I'd be happy to make inquiries and find out.

[*Translation*]

### DEFERRED PROSECUTION

**Hon. Pierre-Hugues Boisvenu:** My question is also for the Government Representative in the Senate.

• (1400)

Yesterday, in response to a question from Senator Martin, you said, and I quote:

> It perplexes me that the honourable senator would think that it would be inappropriate for a Prime Minister of a country not to raise a concern that has been raised with the Prime Minister by premiers, other representatives, stakeholders and shareholders of interests.

Senator Harder, does the Prime Minister often raise such concerns with the Minister of Justice regarding decisions that are up to the minister alone? For instance, has the minister ever raised this kind of concern with regard to the deportation of Huawei's CFO, Ms. Wanzhou, to the United States? Or is he planning to do so?

[*English*]

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for his question. Let me reference the testimony brought before the house committee this morning by the present Minister of Justice and the Attorney General, who made clear under what conditions and circumstances it is entirely appropriate for the Prime Minister or other ministers to bring concerns to the attention of the Attorney General and Minister of Justice. He assured us, as the Prime Minister has assured us, that it is entirely within the context of those appropriate contacts that the government has acted.

[*Translation*]

**Senator Boisvenu:** I would like you to explain why the Prime Minister has two different approaches to political interference in a legal process. For example, in the Wanzhou affair he publicly indicated that the state cannot intervene in the legal process and that Canada's judiciary is not influenced by politics. However, in the SNC-Lavalin case, he became involved in the process to influence the decision of the Minister of Justice.

[*English*]

**Senator Harder:** Again, I thank the honourable senator for his question. He will know, because we debated the DPA here in this chamber in the budget implementation bill of last spring, the measures that now allow Canada to have a deferred prosecution agreement in the tool kit of the government and the prosecution. With respect to the question that was raised, he will know that tool kit provides for the direction given by the Minister of Justice, the Attorney General, and what form that must take. If there is direction given and it is not inappropriate — indeed, it's predicted in the law — the Prime Minister has made clear that at no time did he give direction to the Minister of Justice, who has that competency. That is the testimony he has rendered to the public. That is the testimony of Mr. Wernick this morning.

**Hon. Leo Housakos:** My question is for the government leader in the Senate. Over the last couple of weeks I've been hearing a number of comments that have been coming from the Prime Minister, from his cabinet ministers and from his own government leader here in the Senate, in regard to the appropriateness of how a corporation that is before a criminal trial in the courts and has faced a number of criminal charges over the last few years, that it is completely appropriate for ministers, the Prime Minister and the Attorney General to have meetings to discuss the particular issue.

I would like to ask the government leader in the Senate this: Do other Canadians who are also facing criminal charges or who are before a criminal court have the right to come before the Prime Minister and the Minister of Justice? Would you be willing to take a case involving Canadians who are facing criminal charges before the courts in order to discuss their case?

**Senator Harder:** I thank the honourable senator for his question. He obviously doesn't understand the corporate structure involved and what a deferred prosecution agreement entails.

As to meetings being held, the same company had those meetings with his leader in the party, Mr. Scheer, his leader in the house, and other senior legislators. Mr. Carignan suggested yesterday that it was inappropriate for legislators to have these meetings. They were had more broadly, and that is all to the good, so that the interests of workers, pensioners and those who might be inadvertently be affected by a prosecution are at least given voice to the considerations that are brought forward in the context of a DPA. I see nothing wrong. If the honourable senator does, let him bring forward an amendment to the act.

**Senator Housakos:** Government leader, with all due respect, we have the right to have meetings to discuss the construction of legal legislation. However, we have no right whatsoever, as parliamentarians, to pick up the phone and call the prosecutor's office, directly or indirectly, and tell them how they will apply that law. That is what has been egregious on the part of the government. There is a substantive difference.

I will ask the question again in another fashion. There are other corporations in this country facing criminal court cases. The law we have passed in this place does apply to them, but it is not incumbent on the Prime Minister or the Minister of Justice or the Leader of the Government in the Senate to call the prosecutor's office to apply that law. Do you agree with that or not?

**Senator Harder:** Again, I thank the honourable senator for his question. He is not suggesting, I hope, that the Prime Minister called the prosecution.

[*Translation*]

## PRIVY COUNCIL OFFICE

### SNC-LAVALIN

**Hon. Claude Carignan:** My question is for the Leader of the Government. It seems that SNC-Lavalin met with several ministers, senior government officials and yourself to lobby for the passage of Bill C-74, which is specifically tailored to their situation. Accordingly, if they were able to have access to you to promote the agreement and the need to pass this bill, why did you not see fit to invite them to appear as witnesses before the Standing Senate Committee on Legal and Constitutional Affairs so they could publicly say what they told you behind closed doors?

[*English*]

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for his questions. There are some troubling accusations in his comments. Certainly at no time did I lobby with respect to the amendments that this Parliament and this chamber sought fit to adopt.

It is not my task to determine which witnesses appear before committees. That is up to, of course, the committees themselves, of which the honourable senator is a senior member. I think it's a little incumbent upon us to remove some of the partisanship from the questions. I find it particularly ironic that Mr. Scheer says the Senate is a better place because it's less partisan, and we have had just an imitation of the questions for the last three days.

[*Translation*]

**Senator Carignan:** Since you knew that SNC-Lavalin was facing charges and that the purpose of the meeting was specifically to discuss this type of agreement, wouldn't it have been more appropriate for you to refuse to meet with an accused person who was asking for changes to the Criminal Code?

[*English*]

**Senator Harder:** I believe it was not inappropriate for me to meet with those officials from the respective company who are seeking to preserve the jobs, pensions, and the capacity of the company to function, all the while the executives involved in the alleged criminal activities have been removed from the company, are facing prosecution and, by the way, also meeting with the Leader of the Opposition here in the Senate and others. It's entirely appropriate, yes.

**Hon. Frances Lankin:** Senator Harder, I think that all of us, yourself included, take this matter very seriously in understanding whether or not there was, in fact, undue pressure put on a Minister of Justice. Nothing that we have seen thus far is definitive, and as we see more, it becomes murkier.

You've answered a number of questions about the absolute appropriateness of members of cabinet discussing this with the justice minister, the PMO and PMO staff. In fact, the legal principle, the Shawcross doctrine, supports that, and it is a long-standing practice. I have seen it myself at cabinet tables.

The issue today, as we see it described by an account of what supposedly happened at a cabinet meeting, seems to now be one of a matter of timing, whether or not it was appropriate after a decision had been made.

• (1410)

Again, I don't see anything in the principle that goes against that, but the problem is we have not been able to test any of it. It's not open, not public, and the former minister is still unable to speak because there are murky areas. She described very complex, layered areas of cabinet confidence and solicitor-client privilege. Similarly, the Prime Minister has asked the new justice minister.

I asked you a couple of days ago about any expectation of timing. I understand this isn't easy. None of us would want to waive solicitor-client privilege that could have an impact on the prosecution. Some of the matters discussed could well reveal the theory of the prosecutors to the defendants and now the appellants. However, there are matters that are more directly related to why the minister feels that the pressure was inappropriate, if indeed she does, and if today's report is correct — and I'm not saying it is.

Do you have an answer to my question? And before the justice minister appears next week, will you push him to explain to this chamber and give us some clarity? The longer this goes on, the murkier it is. As long as we don't know what is, the more difficult it is for people to resist the theoretical manufacturing of what could be.

**Senator Harder:** I thank the honourable senator for her question and the conundrum she poses. Let me simply reference the testimony this morning by the now Minister of Justice, who spoke about the framework of Shawcross doctrine, when it is appropriate and what the nature of solicitor-client privilege is.

We also had the testimony this morning of Mr. Wernick with regard to his view on several of the conversations that are relevant.

It is also important to acknowledge that the sources in *The Globe and Mail* are anonymous, and the recollections or the description as recounted in *The Globe and Mail* are being denied by those who necessarily would know more than the reporters involved.

I think your question and the circumstances point to the reason it is so appropriate that the Ethics Commissioner of the House of Commons has undertaken a review of these matters. This is entirely the appropriate venue for these conflicting obligations of transparency and protection and rule of law to take place.

## JUSTICE

### DEFERRED PROSECUTION

**Hon. Leo Housakos:** Leader, again, in your answers today, you just create more troubling concerns on my part than ever before. In response to one of my colleagues, you talked again about economic considerations for SNC-Lavalin — jobs, pensions — while the deferred process legislation that passed the House of Commons and this chamber, as you know very well, clearly outlines that economic considerations will not be considered by the prosecutor's office when making a determination. Yet it seems that the only defence of any attempt at logic here by the current Attorney General, by the Prime Minister's Office, and even again by the Leader of the Government in the Senate, is to invoke economic considerations and that goes against the legislation that you tabled and that we passed in this Parliament.

**Hon. Peter Harder (Government Representative in the Senate):** It is perhaps relevant for the honourable senator to reread the legislation. It does indeed contemplate considerations with respect to third parties, to communities, to workers, to pensions, all to be included in the considerations brought forward.

[*Translation*]

**Hon. Claude Carignan:** I followed the recommendation that you gave to Senator Housakos, and I reread it a number of times. I even read it again this morning. It clearly contains a provision indicating that national economic interests are not to be taken into consideration in cases involving an offence of bribery of foreign officials. How do you explain the fact that this provision was included in the bill when it seems that the government's intention was precisely to give SNC-Lavalin access to this process?

[*English*]

**Senator Harder:** Again, I thank the honourable senator for his ongoing interest in this. Let me reiterate the view of the government that it is both appropriate and indeed legal for two premiers of Quebec to express their concerns for the impact that a negative action would have on the workers and on pensions and on other community stakeholders. It is the view of the Government of Canada that it is entirely appropriate for other stakeholders to raise these matters.

It is important to note in all of this, of course, that the Minister of Justice was at no time directed to exercise the legal right that the Minister of Justice/Attorney General has to direct. As honourable senators will know from the legislation, if that should happen, it requires a degree of transparency in terms of that direction being gazetted. I have checked the *Gazette* and there is no such directive.

[*Translation*]

**The Hon. the Speaker:** I'm sorry, senator, but the time for Question Period has expired.

[*English*]

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Peter Harder (Government Representative in the Senate):** Honourable senators, I have the honour to table the answers to the following oral questions:

Response to the oral question asked in the Senate on October 4, 2018, by the Honourable Senator Smith, concerning cannabis—public education.

Response to the oral question asked in the Senate on October 24, 2018, by the Honourable Senator Smith, concerning greenhouse gas emissions.

Response to the oral question asked in the Senate on October 25, 2018, by the Honourable Senator Patterson, concerning telecommunications in northern communities.

Response to the oral question asked in the Senate on November 21, 2018, by the Honourable Senator Carignan, P.C., concerning nuclear energy development.

Response to the oral question asked in the Senate on November 26, 2018, by the Honourable Senator Dasko, concerning Canada Post—public opinion research.

Response to the oral question asked in the Senate on November 27, 2018, by the Honourable Senator Tkachuk, concerning the export of pulse crops to India.

Response to the oral question asked in the Senate on December 3, 2018, by the Honourable Senator Martin, concerning refugees and asylum seekers.

Response to the oral question asked in the Senate on December 3, 2018, by the Honourable Senator Housakos, concerning Invest in Canada.

Response to the oral question asked in the Senate on December 6, 2018, by the Honourable Senator Wallin, concerning the summer jobs attestation.

Response to the oral question asked in the Senate on December 6, 2018, by the Honourable Senator Carignan, P.C., concerning the Canada–United States–Mexico Agreement.

Response to the oral question asked in the Senate on December 13, 2018, by the Honourable Senator Dalphond, concerning genetic non-discrimination.

## INDIGENOUS AND NORTHERN AFFAIRS

### CANNABIS—PUBLIC EDUCATION

(*Response to question raised by the Honourable Larry W. Smith on October 4, 2018*)

**Health Canada**

Through Budget 2018, the Government of Canada has committed $62.5 million over five years to support Indigenous and community-based organizations in raising awareness about cannabis use. To date, $1.7 million has been expended to support Indigenous specific cannabis public education projects. This includes funding to the Thunderbird Partnership Foundation to lead regional dialogues across Canada, and to the Nishnawbe Aski Nation to develop cannabis awareness initiatives targeted to community needs. Additional funding requests totalling $13.4M over 5 years to support Indigenous-led public education projects are under active review.

Furthermore, Health Canada invested $86,000 in 2018-19 to support the translation of a comprehensive suite of evidence-based resources on the health and safety impacts of cannabis use into 12 Indigenous dialects. The Drug-Free Kids Canada Cannabis Talk Kit, which provides a tool to help parents and youth allies talk with youth about cannabis, was also translated to Inuktitut, and 2000 copies of the translated resource have been distributed to date. Building on our extensive engagement with Indigenous communities, the federal government will continue to solicit project proposals and will work with communities and organizations to fund the development of culturally and linguistically appropriate public education resources.

## ENVIRONMENT

### GREENHOUSE GAS EMISSIONS

(*Response to question raised by the Honourable Larry W. Smith on October 24, 2018*)

The Pan-Canadian Framework on Clean Growth and Climate Change is Canada's plan to meet the Paris Agreement target.

Canada's climate plan includes putting a price on carbon pollution. When carbon pollution is not free, people and businesses are motivated to pollute less. Our analysis found that carbon pollution pricing in Canada will reduce carbon pollution by 50-60 million tonnes by 2022. That's equivalent to closing more than 30 coal-fired electricity plants.

Our plan also contains complementary actions to reduce emissions across all sectors of the economy. Through a mix of regulations, policies, and investments, Canada is driving down emissions.

Our plan is working; it is good for the environment, for the economy, and for families. Our 2018 projections show that we have made significant progress in reducing greenhouse gas emissions. This improvement in Canada's emissions outlook reflects the breadth and depth of our climate plan. Full implementation of the policies and programs under the Pan-Canadian Framework will allow Canada to meet its 2030 target and position Canada to set and achieve deeper emission reduction targets beyond 2030, as required by the Paris Agreement.

We are committed to being transparent with Canadians on our climate action. Canada submits annual reports to the United Nations Framework Convention on Climate Change on its emissions levels. It also publishes annual projections towards 2030. Federal, provincial, and territorial governments monitor and report on its progress on the climate plan. The second report was published on December 20, 2018.

## FOREIGN AFFAIRS AND INTERNATIONAL TRADE

### TELECOMMUNICATIONS IN NORTHERN COMMUNITIES

(*Response to question raised by the Honourable Dennis Glen Patterson on October 25, 2018*)

We support the development of the satellite industry in Inuvik which offers important opportunities for economic development for the town and for the Northwest Territories.

Global Affairs Canada is aware that the Inuvik Satellite Station Facility is an important issue both to the company and to the local community, and we are working to complete the review process as quickly as possible.

Global Affairs Canada and the Department of National Defence (DND) are working closely with the companies towards finalizing their operating license under the *Remote Sensing Space Systems Act* (RSSSA). Global Affairs Canada and DND officials have been working with the applicants, including a pre-inspection visit to Inuvik in November 2018. While the licensing process for these systems is complex, we expect to finalise the Canadian Satellite Ground Station Inuvik licence applications shortly.

Section 18 of the RSSSA gives the Minister of Foreign Affairs the power to inspect remote sensing space systems facilities. As such, inspections are routine. Officials from Global Affairs Canada recently carried out routine inspections of both the Government of Canada and private ground stations in Inuvik.

## NATURAL RESOURCES

### NUCLEAR ENERGY DEVELOPMENT

(*Response to question raised by the Honourable Claude Carignan on November 21, 2018*)

In his November 7, 2018, address to the Canadian Electricity Association, the Prime Minister highlighted the important role that hydroelectricity and nuclear power both play in Canada's electricity system. Respectively, they account for 59 and 15 percent of electricity generated in Canada, helping make Canada's electricity system one of the cleanest in the world. In fact, in 2016, 81 percent of all generation came from non-emitting sources.

The Government of Canada has provided and continues to provide significant support for hydroelectricity, including $9.2 billion in loan guarantees in support of the Lower Churchill projects in Newfoundland and Labrador. This has reduced borrowing costs, which in turn helps minimize the impact of the project on ratepayers.

In addition, Natural Resources Canada's Clean Energy for Rural and Remote Communities Program will be supporting multiple hydroelectricity projects in remote communities, including Indigenous communities.

Through Generation Energy, the Government heard that Small Modular Reactors (SMRs) could be the next wave of nuclear energy innovation. In response, the Government of Canada convened interested provinces, territories, power utilities and other stakeholders to develop advice on SMRs. This process was open, public and transparent. More information is available here: https://www.nrcan.gc.ca/energy/uranium-nuclear/21183.

Any decision to build power plants is within the jurisdiction of provinces and territories.

## EMPLOYMENT, WORKFORCE DEVELOPMENT AND LABOUR

CANADA POST—PUBLIC OPINION RESEARCH

(*Response to question raised by the Honourable Donna Dasko on November 26, 2018*)

**Public Services and Procurement Canada (PSPC)**

The Government of Canada has not commissioned any public opinion research on the issues involved in Bill C-89. The Government is not privy to any such research conducted by Canada Post on this topic. The Canadian Federation of Independent Business did share with the Government materials from a survey it conducted of its members on such issues from November 16, 2018, to November 20, 2018. With the CFIB's permission, these materials, including the survey questionnaire, preliminary findings, and underlying data for one of the questions, are attached in Annex 1, Annex 2, and Annex 3.

(*For Annexes, see Appendix, p. 7450.*)

## FOREIGN AFFAIRS AND INTERNATIONAL TRADE

EXPORT OF PULSE CROPS TO INDIA

(*Response to question raised by the Honourable David Tkachuk on November 27, 2018*)

Canadian pulse exports are a key component of Canada's bilateral trade relationship with India, and we recognize this is a difficult situation for all Canadian pulse growers and exporters.

Canada has made every effort to finalize an arrangement in 2018 to enable the export of Canadian pulses to India free from pests of quarantine importance, with mutually acceptable technological protocols. And has fully demonstrated to India the safety of our pulse system by answering all technical questions and hosting a visit from Indian plant health officials in September 2018.

India has indicated that they will require additional time in order to review the technical information and complete their evaluation.

Canada will continue to press India to complete their evaluation of Canada's systems approach to pest management as soon as possible.

Canada is recognized as having one of the strongest plant health safety systems in the world, producing top-quality grains, oilseeds and pulses for export to international markets.

Maintaining long-term, sustainable market access to India is a priority for this government, and we will continue our efforts to finalize the fumigation arrangement to improve Canadian access for pulse exports.

## IMMIGRATION, REFUGEES AND CITIZENSHIP

REFUGEES AND ASYLUM SEEKERS

(*Response to question raised by the Honourable Yonah Martin on December 3, 2018*)

Insofar as Immigration, Refugees and Citizenship Canada (IRCC) is concerned:

The Government of Canada recognizes that an increase in irregular border crossers has placed extraordinary pressures on some provinces.

This is why, on June 1, 2018, the Government of Canada announced an initial $50 million to the provinces of Quebec, Ontario and Manitoba, which have borne the majority of costs associated with temporary housing. Of this amount, $11 million has been provided directly to the City of Toronto and $3 million to Manitoba.

The Government has pledged $36 million to Quebec, which, for the time being, has opted not to receive this initial payment in favour of continuing ongoing discussions.

The Government of Canada remains committed to working with these and other provinces to address pressures faced as a result of the influx of asylum claimants, including through discussions on further cost-sharing.

## FOREIGN AFFAIRS AND INTERNATIONAL TRADE

INVEST IN CANADA

(*Response to question raised by the Honourable Leo Housakos on December 3, 2018*)

Invest in Canada's mandate is to promote Canada as a premier investment destination and accelerate global investment into Canada. While the legal name remains Invest in Canada Hub, a creative agency was engaged to ensure the organization has a business name that would resonate on an international scale and best support its mandate. The agency undertook rigorous process that included analysis of more than 20 years of existing branding data, brainstorming sessions, internal and external focus testing of proposed names, social media lookups, feedback analysis as well as legal, official languages and trademark queries. Based on several rounds of testing and numerous consultations, Invest in Canada was confirmed as the business name for this new federal organization.

## EMPLOYMENT, WORKFORCE DEVELOPMENT AND LABOUR

SUMMER JOBS ATTESTATION

(*Response to question raised by the Honourable Pamela Wallin on December 6, 2018*)

On December 17, 2018, we launched Canada Summer Jobs 2019. Based on feedback from Canadians, we made changes to the program so that it is more accessible for youth and easier for employers to apply. Further, in 2019, the Canada Summer Jobs program will be available to all youth aged 15-30 who are eligible to work in Canada, not just students. The application period was extended to February 3, 2019, to provide employers more time to apply.

Over the past year, the Government of Canada received feedback on the attestation and eligibility criteria from the 2018 program. As a result, changes have been made to both the attestation and the eligibility criteria; funding under the Canada Summer Jobs program must not be used to undermine or restrict the exercise of rights legally protected in Canada.

We have almost doubled the opportunities for young Canadians under this program and are excited by this progress. However, we know that programs are improved by the feedback of participants, which is why this year again we will be asking employees and employers to complete an exit survey. This will be participants' opportunity to directly impact the program.

## FOREIGN AFFAIRS AND INTERNATIONAL TRADE

CANADA-UNITED STATES-MEXICO AGREEMENT

(*Response to question raised by the Honourable Claude Carignan on December 6, 2018*)

The North American Free Trade Agreement modernization process was guided by the Government's core principles of transparency and inclusive approaches to consultations that reflect the diversity of Canadian priorities, culture and demographics. In February 2017, the Government initiated a broad consultation process to seek stakeholders' views on the renegotiation and kept them apprised of developments as the negotiations progressed. Over 1100 stakeholders have been engaged through sectoral consultations groups, national roundtables, Indigenous group sessions, provincial and territorial sessions, and individual requests for meetings and teleconferences.

Article 19.17 states that organizations that maintain websites where content can be uploaded by third-party users are not held liable in civil cases for harmful user-generated content, such as defamatory statement that is uploaded to their websites, unless the organization had a hand in creating or developing the content. This commitment only applies to civil liability, and will not affect Canada's ability to regulate in the public interest or enforce criminal law. Furthermore, the Government secured a footnote clarifying that Canada is able to meet the obligations under the article through its existing laws.

The Government's commitment to transparency, inclusiveness and openness remains unchanged since the signature of the agreement and consultations with Canadians will continue throughout the ratification and implementation process.

## HEALTH

GENETIC NON-DISCRIMINATION

(*Response to question raised by the Honourable Pierre J. Dalphond on December 13, 2018*)

**Department of Justice**

The Attorney General of Canada has a general duty to defend the constitutionality of laws adopted by the Parliament of Canada. Even if this situation is exceptional, it is possible for the Attorney General of Canada not to defend the constitutionality of a law when such circumstances are justified.

In terms of the Senate Public Bill on genetic non-discrimination the government has publicly expressed, throughout the legislative process, that its view on this bill is that it is unconstitutional. This is because, in such circumstances, the legislative power belongs to the provinces and not to the federal government. The Quebec Court of Appeal confirmed this position in a unanimous decision rendered by five judges.

In the *Frank* case, before the Supreme Court of Canada, the situation was quite different. The Attorney General defended Parliament's choice in 1993 to maintain the voting limit on long-term non-residents. In accordance with this position put forward by the Attorney General of Canada, the Ontario Court of Appeal had upheld the constitutionality of this limit. However, on January 11, 2019, the Supreme Court of Canada concluded that this limitation on the right to vote guaranteed by the Charter could not be justified under section 1. On December 13, 2018, the Parliament adopted Bill C-76 removing this limit on voting rights. The Attorney General of Canada's position in this case is consistent with the *Principles guiding the Attorney General of Canada in the Charter litigation*.

## ORDERS OF THE DAY

### FEDERAL SUSTAINABLE DEVELOPMENT ACT

BILL TO AMEND—MESSAGE FROM COMMONS—MOTION FOR NON-INSISTENCE UPON SENATE AMENDMENT—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Harder, P.C., seconded by the Honourable Senator Mitchell:
>
> That the Senate do not insist on its amendment 2 to Bill C-57, An Act to amend the Federal Sustainable Development Act, to which the House of Commons has disagreed; and
>
> That a message be sent to the House of Commons to acquaint that house accordingly.

**Hon. Dennis Glen Patterson:** I rise to speak to the message on Bill C-57.

I'd like to thank Senator Harder for his speech yesterday which very ably summarized the three amendments. I want to emphasize they were unanimously passed by your Standing Senate Committee on Energy, the Environment and Natural Resources. However, I must say that I do not agree with Senator Harder's characterization of the amendment which was rejected by the other place. The amendment which I proposed to the committee was about accountability and enhancing accountability.

Honourable senators, the testimony of Andrew Hayes, Senior General Counsel with the Office of the Auditor General, alerted the committee that the proposed removal by Bill C-57 of section 12 of the current Federal Sustainable Development Act, in his view, reduced accountability.

• (1420)

That section read:

> Performance-based contracts with the Government of Canada shall include provisions for meeting the applicable targets referred to in the Federal Sustainable Development Strategy and the Departmental Sustainable Development Strategies.

This section was interpreted by government narrowly to only refer to procurement contracts, but Ms. Julie Gelfand, the Commissioner of the Environment and Sustainable Development, who also works in the Office of the Auditor General, suggested that in order to ensure sustainable development goals are met, the committee should put section 12 back into the act in order, as she said:

> . . . to make sure the government does not read it as related to only procurement activities but that the performance pay be linked to the achieving of sustainable development goals.

Senator Harder, pointed out that in his view the original section was repealed due to it being "vague and difficult to interpret."

As critic, I introduced an amendment that reinserted section 12 as a new section 10.2 in this bill. On the advice of Senator Massicotte, the wording was further changed to ensure that there was latitude given for some discretion by the government. The final amendment, as was unanimously agreed to by the committee, reads:

> 10.2 Performance-based contracts with the Government of Canada, including employment contracts, shall, where applicable, include provisions for meeting the applicable goals and targets referred to in the Federal Sustainable Development Strategy and any applicable strategy developed under section 11.

This amendment sought to bring the clarity which the previous version was said to be devoid. My amendment also introduced through the words "where applicable" means to allow flexibility in the application of this clause, making it in my view easier to interpret and apply, not more difficult.

It was also intended to make decision-making related to sustainable development more transparent and subject to accountability in Parliament, which Senator Harder described as the scope and intent of Bill C-57.

I will also point out that in his support for accepting this message, Senator Harder pointed to the fact that:

> The Commissioner of the Environment and Sustainable Development monitors the extent to which departments have contributed to meeting FSDS targets and objectives and the extent to which they have implemented the plan set out in their own sustainable development strategies.

Yet it was the commissioner herself who suggested this amendment to the committee. She obviously believed that reciting goals and targets of sustainable development strategies in performance-based employment contracts will enhance her abilities to monitor the effectiveness of departments in meeting these goals and targets.

Honourable senators, I believe this bill is a good example of what this chamber exists to do. As legislators, we provide the second set of eyes required to ensure that nothing is missed. We listen to those who may not have had a chance to appear before the other place. Sometimes that leads us to identifying ways to strengthen and approve bills before they become law.

Your committee listened carefully and unanimously recommend these amendments. That is why I must respectfully insist on all my amendments and will be voting against the message. I would urge all senators who trust in the good work of their committee to do the same. Thank you.

**Senator Plett:** I move the adjournment of the debate.

**The Hon. the Speaker:** I'm sorry, Senator Griffin, we have a motion on the floor.

It was moved by the Honourable Senator Plett, seconded by the Honourable Senator Wells, that further debate be adjourned to the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

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

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** All those opposed "nay."

**Some Hon. Senators:** Nay.

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

*And two honourable senators having risen:*

**The Hon. the Speaker:** I see two senators rising. Do we have an agreement on a bell? One hour. The vote will take place at 3:25. Call in the senators.

• (1520)

Motion negatived on the following division:

YEAS
THE HONOURABLE SENATORS

| | |
|---|---|
| Andreychuk | McIntyre |
| Batters | Mockler |
| Beyak | Neufeld |
| Boisvenu | Ngo |
| Carignan | Patterson |
| Dagenais | Plett |
| Doyle | Poirier |
| Frum | Seidman |
| Housakos | Smith |
| MacDonald | Stewart Olsen |
| Manning | Tannas |
| Marshall | Tkachuk |
| Martin | Wells—26 |

NAYS
THE HONOURABLE SENATORS

| | |
|---|---|
| Anderson | Hartling |
| Bellemare | Jaffer |
| Black (*Ontario*) | Joyal |
| Boehm | Klyne |
| Boniface | Kutcher |
| Bovey | LaBoucane-Benson |
| Boyer | Lankin |
| Busson | Marwah |
| Campbell | Massicotte |
| Cordy | McCallum |
| Cormier | Mégie |
| Coyle | Mercer |
| Dasko | Mitchell |
| Dawson | Miville-Dechêne |
| Deacon (*Ontario*) | Moncion |
| Dean | Moodie |
| Duffy | Munson |
| Duncan | Omidvar |
| Dyck | Pate |
| Forest | Petitclerc |
| Forest-Niesing | Pratte |
| Francis | Ravalia |
| Gagné | Ringuette |
| Galvez | Saint-Germain |
| Gold | Simons |
| Greene | Verner |
| Griffin | Wetston |
| Harder | Woo—56 |

ABSTENTIONS
THE HONOURABLE SENATORS

| | |
|---|---|
| Dalphond | Richards—2 |

• (1530)

## ADJOURNMENT

MOTION NEGATIVED

**Hon. David M. Wells** moved:

That the Senate do now adjourn.

**The Hon. the Speaker:** We have a senator who wishes to speak to the debate. Do you want to move your motion, Senator Wells, or do you want to allow Senator Griffin an opportunity to speak?

**Senator Wells:** I move to adjourn the Senate.

**The Hon. the Speaker:** It is moved by the Honourable Senator Wells, seconded by the Honourable Senator Plett, that the Senate do now adjourn.

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

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

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

**Some Hon. Senators:** Yea.

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

**Some Hon. Senators:** Nay.

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

*And two honourable senators having risen:*

**The Hon. the Speaker:** I see two senators rising. Do we have an agreement on the bell? One hour. The vote will take place at 4:32 p.m.

Call in the senators.

• (1630)

Motion negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk
Batters
Beyak
Boisvenu
Carignan
Dagenais
Frum
Housakos
MacDonald
Marshall
Martin
McIntyre
Mockler
Neufeld
Ngo
Patterson
Plett
Poirier
Seidman
Smith
Stewart Olsen
Tannas
Wells—23

NAYS
THE HONOURABLE SENATORS

Anderson
Bellemare
Black (*Ontario*)
Boehm
Boniface
Bovey
Boyer
Busson
Campbell
Christmas
Cormier
Coyle
Dalphond
Dasko
Dawson
Deacon (*Ontario*)
Dean
Duffy
Duncan
Dyck
Forest-Niesing
Francis
Gagné
Galvez
Gold
Griffin
Harder
Hartling
Jaffer
Joyal
Klyne
Kutcher
Lankin
Marwah
Massicotte
McCallum
McCoy
Mégie
Mercer
Mitchell
Miville-Dechêne
Moncion
Moodie
Munson
Omidvar
Pate
Petitclerc
Pratte
Ravalia
Ringuette
Simons
Verner
Woo—53

ABSTENTION
THE HONOURABLE SENATOR

Greene—1

[*Translation*]

## FEDERAL SUSTAINABLE DEVELOPMENT ACT

BILL TO AMEND—MESSAGE FROM COMMONS—
MOTION FOR NON-INSISTENCE UPON SENATE AMENDMENT—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Harder, P.C., seconded by the Honourable Senator Mitchell:
>
> That the Senate do not insist on its amendment 2 to Bill C-57, An Act to amend the Federal Sustainable Development Act, to which the House of Commons has disagreed; and
>
> That a message be sent to the House of Commons to acquaint that house accordingly.

**Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate):** I move the adjournment of the debate in my name.

(On motion of Senator Bellemare, debate adjourned.)

• (1640)

[*English*]

## THE ESTIMATES, 2019-20

NATIONAL FINANCE COMMITTEE AUTHORIZED TO STUDY INTERIM ESTIMATES

On the Order:

Resuming debate on the motion of the Honourable Senator Bellemare, seconded by the Honourable Senator Harder, P.C.:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Interim Estimates for the fiscal year ending March 31, 2020, with the exception of Library of Parliament Vote 1; and

That, for the purpose of this study, the committee have the power to meet even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

**Hon. Patricia Bovey (The Hon. the Acting Speaker):** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

(Motion agreed to, on division.)

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

On the Order:

Resuming debate on the motion of the Honourable Senator Bellemare, seconded by the Honourable Senator Harder, P.C.:

That the Standing Joint Committee on the Library of Parliament be authorized to examine and report upon the expenditures set out in Library of Parliament Vote 1 of the Interim Estimates for the fiscal year ending March 31, 2020; and

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

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

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

(Motion agreed to, on division.)

## THE ESTIMATES, 2018-19

NATIONAL FINANCE COMMITTEE AUTHORIZED TO STUDY SUPPLEMENTARY ESTIMATES (B)

On the Order:

Resuming debate on the motion of the Honourable Senator Bellemare, seconded by the Honourable Senator Harder, P.C.:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (B) for the fiscal year ending March 31, 2019, with the exception of Library of Parliament Vote 1b; and

That, for the purpose of this study, the committee have the power to sit, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

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

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

(Motion agreed to, on division.)

JOINT COMMITTEE ON THE LIBRARY OF PARLIAMENT AUTHORIZED TO STUDY VOTE 1B OF THE SUPPLEMENTARY ESTIMATES (B)

On the Order:

Resuming debate on the motion of the Honourable Senator Bellemare, seconded by the Honourable Senator Harder, P.C.:

That the Standing Joint Committee on the Library of Parliament be authorized to examine and report upon the expenditures set out in Library of Parliament Vote 1b of the Supplementary Estimates (B) for the fiscal year ending March 31, 2019; and

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

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

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

(Motion agreed to, on division.)

## THE SENATE

### MOTION TO AFFECT QUESTION PERIOD ON FEBRUARY 26, 2019—DEBATE

**Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate),** pursuant to notice of February 20, 2019, 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, February 26, 2019, 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.

She said: I move the adoption of the motion under my name.

**The Hon. the Acting Speaker:** On debate, Senator Plett.

**Hon. Donald Neil Plett:** Your Honour and colleagues, we have always believed, on this side of the chamber, that there should be proper collaboration and consultation before we bring ministers in. We have had some issues with that as of late.

We have a bit of a problem with this at this time in light of some of the proceedings that have happened and in light of some of the ministers that we have heard might be coming and, like I say, in light of some things that are going on.

### MOTION IN AMENDMENT—VOTE DEFERRED

**Hon. Donald Neil Plett:** Therefore, honourable senators, in amendment, I move:

> That the motion be not now adopted, but that it be amended in the second paragraph:
>
> 1. by replacing the words "Tuesday, February 26" by the words "Thursday, February 28"; and
>
> 2. by replacing the time "3:30 p.m." everywhere it appears in the motion by "5 p.m.".

**Hon. Yuen Pau Woo:** I have a question for Senator Plett.

Senator Plett, I'm sure all colleagues will want to hear some explanation as to these amendments and why you have altered the practice of when ministers appear from Tuesdays to Thursdays.

We have continued with this practice for some time with the agreement of all senators. We would very much want to get an explanation for why a change is needed.

Beyond that, you made some cryptic allegations about the failure of the process and how it's not working. You also made allusions to various changes and things that are happening in the background that have caused you to make this amendment. I think you owe an explanation to all of us as to what these changes and nefarious things are that have caused to you move this amendment.

My own experience I can share from the leaders' meeting, which is attended, of course, by Senator Smith, Senator Day and Senator Harder, is that the process of discussing which ministers come to this chamber has always been amicable. Senator Harder has been extremely forthcoming in requesting lists of ministers from all of the leaders. I certainly have consulted with my members and have forwarded the list of ministers.

I would like to hear from you as to why this process has been unsatisfactory and why we need to now change the process.

**Senator Plett:** As I said in my preamble to the amendment, Senator Woo, when we used to be in government, it was always the idea that the opposition would propose ministers, not us. We believe that we should have a little more input in proposing whom the ministers are.

Do you want to hear the answer or don't you?

**Senator Woo:** If I could follow up.

**Senator Plett:** I wasn't finished with my answer.

**Senator Woo:** Please.

**The Hon. the Acting Speaker:** Senator Plett, continue, please.

**Senator Plett:** You can do all the oohing and aahing over there that you want. We can still have our opinion and are entitled to it.

We believe that the opposition should have a larger role to play in choosing the ministers. We have had these discussions with the leader. We believe there is not enough consultation.

Now, what is enough consultation? I'm not sure what enough consultation is. I'm not sure what enough consultation is on building the Trans Mountain Pipeline, but the courts came along and said it wasn't enough consultation. They didn't say how much it had to be, but it wasn't enough.

We believe there wasn't enough consultation here.

Our leader and I have had discussions with Senator Harder and voiced our discontent with some of the ministers that have been chosen.

Right now, we are of the opinion, and from fairly good sources, that the minister that would be proposed for next week is the Attorney General and the Minister of Justice. Right now, there are things happening that we believe would not be appropriate to have that minister in here.

We feel that there should be more consultation with, certainly, our side. Quite frankly, it's not our responsibility to ensure that there's enough consultation with your caucus. It's our caucus that we're concerned about.

We believe there has not been enough consultation with our caucus on whom the ministers are. We need to try to find a way around that. This is one way, at least for next week, hopefully, the leader will, in his infinite wisdom, decide that we should maybe be very intimately involved in choosing which ministers come here.

I, not necessarily all of us, quite frankly, believe that it is 40 minutes of not very productive time. I think we could spend our time far more productively having Senator Harder give us his wonderful answers that he gives us than having the ministers give us the wonderful non-answers that they give us. The only difference is it's 10 minutes longer when the minister comes than when Senator Harder does it.

There you have my explanation. I know it's not satisfactory and, of course, it needn't be. That's why we have this wonderful democratic process, and we will at some point vote on this amendment. You will have the opportunity to vote the way you wish.

• (1650)

**Senator Woo:** In the spirit of using question periods well and answering the questions that have been asked, I do not believe you've answered my question as to why this particular change is needed, even if we agree with you that the process currently of selecting ministers is not appropriate.

I would like a further elaboration of why these particular changes are needed.

In any case, what I glean from your answer is that the Conservative caucus should have greater say in the selection of ministers than the largest group in the Senate that has equal right to get ministers in this chamber and to ask them questions that are important to us and to all senators.

**Senator Plett:** You aren't happy with my answer. I don't know that we've ever been happy with one of the answers that we're getting from the Leader of the Government in the Senate. Nevertheless, those are the answers we're getting.

However — let me finish — when you say, "Should we have a larger say in this?" Yes, we should have a larger say in this because none of us have been appointed by the present Prime Minister. All of you — not all of you — there are certainly a few up there that haven't been appointed by the present Prime Minister, but 95 per cent have.

Not only are you all part of the government, whether you admit it or not, you have been appointed by the government and you are deciding what government minister comes. We don't believe that is correct. We don't believe that is proper. We will use the little bit of influence that we have in this chamber to try to correct things and make it right again.

**Some Hon. Senators:** Hear, hear.

**Hon. Frances Lankin:** Would the honourable senator take a question?

**The Hon. the Acting Speaker:** Senator Plett, will you take another question?

**Senator Plett:** Sure.

**Senator Lankin:** There's another part of your explanation that I wanted to ask a question about. There's nothing behind this other than a curiosity because I don't understand.

Why is it the opinion of the opposition caucus that it is not appropriate to have the current Minister of Justice come? I have heard day after day of questions on this matter to the leader, who is not, perhaps, in the best position to answer. I'm just curious: Why is it not appropriate? Is the time switch to give you more opportunity to try and negotiate a different process? Are those the two things that I'm understanding from you?

**Senator Plett:** Senator Smith has a motion on the table that hopefully will be discussed at some point tonight. In that motion, we are asking that the Attorney General and the Minister of Justice appear before the Standing Senate Committee on Legal and Constitutional Affairs and that he be questioned at that point. We believe that is better than giving him a soapbox to stand on here and getting wonderful lob questions from his colleagues on the other side.

We believe that the Legal and Constitutional Affairs Committee is the better place for him to be.

**Hon. Pierre J. Dalphond:** Will the honourable senator take another question?

**Senator Plett:** Certainly.

**Senator Dalphond:** You said the rules have to be changed because you're not satisfied with the current process. You find the Question Period useless for your group.

Would you agree to give more time to the independents to ask questions of ministers in the next Question Period in order that we could put questions we think are relevant for Canadians to understand?

**Senator Plett:** Senator, in the other place, the government gets one or two questions at the end of Question Period to ask the minister. We would certainly agree that that be the case here too, and that the government in the Senate here gets a question at the end of Question Period.

If we want to go to the method that they have in the other place, senator, we would be happy to do that.

**Senator Dalphond:** You find this is useless, that the answers are not relevant to you. Would you mind giving us your time and giving us — the independents — more time to put more questions to the minister who is visiting the Senate at the time?

**Senator Plett:** Quite frankly, we would rather have a minister that came here and answered the questions that we asked and answered them properly, just like we would really appreciate it if the Leader in the Government would also answer the questions that we asked instead of answering the way he does so many times.

**The Hon. the Acting Speaker:** Senator Mercer, are you asking a question or on debate?

**Hon. Terry M. Mercer (Deputy Leader of the Senate Liberals):** I'm asking a question. Would Senator Plett take another question?

**Senator Plett:** Absolutely.

**Senator Mercer:** I'm curious about the time change. I'll let you guys debate about the ministers.

It seems to me that the time change puts a number of colleagues here at a disadvantage. It's Thursday afternoon, late in the afternoon, and historically it's a time when a lot of our people are on their way to the airport to catch flights home because we don't sit on Friday. I'm going to be here on Thursday nights, if need be, but why the change in time? I don't understand that part of the proposal.

**Senator Plett:** The reason, Senator Mercer, one that we are very hopeful about, is that perhaps by Tuesday of next week we will have Senator Smith's motion passed and we will be able to invite the minister to the Legal and Constitutional Affairs Committee. The other reason is that our schedule is Monday to Friday, not Tuesday to Thursday, and so we're quite happy to be here on Friday or on Thursday evening to ask the minister questions.

**Hon. Peter Harder (Government Representative in the Senate):** I want to respond to some of the allegations made by my honourable cousin opposite to let everybody here know how this came into being, this notion of a ministerial question period.

It came into being just before I arrived, on a motion of Senator Carignan, who described this innovation as important in a Senate that was increasingly independent and less partisan.

I would encourage you to read the motion and the debate. When I arrived, there had been one minister that had appeared. I undertook, in the leaders' meetings, to hear from leaders and hopefully get their views on which ministers they wished to have over the next number of weeks, and I would arrange to have those ministers appear as they were available. I took advice on that list from Senator Carignan when he was the leader, from Senator Woo and from other senators who were in leadership positions. When Senator Smith replaced Senator Carignan, at no time that I recall did leaders ever have a discussion about the unfairness or the inappropriateness of a particular minister. I have adjusted it, when somebody had objections to somebody, to have a reception that met the broad will of the Senate.

In the pre-Christmas period, at the last leaders' meeting, I said that I would be grateful if they would give me their views on which ministers they would like me to invite when we returned, because there would be a period in which leaders would not convene. I was grateful to receive a list from Senator Woo and Senator Day. I did not receive a list from Senator Smith.

When leaders did meet, I reviewed the list as it came about and encouraged Senator Smith to engage in the practice as we had until then. At no time did he say, "I don't want to do this." I do this transparently because there was an accusation that I've somehow tried to fix the list. I do not, and you will know that ministerial question period has happened consistently and on the basis of the agreement and the motion that Senator Carignan provided.

This comes at me with some surprise. I would hope that senators would take the practices I've described at face value and respond to the amendment appropriately.

• (1700)

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

**Senator Lankin:** Senator Harder, I just heard you talk about the steps, the timeline and what had happened. Senator Plett very clearly said that Senator Smith had raised with you concerns about the process, and I didn't hear you include that in your comments. Could you please clarify this for us? He clearly told us that Senator Smith had their brought concerns to you and that you had been unable to adjust it, so I'd like to know.

**Senator Harder:** Senator, I appreciate your question. I hope you appreciate the difficult position I'm in, because I do not wish to speak about leaders' meetings where we have to have a degree of confidentiality. But I want everyone to know the process, and at no time that I'm aware of has that process not been respected.

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

**Hon. Linda Frum:** Senator Harder, I want to ask you something. I just pulled up a speech that I gave on February 28, 2017, commenting on the modernization report during Question Period. At that time, I said:

> Scrutiny of the government is a fundamental pillar of a healthy democracy, and while this responsibility falls on all senators, it is of particular weight to those who sit in the official opposition and who are tasked with the honourable and necessary duty of responsible and thoughtful opposition.

Before we formalize the rules, I said that we should talk about the role the opposition plays in choosing which ministers appear. Maybe you remember this comment of mine.

Do you agree it's true that you never heard before the suggestion from leadership on this side that we think it's important that the opposition have first place when it comes to choosing which ministers appear in this chamber?

**Senator Harder:** Absolutely, I remember the incredibly eloquent speech that was given on the date you cite.

We try to act collegially at the leaders' table, and the list is developed in that fashion. Often, suggestions are overlapping because the relevance of a particular minister is overlapping.

What is respected is something that we have practised, and that is that the proportion of questions asked is disproportionate to the representation in this chamber. If the honourable senator is suggesting that should be revisited, let's do that.

**Hon. André Pratte:** I would like to know very precisely whether, until this motion was moved, you heard from any group here in the Senate any concerns or disagreements with the choice of minister who is to appear before us next Tuesday.

**Senator Harder:** To answer your specific question, no.

**Hon. Yonah Martin (Deputy Leader of the Opposition):** Building upon that question, did you have a conversation with Senator Bellemare regarding some questions I had raised at the scroll meeting? Again, it's what we do, but I did have some questions about the minister for next week. It's something we had not fully discussed on our side. So did you have a chance to speak with Senator Bellemare after scroll, regarding the QP motion?

**Senator Harder:** I assume that was a question to me. My practice has been at Tuesday leaders' meetings to review the list not only for the week but for the foreseeable future, as I have been able to schedule them. I have at no time had pushback that I can recall. Occasionally, we have had to change as ministers became unavailable and the like, but it has always been very collegial among the leaders. I think that's the appropriate forum in which these issues get dealt with and proceeded upon.

**Hon. Leo Housakos:** I think the motion we are putting forward is the only reasonable motion. I think we have heard quite a bit of explanation from the government leader about why we tried this failed experiment in this chamber of bringing in ministers of the Crown in order to answer questions. I've been hearing time and again that the number of questions the opposition get are disproportionate to the members of this chamber.

With all due respect, Question Period in the Westminster model of Parliament, in every single Parliament around the world, is for the opposition. It's not designed to be dictated by the government. It is not to be arranged by the government. It's not to be chosen by the government.

There is a time allocation every sitting day. In the mother of all parliaments, at Westminster in London, it's every Wednesday, and we know it's for an extended period of time when the British Prime Minister has to get on her feet.

So Question Period is not to be determined by those appointed by the Crown. The vast majority of people who, yes, outnumber the opposition in the chamber have been appointed by the Crown. And you want to have the same number or a proportional number of questions? That's a fiasco.

Can you imagine, Senator Dalphond — and you're absolutely right — on the House of Commons side, if you had a Question Period every single day that was proportional where you would have members from the Crown, caucus Liberals, who would get up and ask ministers questions? Do you think the Canadian public would think that smell test would past? And do you think the Canadian public would take this institution seriously when the vast majority of Trudeau-appointed senators are going to question his cabinet members?

With all due respect, I understand you believe this experiment is working, and you believe in your heart of hearts you're independent, but I'm telling you, as time goes by, no one else is believing it — not the press gallery and not the public. All I'm saying, in the spirit of democracy and in the spirit of the Westminster model of Parliament that we have here, the opposition has its role to play.

When the Conservatives were in power, when we had 65 members in this chamber, we didn't have a proportional number of questions during QP. Senator Ringuette, if we would have had that, you would have been the first on your feet saying it was outrageous and this is the time for the opposition. We'd have heard all kinds of wonderful things. And you know what? It would have been legitimate, but we would never try something as egregious as that.

Furthermore, in the model of the Senate, the upper chamber we have here was designed to have some degree of independence from the other place. It is quite egregious that you handpick ministers who parade here in the upper chamber on any given day, which means you're sort of narrowing the questions you have to ask. Depending on the business, decisions and issues of the day in the country, it is up to the opposition to determine what's important, and when and where, not the government. I think we all agree that, in a democracy, when the government chooses what minister, what issue and what given day, it's no longer quite democratic.

Furthermore, if the government wants to have questions in this chamber answered legitimately, they have a representative. There is a reason why, constitutionally, the Representative of the Government in the Senate is a member of the Privy Council. Senator Harder can model himself as a representative and not the government leader, but his summons, as per the Constitution and the Parliament of Canada Act, says he's the government leader, modelled as. He got sworn into the Privy Council because, by constitutional obligation, he is the one in this chamber who has to answer on behalf of the government.

We've all seen time and time again, colleagues, that he takes questions on notice because his Prime Minister and this government have shown contempt for this chamber, and he is not a full participating member of cabinet, which he should be. That is a contempt of this chamber. It's a disrespect of this chamber. We see it every single day at QP, where he is not as fully briefed and this chamber, as a result, is not as fully briefed.

Let's get this clear: You can, in the next few years, end up having 90 out of 105 members here. If you think the Crown that appointed you here has given you legitimacy to be the overseer of the democratic process, there is something really wrong with this model and we all have to rethink it. And we have the right as the opposition to question it.

**Some Hon. Senators:** Hear, hear.

**Senator Lankin:** Senator Housakos, there are a number of things you've said, some of it related to your view of Question Period with the Government Representative here; some of it related to ministers and how they come here; and some of it related to the proportion of questions. There are a lot of things mixed in that. I appreciate that.

There are two things about which I would like to ask you a question. Currently, the questions are proportionately greater for the opposition, which you are suggesting is an appropriate thing. As I've seen it play out, I look at the last three days — at least two of them — I think there is maybe only one questioner from anyone other than a member of the opposition, so I don't think in practice what you're suggesting is a problem. Perhaps you can clarify that for me.

• (1710)

Maybe I will leave it that and I will have a supplementary question depending on the response.

**Senator Housakos:** You're using the last couple of days as an example, but the vast majority of time when ministers have come into the chamber it has been quite proportional. The Speaker has recognized all four caucuses at various times and it has become quite proportional. At the end of the day, by doing that, you're limiting the amount of time the official opposition is getting with the Crown representative to question him and that is just not appropriate.

If we are to have an accountability section in Question Period — those of us in opposition are here to question the government and do it in a rigorous and vigorous way — we need the opportunity and we need the flexibility to do it as well. There have been instances where we have had a certain minister from a certain ministry come in and the issues of the day that are most important to the press gallery and to the people of Canada happens not to be representative of that minister. And there were a couple of occasions where we embarrassingly ignored the minister and were not very hospitable hosts and we were forced to ask questions of Senator Harder because, as you know, we had to deal with some other issues on any particular given day. I don't remember the exact example. These are the kind of things I think need to be avoided.

**Senator Lankin:** With respect to the comment you just made about proportionality of questions when there is a minister here, has Senator Smith raised that at the leaders' meeting with respect to what you allege is a hand-picked list of ministers by the Government Representative? That's not the process that I heard described. Has Senator Smith raised that at the leaders' meeting? Why is this coming at this time? I can obviously see the grand picture with respect to Senator Smith's motion and a range of other issues, not to mention a particular event that will happen later this summer or next fall.

**Senator Housakos:** Since 2015 we've constantly shown a degree of openness and flexibility. It's something we tried. Many of us had deep reservations about it. Many of you know there are some of us in this chamber, like Senator Joyal and myself, who are purists. We actually believe in following the precedents of this chamber and the Rules and traditions of this chamber. Many of you don't, but at the end of the day I believe that's going down a slippery slope.

I remember as recently as the previous government, when they had two cabinet ministers in this chamber. And let me tell you this: When they had Minister LeBreton and Minister Fortier sitting in the upper chamber, I don't recall the Liberals being open to the idea of having half of Question Period and having those ministers being questioned by Conservative senators. We gave it an opportunity, we gave it a try, and many of us think this is not working and not accountable.

**Hon. Michael L. MacDonald:** Since we're talking about Question Period, I want to take the opportunity to put something on the record that I've wanted to put on the record for a few years now, ever since the government changed and we started bringing ministers into the Senate.

I've always disagreed in principle with a minister walking into this Senate as a stranger, sitting down on the government benches and being questioned by any side of the house. It has always been my contention that anybody who comes in here to be questioned should be sitting in the chair in the middle of this chamber and being questioned by us as a Committee of the Whole.

If we're going to discuss managing Question Period going forward, I would hope the leadership of both sides will discuss this issue. I would much prefer if visiting ministers were questioned by the Senate as a Committee of the Whole, which is consistent with our traditions and practices in this place. I think perhaps we will find we can construct a Question Period that is more to the liking of all of us in this chamber.

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

**Some Hon. Senators:** No.

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

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** All those opposed to the motion please say "nay."

**Some Hon. Senators:** Nay.

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

**Senator Plett:** We will defer the vote to the next sitting of the Senate.

**The Hon. the Speaker:** Pursuant to the rule 9-10, the vote is deferred until 5:30 p.m. at the next sitting of the Senate.

## ADJOURNMENT

MOTION ADOPTED

**Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate),** pursuant to notice of February 20, 2019, moved:

> That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, February 26, 2019, at 2 p.m.

She said: I move the motion standing in my name.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

[*Translation*]

## NATIONAL MATERNITY ASSISTANCE PROGRAM STRATEGY BILL

THIRD READING—DEBATE ADJOURNED

**Hon. Marie-Françoise Mégie** moved third reading of Bill C-243, An Act respecting the development of a national maternity assistance program strategy.

**Hon. Julie Miville-Dechêne:** Honourable senators, I rise to speak to Bill C-243, An Act respecting the development of a national maternity assistance program strategy, because the protection of pregnant or nursing workers is something that matters to me as a feminist and a mother.

Bill C-243 calls on the federal government to work with the provinces and territories to conduct "consultations on the prospect of developing a national maternity assistance program." The title could have been better, since the bill is really about strategies to accommodate the workers who cannot fulfill their duties because of their pregnancy.

Let me remind the chamber that Quebec is the only province that has a preventive withdrawal program, in other words, a program to protect pregnant women who work in a job that could pose a risk to their health or that of their unborn child.

If we pass Bill C-243 at third reading, the federal government will not be able to act unilaterally, since this matter falls under provincial jurisdiction.

You may recall that, in Quebec, the right to preventive withdrawal for pregnant women dates back to 1981, or 38 years ago. It is one of a number of progressive measures designed to protect pregnant women, extend maternity leave, transform that leave into parental leave, provide affordable child care and, finally, set aside leave exclusively for fathers in order to encourage them to become more involved in caring for their newborns. This is about gender equality, since women's careers should not suffer because they are the ones who bear children.

The health and safety of pregnant women is a collective responsibility, and not just that of the individual women involved, who have no other option but to resign if they feel their job is dangerous.

In Quebec's case, employers are required to make special contributions to fund a preventive withdrawal program that has a special provision: if a doctor from outside the company deems that a job poses a risk to the pregnant woman or her child, the employer is obligated to temporarily reassign the pregnant employee to a safe position or to send her home on 90 per cent of her insurable net pay up to one month before her due date.

I went through the testimony from the Social Affairs Committee, and I want to make some clarifications. Contrary to what has been said, there is no consensus on the program in Quebec, since it comes with a cost. When it was first created, it cost $2.6 million, and it now costs more than $230 million a year. Ninety-five per cent of claims are approved, which to management and some doctors means that preventive withdrawal has become almost automatic. It has become a precaution and is not based on a real risk assessment. A comparative study shows that Quebec does not see better outcomes than the other provinces in terms of perinatal mortality and premature babies. Conversely, other studies have documented the effect of various working conditions on the outcomes of pregnancies, in particular low birth weight.

• (1720)

There are then more than 30 years of statistics and experience in Quebec that can inform the study proposed by Bill C-243. Other forms of accommodation are possible. We can look at other countries for inspiration, such as the Scandinavian countries and France.

There are some inconsistencies in Canada. Pregnant workers under federal jurisdiction, for example at the Canada Post Corporation or the Canadian Trucking Alliance, are not entitled to preventive withdrawal, even if they work in Quebec.

In conclusion, I was shocked to read the story of Ontario welder Melodie Ballard, who inspired MP Mark Gerretsen, from Kingston and the Islands, to introduce a private member's bill. How is it possible, in 2014, for a pregnant welder to be entitled to only 15 weeks of sickness benefits when her job was clearly hazardous to her child? Ms. Ballard went two months without income while she was pregnant. This mother became destitute and fell into poverty, since she had to move 11 times before seeking refuge in a makeshift trailer with her son Ezra.

No woman should have to find herself in Melodie's situation. Children are a collective asset. Society as a whole — and not just mothers — needs to take care of them. Bill C-243, which is before us today, is very narrow in scope, since it calls for a

federal-provincial discussion, but it is certainly a step in the right direction. No woman should have to choose between her job and the health of her unborn child. Thank you.

(On motion of Senator Martin, debate adjourned.)

## PROMOTION OF ESSENTIAL SKILLS LEARNING WEEK BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Bellemare, seconded by the Honourable Senator Petitclerc, for the second reading of Bill S-254, An Act to establish Promotion of Essential Skills Learning Week.

**Hon. Raymonde Gagné:** I move the adjournment of debate in my name.

(On motion of Senator Gagné, debate adjourned.)

[*English*]

## UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES BILL

SECOND READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Sinclair, seconded by the Honourable Senator Pratte, for the second reading of Bill C-262, An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples.

**Hon. Peter Harder (Government Representative in the Senate):** Honourable senators, I rise to deliver episode two of my speech in support of Bill C-262, An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples, which I would like to indicate the government has supported.

Again, I would like to congratulate member of Parliament, the Honourable Romeo Saganash, for bringing this measure forward and Senator Sinclair for his speech as the sponsor of the bill in this chamber.

I believe that this bill is an opportunity for the Senate to do its part to defend section 35's constitutional values to help right historic injustice in Canada and to achieve further reconciliation with our Indigenous partners. This is also an opportunity to build on this chamber's excellent work to eliminate historic gender discrimination in the Indian Act, as well as in relation to cannabis legislation for Indigenous communities.

In regard to process, I support scheduling our legislative agenda generally and particularly on several pieces of legislation that will advance Indigenous rights and interests. This is so that Canadians can follow and contribute to our work. Again, this would include our studies on the government's Bill C-91, the Indigenous Languages Bill, and the forthcoming Family and Child Services Bill.

In that regard, we look forward to the guidance of Senator Dyck, the chair of the Aboriginal Peoples Committee, on the best path forward in consideration of all of these pieces of legislation.

I also hope that we can move swiftly forward with private member's Bill C-374 to guarantee Indigenous representation on the Historic Sites and Monuments Board of Canada. That bill was passed in the other place unanimously and is only the third private member's bill ever to have received a Royal Recommendation authorizing expenditures. So we should move swiftly to review and, hopefully, complete our passage of Bill C-374.

Turning to UNDRIP, as you know, Bill C-262 calls for the harmonization of Canada's laws with the United Nations Declaration on the Rights of Indigenous Peoples and calls for the standards and principles of the UN declaration to serve as a framework for reconciliation. In doing so, Bill C-262 advances Call to Action 43 of the Truth and Reconciliation Commission.

The United Nations General Assembly adopted the United Nations Declaration on the Rights of Indigenous Peoples over 10 years ago, in 2007. On the day of its adoption, the chair of the UN Permanent Forum on Indigenous Issues urged everyone to make the declaration:

> . . . a living document for the common future of humanity.

The declaration is the only international instrument focused on Indigenous rights that has received global support. It is the result of more than 20 years of negotiations involving both Indigenous peoples and states, and Senator Boehm in his intervention described some of those negotiations, of which he was a party.

Bill C-262 today is part of a broader conversation about national reconciliation, the recognition and implementation of Indigenous rights and the rebuilding of a strong and healthy relationship between the Crown and Indigenous peoples based on respect, cooperation and partnership.

Bill C-262 reflects the desire of many Indigenous and non-Indigenous people in Canada to pursue reconciliation efforts, including the rebuilding of Indigenous nations through lasting, tangible and meaningful change.

Although reconciliation has been a core principle of section 35 of the charter for many decades, there is still much work to do to live up to its promise and for true reconciliation to be achieved.

I note that the UN declaration, like other international human rights instruments that Canada supports, already applies to Canadian law as a source that can be drawn upon to inform the interpretation of domestic law. With Bill C-262, we introduce legislative measures that further support the implementation of the UN declaration in Canada in ways that ensure increasingly

better outcomes for Indigenous communities and moves reconciliation forward. Bill C-262 would require the Government of Canada to take all measures necessary to ensure consistency between federal laws and the UN declaration.

However, the bill provides flexibility for the government to determine, in consultation and cooperation with Indigenous peoples, what measures will be necessary to align federal laws with the declaration within Canada's constitutional framework. This approach is consistent with the declaration itself, which specifies that it is up to individual states to determine what measures are appropriate to achieve the ends of the declaration:

> . . . in consultation with and cooperation with Indigenous peoples . . .

For Canada, it means that this work needs to take place in full partnership with First Nations, Metis and Inuit peoples.

Bill C-262 also provides accountability mechanisms for the federal government, including a requirement to develop and implement a national action plan in partnership with Indigenous peoples and the obligation to report on progress to Parliament annually on both the harmonization of laws and the national action plan.

Through these key mechanisms, the government's progress on implementing the declaration will be monitored and measured over time.

[*Translation*]

Like other laws, once Bill S-262 is passed, it will be interpreted in a way that respects the Canadian Constitution, including section 35 of the Constitution Act and the division of powers. I want to point out that Bill S-262 specifically mentions that it should not be interpreted or enforced in such a way as to reduce the constitutional protection afforded by section 35.

• (1730)

Cooperative federalism also means that the implementation of an instrument as important as the United Nations Declaration on the rights of Indigenous Peoples cannot be done by the federal government alone. It requires the collaboration of the provinces and territories. This is a national project that requires the engagement of all governments and all Canadians.

[*English*]

Now I would like to briefly address some of the issues that were raised during the study of Bill C-262 in the House of Commons which may also be raised here.

First, there is quite a bit of discussion around the meaning of the principle of free, prior and informed consent, or commonly referred to as FPIC, which appears in different articles of the declaration. The larger objective of FPIC is that all parties work together in good faith towards mutually acceptable arrangements with Indigenous peoples genuinely influencing decision-making.

Here in Canada, consultation and cooperation with Indigenous peoples would require to develop Canada's approach to FPIC within our legal framework and consistent with the UN declaration as well as Bill C-262's requirements. For instance, new processes, structures and mechanisms for participation and engagement in decision making could be required. Such structures would need to be developed in full partnership with Indigenous peoples.

In conversation with Senator Tannas, Deputy Chair of the Senate Aboriginal Peoples Committee, Senator Sinclair discussed FPIC as a meaningful process of accommodation. FPIC is something for committee members to take a closer look at and to report back to us their findings.

[*Translation*]

Another issue that was discussed during study of the bill at the other place was the characterization of Indigenous rights as human rights. Honourable colleagues, there is no doubt that Indigenous rights are human rights and that these rights are defined individually or collectively by individuals or Indigenous groups.

[*English*]

Human rights are universal and inherent in all human beings. They represent a consensus of shared values that crosses faiths and cultures. Article 1 of the UN declaration recognizes that Indigenous peoples have the right to full enjoyment of all human rights and fundamental freedoms. This includes the right to self-determination and self-government, which are core elements of the UN declaration.

Turning the tide and shifting our laws, policies and operational practices to require the rights of Indigenous peoples will require a range of measures as set out in Article 38 of the UN declaration. These include legislative measures like those in Bill C-262.

Honourable senators, we are working towards a longer-term transformation that includes a vision of healthy, prosperous, self-determining and self-governing Indigenous nations. Bill C-262, by requiring consistency between the laws of Canada and the UN declaration, provides further conceptual foundation for this vision. It is this foundation upon which we will accelerate progress towards reconciliation.

With this goal in mind, I was inspired by a recent comment about UNDRIP at our Fisheries Committee meetings on Bill C-55, where John G. Paul, Executive Director of the Atlantic Policy of First Nations Chiefs Secretariat, said the following about the importance of UNDRIP to Indigenous communities:

> Even when UNDRIP was declared years ago, it was really us that were proud that the United Nations declared it. This is providing a real opportunity for Canada to be proud of us and our perceptions under UNDRIP which we've also believed.

Honourable senators, I think this is great way to look at UNDRIP and this bill, as an achievement of Indigenous leaders and partners about which we can all be proud.

Finally, in closing, I would like to acknowledge on the record the determined grassroots work of faith communities in support of this bill, including my Mennonite faith. I would like to read an excerpt of a letter sent by the leaders of the Anglican Church of Canada, the Canadian Baptists of Western Canada, the Quakers, the Christian Reformed Church, the Evangelical Lutheran Church, the Canadian Ecumenical Justice Initiatives, the Mennonite Church of Canada, the Mennonite Central Committee, the Presbyterian Church in Canada and the United Church in Canada. I want to quote just briefly from that letter, where it says:

> We are at a critical juncture in Canadian history. In 2010, the Federal government, led by Prime Minister Stephen Harper, issued a statement of support endorsing the principles of the Declaration. In 2016, the Federal government, led by Prime Minister Justin Trudeau, stated that Canada is "a full supporter of the Declaration, without qualification." Now is our chance to breathe life into these public affirmations with tangible action. Together, we can make a non-partisan decision in support of legislative reconciliation.

The letter goes on to say:

> Indigenous peoples are calling Canada to a path of mutual and authentic relationship. Non-Indigenous Canadians of all ages and backgrounds are asking the Federal government to honour Indigenous peoples' human rights.
>
> The Senate holds decision-making power to bring Canada closer to honest and fair relationship.

The letter closes in saying:

> Please support Bill C-262.
>
> Our prayers and hopes are with you.

Honourable senators, faith gives many Canadians the hope and the will to work toward a more just world. As we are working to make a positive difference in Canadian society through this democratic institution, I'd like to close by sharing a quote from one of my favourite theologians, Reinhold Niebuhr, where he says:

> Man's capacity for justice makes democracy possible; but man's inclination to injustice makes democracy necessary.

Colleagues, let us trust in our democratic processes. Let us see whether the Senate endorses the proposition that our laws ought to be in harmony with the United Nations Declaration on the Rights of Indigenous Peoples. I believe that this chamber will if it's given the chance.

**The Hon. the Speaker:** Senator Tannas, question?

**Hon. Scott Tannas:** Senator, thank you very much for your speech. I listened carefully, as I did to Senator Sinclair. As you know, I'm deeply involved and active in the Indigenous affairs committee.

I want to point something out and ask you a question, because I think this goes to the heart of it. I have been present in committee meetings when Indigenous leaders have told us in no uncertain terms that full, prior and informed consent means a veto.

Now, I've been in committee meetings where the minister has said, no, it doesn't. I see on the website of the United Nations a growing number of documents that say no, it isn't. But our own people believe it is.

This, to me, goes to the heart of some of the hypocrisy that we see, where we bring symbolic gestures forward that are seized upon for hope, when in fact they are mirages.

We have to stop piling hypocrisy on hypocrisy.

My question to you is this: If we take this to committee, and if we do not get a consensus from First Nations' leaders, Indigenous people, that FPIC is not a veto, what do you suggest we do?

**Senator Harder:** I thank the honourable senator for the question. It is one that he also engaged in with Senator Sinclair. Senator Sinclair spoke very eloquently of his view, which will inform the committee's discussion as well.

Given the specific question you ask, I really think it's up to the committee to decide what it decides in that circumstance. If he would like to consult me at that time, should that event happen, I'd be happy to give him my advice.

**The Hon. the Speaker:** Senator Massicotte, a question?

**Hon. Paul J. Massicotte:** Bill C-262 refers to free, prior and informed consent. Meanwhile, the Supreme Court, over decades now, is finally getting pretty clear what it means by meaningful consultation. We're finally getting to a clear definition on that.

Should I be concerned about the fact we're now introducing a new word called "consent." If you look at the dictionary, consent means approval; approval means you have to do so, and it nearly suggests that they have a right to say no.

• (1740)

The Supreme Court ruling is clear. In some circumstances, it may require consent, but it depends upon the degree of harm and whom it affected.

I've been trying to get clarity on what "consent" means. I've read all the documents and most of the treaties. I've read the rapporteur. However, it seems to me there's still a lack of clarity in terms of what it means.

Could you tell us for the record that that does not mean veto? And why do you have that opinion, when the document says otherwise?

**Senator Harder:** I thank the honourable senator for his question. Again, this is at the heart of what I hope the committee will delve into.

I would like to quote again Senator Sinclair's intervention, where he parsed out exactly the circumstances in which consent may be required but other circumstances in which it would not. In other words, there is a continuum and circumstances. The courts have given guidance to governments of all levels in this matter.

What we are dealing with here is, frankly, bringing reconciliation and justice and aligning our domestic obligations with commitments we made when we signed on to the declaration.

**Senator Massicotte:** I appreciate that, and I can appreciate a continuum of consent. However, the document refers to consent in every instance, which is inconsistent with the Supreme Court ruling.

Don't you think we're sort of kidding ourselves? As you know, there were six months of negotiations where the nations sought the words "seek consent," and the Aboriginal community said, "No, not good enough."

Maybe somebody is expecting something and we're liberally interpreting it differently to avoid discussing the real issue, which is an inconsistent interpretation of the word "consent."

**Senator Harder:** Again, I would reference the debate we had when this matter was introduced in this chamber, in which it was pointed out that, of course, the Canadian Constitution is the supreme document in this regard and that the obligations the courts have directed must be respected.

That is the circumstance in which we find ourselves now. With the adoption of the UN declaration, we are looking to ensure that Canada, by its laws and practices, is adopting the commitments made by Canada 10 years ago when we agreed to the principles in the declaration.

**Senator Lankin:** I have one more question to pursue in understanding this.

In terms of the recent meetings that, for example, some of us have had with the North Pacific communities around Trans Mountain, I found myself wondering how to resolve different opinions coming forward from First Nations tribal and hereditary chiefs.

This doesn't speak to who gives consent. I'm asking this question to get your opinion but also to prod — and I am sure the committee will do this — the committee to explore this as well to help us understand its full impact.

**Senator Harder:** I would have to concur that that is one area where the committee would want to do its work.

You will know, by virtue of my support for that legislation, where I would come out in terms of my view on this as it reflects itself in the legislation. However, this is clearly an issue that this chamber will have to deal with, not only on the issue of Bill C-262 but in terms of other legislation that comes forward that touches on consultation and reconciliation.

**Hon. Dan Christmas:** Honourable senators, I rise today to speak in emphatic support of Bill C-262, An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous People.

As I begin, I acknowledge that we meet today on the unceded lands of the Algonquin Nation. I also want to acknowledge and offer thanks to Member of Parliament Romeo Saganash for his tireless work in developing this bill and in seeing it passed by the other place. I'm honoured to be working with Senator Sinclair and many of our colleagues here in the Senate towards seeing the hopefully swift passage of Bill C-262 by this chamber.

As most of you know, I have been a member of this place now for a little over two years. In that time, I have sat and I have watched; I have listened and I have learned. I have seen the best of this place and I have realized the significant impact we can have here in our capacity as senators, as legislators. When I was named to this noble institution, I made a pledge to myself that I would do all I could to help enact the 94 Calls to Action of the Truth and Reconciliation Commission. Absolutely fundamental to fulfilling that pledge was and is the United Nations Declaration on the Rights of Indigenous Peoples.

I believe I have been called to this place at this time to help make this happen. As President Abraham Lincoln once said of his own journey and calling, "I will prepare and some day my chance will come." Today, in your midst, I'm proud to say that I have prepared and my chance has come — a chance to speak to the meaningful purpose of Bill C-262 and the opportunity it represents to be a true instrument of reconciliation. You see, I view the adoption of the United Nations declaration as ground zero in the reconciliation between Canada and its Indigenous peoples.

The key reference point in the 94 Calls to Action can be found in the tenets of the UN declaration. Quite simply, everything in the Calls to Action flow from the ultimate adoption of the UN declaration. The reason for this is simple, if only people will see it: The declaration gives everyone — the Government of Canada, the provinces, the territories, the people of Canada and all of its Indigenous peoples — a common denominator.

What is this legislation all about? Bill C-262 calls for Canada, through the adoption of this legislation, to make a number of commitments, which Senator Harder just outlined: first, that Canada would recognize UNDRIP as a universal human rights instrument with application in Canadian law; second, that Canada will take all measures necessary to ensure that the laws of Canada are consistent with UNDRIP; third, that Canada, in consultation with Indigenous people, will develop a national action plan to achieve the objectives of UNDRIP; and, fourth, that annually the government will provide a report back to Parliament identifying the implementation of measures taken by Canada and the national action plan.

In order to fully appreciate the legal implications of the adoption of Bill C-262, it is important to first understand the legal status of UNDRIP as a piece of international law.

In the international context, there are two primary sources of law, as defined by the International Court of Justice. Such sources of law are considered the "hard law," or *lex lata*, of international law — laws that are considering binding upon those states that are a party to it. This would include instruments such as international treaties and international conventions, which, once committed to by a state, bind the state to adhere to them.

However, there exists another source of law in the international realm that is also significant to states, although it is not legally binding on the state in the same manner as hard law. Such law is often referred to as "soft law," or *lex ferenda*, and can take the form of UN declarations, UN resolutions, handbooks of UN agencies, and other international communications.

UNDRIP, as an international declaration, is a form of soft law and, as such, is not binding upon the state in the same manner as international conventions and treaties.

The fact that UNDRIP is a form of "soft law" and not "hard law" is key and fundamental to understanding the legal implications of both Bill C-262 and UNDRIP in the Canadian context. Thus, in its present state, UNDRIP will never have the same legal weight as an international convention or international treaty.

Honourable colleagues, it is very important that, when considering arguments or evidence as to why Bill C-262 should not be passed, this reality should be made clear. The bold truth of the matter is this: If we can all agree that the UN declaration is the standard for achieving reconciliation, then for once we're in the same room, all together.

So what has been preventing this from happening? What I've found is that the right to self-determination hasn't been the stumbling block. As we've been hearing over and over again as of late, and even today, the big fear is free, prior and informed consent by and from Indigenous peoples. This is due in no small part to the way it's been painted in the public discourse, particularly around resource development, that free, prior and informed consent constitutes an Indigenous veto on any project.

• (1750)

I was grateful to Senators Sinclair and Tannas for beginning the dialogue on consent here in the chamber last November and for beginning the dialogue on the notion of Indigenous veto. I'm anxious that the debate be permitted to continue when the bill is referred to committee. But to remind honourable colleagues, Senator Sinclair pointed out that we have ". . . a growing body of case law here in Canada which has very clearly indicated that free, prior and informed consent does not, in fact, amount to a veto."

And yet, there remains much public discourse about the Indigenous peoples being considered as "anti-development" when it comes to energy, oil and gas projects.

I'm sorry, but I subscribe to a much different school of thought. My perspective is that in order for Canada to really allow Indigenous people to buy into Canada, they need to be allowed the freedom and the choice to say either yes or no. Many seem afraid that Indigenous people will say, "no." I believe there are a lot of Indigenous people today who are ready, even eager, to say, "yes."

There are myriad things that Canadians don't often consider in respect of the Indigenous perspective. I'd like to share some of those with you now. There have been and are a lot of projects that are undertaken on our territories, on our lands and upon our waters. Up until recently, we've been pretty much excluded from participating in them. Given this, you might be able to understand why Indigenous people might choose to say, "no."

This "no" is understandable because in the past we've been basically cut off from our own lands. Now that the law has changed and the courts have said that Indigenous people must be consulted, a lot of Indigenous people, after having been excluded for so long, default to their natural reaction, which has been to say, "no."

Canada needs to realize that this is changing. There are other people out there across Canada, a rising, emerging economy of young Indigenous people eager to develop their lands and their resources, keen to gain employment, driven by entrepreneurship to want their own businesses and build their own prosperity. For this growing segment in the Indigenous community, the UN declaration is no less than the road map to prosperity, and not just prosperity for us as Indigenous communities, but indeed prosperity for all of Canada. That's why I think this is so important. That's why I believe that this bill is legislation whose time has come. That's why we must get to committee as soon as possible and ultimately pass it without delay.

We should all remember that the development of the UN declaration itself took more than 30 years culminating in its adoption by the UN General Assembly in 2007. Its 46 articles characterize the minimum standards for the survival, dignity and well-being of the Indigenous peoples of the world. In May 2016, the Government of Canada endorsed the UN declaration with a commitment to its full and effective implementation. In doing so, it was acknowledged that it was time for the Government of Canada to take action to ensure that the standards set out in the UN declaration were reflected in all federal laws, policies and operational practices.

Honourable colleagues, let me be candid. I wish that this bill was government legislation. The fact that it is not in no way diminishes its importance. Its purpose and intent are nothing but noble. Its core elements are pivotal to the broader transformative shift under way in terms of the recognition and implementation of the rights of Indigenous people.

Clause 3 of the bill acknowledges that the UN declaration, like other human rights instruments for which Canada has expressed support, has application in Canadian law as a source that can be drawn upon to inform the interpretation of domestic law and the exercise of administrative discretion under domestic law.

The bill also provides for important and lasting mechanisms that will require the government to continue the work that it has already undertaken to review federal laws, policies and practices with a view to harmonizing them with section 35 of the Constitution as well as the UN declaration and the Truth and Reconciliation calls to action.

Likewise, clause 4 of the bill creates a legislative statute which requires the Government of Canada to take all measures necessary to ensure the laws of Canada are in harmony with the UN declaration. The bill doesn't specify what measures will need to be aligned with federal laws. This leaves considerable room for the government to work in partnership with Indigenous peoples and in a way that builds on Canada's constitutional framework to develop these new measures.

In that sense, the bill respects article 38 of UNDRIP, which states:

> States, in consultation and cooperation with Indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this declaration.

In addition, Bill C-262 provides accountability mechanisms, including a national action plan, to be developed in partnership with Indigenous peoples, to achieve the objectives of the UN declaration and the obligation to report on progress to Parliament. Through these mechanisms, the government's progress will be monitored and measured, as it should be.

Reconciliation means many different things to different people. However, one commonly understood aspect of reconciliation is that we acknowledge our past and take actions to build an improved future. In that sense, as a first step, we must acknowledge the breadth of transformation that is required to enable a tangible and lasting change to Crown-Indigenous relations. The history, in which Indigenous people have had to survive the imposition of colonialism, is long. The impacts have been devastating.

At the same time, the roots of colonialism have long settled into our institutions, our legislative frameworks, and our perceptions of the world around us. Sometimes it's visible and sometimes it's harder to see. We cannot transform this reality with one bill alone. To truly turn the tide, a new foundation, which includes the UN declaration, and living up to the promise of section 35 of our Constitution, is required. From this foundation, we can begin to deconstruct our colonial reality and in its place see an increase in self-determining and self-governing Indigenous nations that are able to thrive socially, economically and culturally. This is what reconciliation means.

As I close, I'd like to share some words of wisdom I received recently. Steve Bell is a veteran Canadian singer/songwriter and author from Winnipeg. He recently wrote to me, and I believe to all honourable senators, as he states:

> This country that we mutually hold dear is at a watershed moment of great importance.

Steve offered prayers for our courage and wisdom as we consider all that we must do in order to move us forward according to the best intentions to be a "fair" nation. By "fair" he invoked a double meaning of the word. Fair as in "fair is the meadow" and fair as in "fair play." In other words, fair according to both beauty and justice.

He reminded us, and again I'm quoting from Mr. Bell's letter:

> Countless individuals, institutions, civil and religious organizations agree that we need legislation to hold current and future governments to account to uphold this minimum of human rights standards for all people, but with particular attention to First Nations, Inuit and Metis peoples who have suffered systemic exclusion from the benefits of these basic rights.

Great harm has been done —

**The Hon. the Speaker:** Your time has expired. Are you asking for more time?

**Senator Christmas:** Yes, please.

**The Hon. the Speaker:** I should caution you as well that we're one minute away from 6 p.m.

**Senator Christmas:** And for healing to occur, there first needs to be a commitment to stop harm. Bill C-262 is such a commitment and sets the stage for a new and mutually fruitful relationship with Canada's First Nations, whom John Ralston Saul rightly calls "the senior founding pillar of our civilization."

We look forward to the day that we can truly call our country "fair" in accordance with both beauty and justice.

Honourable senators, there is perhaps nothing more fair, more beautiful than pursuing the affirmation of rights. And it's a key reason why we sit in this place.

• (1800)

This is a bill, the provisions of which build upon our nation's Indigenous policy framework regarding our place and our role on the international stage and our constitutional duty to protect and advocate on behalf of minorities. I'm asking that we all work with vigour and determination to see second reading debate concluded by no later than March 21 in order to get this bill to committee and one step closer to adoption.

This is the right thing to do. This is the fair thing to do. This is the honourable thing to do.

As I close, let me leave you with the words of John Fitzgerald Kennedy who affirmed that, "In giving rights to others which belong to them, we give rights to ourselves and to our country." This bill helps us to do just that. I commend to you its referral to committee without any delay. *Wela'lioq*. Thank you.

**Hon. Senators:** Hear! Hear!

**The Hon. the Speaker:** Honourable senators, it being now 6 p.m., pursuant to rule 3-3.(1), I'm required to leave the chair until 8 p.m. unless there is an agreement that we not see the clock.

Is it agreed, honourable senators?

**Some Hon. Senators:** No.

**The Hon. the Speaker:** Accordingly, the sitting is suspended until 8 p.m.

(The sitting of the Senate was suspended.)

• (2000)

(The sitting of the Senate was resumed.)

## ADJOURNMENT

MOTION ADOPTED

**Hon. Yuen Pau Woo** moved:

That the Senate do now adjourn.

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

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** No.

(Motion agreed to, on division.)

(*At 8:03 p.m., the Senate was continued until Tuesday, February 26, 2019, at 2 p.m.*)

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