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(HANSARD)

Thursday, April 4, 2019

The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Thursday, April 4, 2019

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

Prayers.

SENATORS' STATEMENTS

OPIOID OVERDOSE CRISIS

Hon. Patricia Bovey: Honourable colleagues, I speak today about society's truly serious endemic opioid crisis.

I congratulate Senators Cordy and Gagné for the thoughtful, powerful open caucus meeting a month ago. Hard, stimulating and honest, that room was filled with compassion and concern; professionals dealing with tragic day-to-day realities; those who have risen from their addiction; and those who talked of how they became addicted — poverty, street situations or prescriptions that left them addicted. In all cases, lives and families are torn apart.

Look at yourselves in the mirror honestly. I believe each of us has been deeply touched by this escalating crisis. Family members, friends, co-workers, neighbours — are any of us unscathed? I'm not, in several parts of my life.

Opioid addiction affects every socio-economic sector — those in well-paid professions and those out of work; those living below the poverty line and those living in houses we cannot fathom; and those living in high-end residential areas.

This is not a problem borne solely from poverty. Traumatic for all, devastating for families and costly for society, we cannot tune it out. As citizens, we are equally deserving, and this need must be met.

Many experts in many fields, working on it from multiple angles — social workers, counsellors, doctors, psychologists, epidemiologists, academics, lawyers and affected families. Society must trust experts' current information and research, and take positive steps. The cost of not dealing with this crisis is far greater than ignoring it.

Winnipeg has new hope on the treatment horizon: the Bruce Oake Recovery Centre, slated for St. James's former Vimy Arena site. Sod will be turned August 22 on what would have been Bruce Oake's thirty-sixth birthday. Bruce, taken by opioids, is the son of Anne and Scott Oake, well-known sports reporter and Senate 150 medal recipient.

Contrary to "not in my backyard" fears, this will be a no-substance zone, with repaired green space and criteria stating all those accepted in the recovery program must be clean and prove they want recovery. Treatment costs will be covered for those without means.

In the midst of this exponentially escalating epidemic, like organizations are reporting a greater than 55 per cent success rate.

This recovery centre is a welcome addition to Winnipeg's existing programs. Siloam Mission provides a bed for those in dire need who are dry. And individuals can stay for seven days of treatment in the Main Street Project's detox centre, a haven in a crisis.

But after that, there is nothing without leaving Winnipeg and familiar one's family. With money, one can enter a private detox centre like Gimli's for treatment, support and hopefully to restart one's life.

I applaud the Oakes for spearheading this new centre, and I look forward to its realization. This ray of hope has my support. How can we leave this critical need unmet?

Hon. Senators: Hear, hear.

[*Translation*]

THE HONOURABLE GHISLAIN MALTAIS

TRIBUTES

Hon. Jean-Guy Dagenais: Honourable senators, next week will be the last time my friend, Senator Ghislain Maltais, sits in this chamber. I first met Ghislain in March 2011 during the federal election campaign. I was running to represent the riding of Saint-Hyacinthe—Bagot, and Ghislain was the director of the Conservative Party's Quebec wing. As candidates, Ghislain and I both became collateral victims of the orange crush, and we ended up being appointed to the Senate in 2012. We quickly became friends.

Ghislain was a shrewd businessman from the insurance world who had also enjoyed a distinguished career as the MNA for Saguenay. While serving in the Senate, he also had a military career as Honorary Colonel of the 62nd Field Artillery Regiment and a member of the Fondation des artilleurs de la Mauricie. If he had been cast in the movie *Saving Private Ryan*, I think he would have saved him single-handedly.

Ghislain is a master orator. He always delivers his speeches in the Senate from memory, much to the annoyance of the pages who ask him for his notes.

I would be remiss if I didn't mention the breakfasts we had before the Wednesday meetings of the Quebec caucus or our laugh attacks when we sat beside each other. The Speaker won't have to worry about that any more. What a pleasure it was to travel together with the agriculture committee. Ghislain knew all of Canada's regional characteristics. When he was the Chair of the Standing Senate Committee on Agriculture and Forestry, he always ended our meetings with something Brother Marie-Victorin might have said: "We eat three times a day. People need to feed themselves. Let's think about future generations."

Ghislain, thank you for these wonderful years of friendship. A door is about to close, but another window is always sure to open, particularly for someone like you. Since I know you love French music, I will close with the lyrics of Jean Gabin's song *But Now I Know*, which says, and I quote:

> When I was young and very sure
> For everything had a cure
> I said: I KNOW, I KNOW, I KNOW, I KNOW
> . . .
> Now in the September of my life
> . . .
> In spite of all I've learned or even hoped to learn
> One simple truth is very, very clear to me:
> I'll never know, I'll never know!

I wish you a happy retirement and a long life, Ghislain.

Hon. Senators: Hear, hear!

[*English*]

NORTH ATLANTIC TREATY ORGANIZATION

SEVENTIETH ANNIVERSARY

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable colleagues, today marks the seventieth anniversary of the signing of the North Atlantic Treaty and of the creation of the North Atlantic Treaty Organization. Established in 1949, it was Canada's first military alliance in peacetime. We entered into the agreement with the United States, Great Britain and the nations of Western Europe.

Canada played an integral role in the North Atlantic treaty's development. The Right Honourable Louis St. Laurent was a leading proponent, along with then Secretary of State for External Affairs Lester B. Pearson.

They believed it to be not only a defensive military alliance against the Cold War threat of the Soviet Union but an instrument for the development of political, social and economic cooperation among member states. Now-declassified notes on the various treaty drafts show that Canada held firm to this belief throughout the negotiations, culminating in Article 2 of the treaty. It aptly became known as "the Canadian Article."

In a speech in the other place during debate on the treaty, Mr. Pearson spoke about the discussions leading to the final text:

> In the company of like-minded people we tried to find means by which the free world, of which this nation is a part, can remain free. More important still, we tried to find a way to work with other nations to search out and remove the causes of war. The North Atlantic treaty, the draft of which is before the house, is the present answer to these demands.

• (1340)

A week later, on April 4, Canada signed on to the North Atlantic Treaty, along with 11 other nations. Since then, the alliance has grown to 29 nations and is soon to become 30, we hope. Its priorities have evolved as the threats and challenges have changed around the world.

Canada has continued to play an integral role, participating in every NATO mission since the alliance's founding.

Honourable senators, for 70 years NATO and its members have worked to promote peace and to safeguard the freedom of its citizens.

To honour this anniversary, I invite you all to a reception this evening from 4:30 to 7 p.m. in room 330 of the Wellington Building. NATO and Canada's role in NATO is certainly worthy of our commemoration and gratitude.

[*Translation*]

THE LATE JOHN KENNETH MCKINNON

Hon. Pat Duncan: Honourable senators, it's an honour and a privilege for me to serve in this chamber. In this, my first speech as a senator, I'd like to pay tribute to a distinguished Yukoner.

[*English*]

This is a tribute and a celebration of an event that is unique and special to the circumpolar world community and one close to the heart of Ken McKinnon — the Arctic Winter Games.

John Kenneth McKinnon was the youngest member elected to the Yukon Territorial Council. He served from 1961 to 1964 and from 1967 to 1978.

My memory of Ken, and I stand to be corrected, was of a young man raising eyebrows, defying convention and wearing his beautiful beaded moccasins into the legislature rather than the polished black brogues one might have expected.

Years later, working with Ken in the commissioner's office, I noted that he was most often in his favourite beaded moccasins rather than the more formal attire. Ken served as commissioner or lieutenant-governor from 1986 to 1995. His public service continued as Chancellor of Yukon College from 2000 to 2004.

Ken McKinnon, the athlete, was also the first President of the Arctic Winter Games. At the opening ceremony of the Arctic Winter Games, Ken said, "The first games are only the beginning of a great concept." And what a concept it is.

The Arctic Winter Games is a circumpolar event involving some 2,000 athletes, cultural contingents, mission staff, northerners from Alaska, northern Alberta, Greenland, the Northwest Territories, as well as teams from Nunavik, Quebec, Nunavut, Yamal, Russia, the Sami people and, of course, Yukon.

The games are a truly unique cultural, linguistic, heritage and athletic series of events that cultivate high-level competition, sportsmanship and friendship for young people from throughout the North.

Sadly, Ken passed away as we celebrated one year out to the Government of Yukon and the City of Whitehorse hosting the 2020 Arctic Winter Games.

Honourable senators, as we celebrate the games from March 15 to 21, 2020, the fiftieth anniversary of the Arctic Winter Games, we also celebrate the legacy of northerners such as Ken McKinnon. Ken's wit and wisdom, his athleticism and the very art he practised of being a good neighbour to people throughout the region will be remembered and celebrated.

Judy, Ken's life partner, and their children, Lexie and Craig, their family and friends throughout the North, you have our heartfelt deepest sympathy and my word that Ken's commitment to the people of the Yukon of the North will be remembered.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Her Excellency Sabine Sparwasser, Ambassador of the Federal Republic of Germany to Canada.

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

Hon. Senators: Hear, hear!

[*Translation*]

VICTIMS OF TERRORISM

Hon. Pierre-Hugues Boisvenu: Honourable senators, three weeks ago, the Canadian flag on Parliament Hill flew at half-mast to commemorate the innocent victims killed in a profoundly cowardly and cold-blooded attack on a mosque in New Zealand.

I'd like us to focus on how this affects the victims. We've heard all the world leaders speak of their sadness and anger in response to these crimes, and with good reason. However, most victims will tell you that it's not until after the funeral, after the thoughts and prayers, after the news crews drive away that families truly begin the grieving process.

That's when the sorrow, the suffering and the feeling of being abandoned begin to weigh on a person. Victims go through periods of feeling utterly alone. I've been through that. I can tell you that comforting words are more than welcome and that community solidarity has the power to heal.

However, in the days and weeks following such events, victims often feel adrift. They don't know where to turn for help or whom to talk to about the feelings they are struggling with. Their survival depends on financial assistance, psychological support and help navigating the justice system.

Even at work, victims of terrorism are told at some point that they have talked about it long enough. Victims' families often tell me that. In fact, that is why I worked with other fathers to create the Murdered or Missing Persons' Families Association in 2004, to give victims a place to get together and talk to one another. Very few people can imagine what it truly feels like after such a tragedy. It is what I call "surviving the unspeakable."

Honourable senators, victims need far more than just words of support. Here in Canada, just like in New Zealand and anywhere else in the world, victims want better services, adequate compensation, and rights that are recognized and respected within the justice system.

If a bit of light can be found in this dark tragedy, if hope can come out of all this horror, it would be to see parliamentarians understand that victims are important and need laws that are better suited to their needs. The law has to be changed to strengthen victims' rights. We need to hear more from victims at our Senate committee hearings. Even though they are suffering, their voices must continue to be heard.

My heart goes out to the victims in New Zealand and all other victims of violence. May they find meaning in their lives. I pray that they are able to turn their suffering into positive change as best they can. I hope they will be able to leave future victims the legacy of fairer laws that are more respectful towards victims.

[*English*]

ROUTINE PROCEEDINGS

CANADIAN HUMAN RIGHTS TRIBUNAL

2018 REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Human Rights Tribunal for the year 2018, pursuant to the *Canadian Human Rights Act*, R.S.C. 1985, c. H-6, sbs. 61(4).

[*Translation*]

AUDITOR GENERAL

COMMISSIONER OF THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT—SPRING 2019 REPORTS TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the Spring 2019 Reports of the Commissioner of the Environment and Sustainable Development to the Parliament of Canada, pursuant to the *Auditor General Act*, R.S.C. 1985, c. A-17, sbs. 7(5).

SIKH HERITAGE MONTH BILL

THIRTY-SECOND REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED

Hon. Chantal Petitclerc, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, April 4, 2019

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

THIRTY-SECOND REPORT

Your committee, to which was referred Bill C-376, An Act to designate the month of April as Sikh Heritage Month, has, in obedience to the order of reference of December 5, 2018, examined the said bill and now reports the same without amendment.

Respectfully submitted,

CHANTAL PETITCLERC
Chair

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

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

• (1350)

[*English*]

OCEANS ACT
CANADA PETROLEUM RESOURCES ACT

BILL TO AMEND—TWELFTH REPORT OF FISHERIES AND OCEANS COMMITTEE PRESENTED

Hon. Fabian Manning: Honourable senators, I have the honour to present, in both official languages, the twelfth report of the Standing Senate Committee on Fisheries and Oceans, entitled *Bill C-55, An Act to amend the Oceans Act and the Canada Petroleum Resources Act*, with amendment.

(*For text of report, see today's* Journals of the Senate*, p. 4495.*)

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

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

[*Translation*]

L'ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

MEETING OF THE EDUCATION, COMMUNICATION AND CULTURAL AFFAIRS COMMITTEE, APRIL 20-21, 2018—REPORT TABLED

Hon. Éric Forest: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the *Assemblée parlementaire de la Francophonie* (APF) respecting its participation at the meeting of the Education, Communication and Cultural Affairs Committee of the APF, held in Grand-Bassam, Ivory Coast, on April 20 and 21, 2018.

MEETING OF THE COOPERATION AND DEVELOPMENT COMMITTEE, MAY 2-4, 2018—REPORT TABLED

Hon. Éric Forest: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the *Assemblée parlementaire de la Francophonie* (APF) respecting its participation at the meeting of the Cooperation and Development Committee of the APF, held in Rome, Italy, from May 2 to 4, 2018.

MEETING OF THE PARLIAMENTARY NETWORK ON HIV/AIDS, TUBERCULOSIS AND MALARIA, OCTOBER 3-4, 2018—REPORT TABLED

Hon. Éric Forest: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the *Assemblée parlementaire de la Francophonie* (APF) respecting its participation at the meeting of the Parliamentary Network on HIV/AIDS, Tuberculosis and Malaria of the APF, held in Lomé, Togo, on October 3 and 4, 2018.

[*English*]

QUESTION PERIOD

JUSTICE

JUDICIAL SELECTION PROCESS

Hon. Larry W. Smith (Leader of the Opposition): Thank you, Your Honour.

My question is for the government leader. It concerns a very serious matter, the leak of information surrounding the most recent Supreme Court appointment process.

As we know, Chief Justice Joyal of the Manitoba Court of Queen's Bench felt compelled to publicly respond to this leak and, in doing so, to disclose highly personal information about his family.

Those who have rightly condemned this leak include the Canadian Bar Association and two former Supreme Court justices, Louis LeBel and John Major. The Manitoba Bar Association called this incident appalling and also stated:

> It demeans the entire selection process, and is harmful to the privacy of individual applicants.

Last week, Minister Lametti tweeted his concern about this matter.

Senator Harder, if the minister is truly concerned about this leak, then why won't he investigate it?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for the question. Amongst those who raised concerns, I would cite yesterday's statement in this chamber by Senator Joyal. I would cite the widespread and all-party applause for Senator Joyal's statement, which, I think, reflects everybody's view in this chamber with regard to this event.

With respect to the specific question being asked, I can confirm this is a matter of great concern to the government. With regard to whether there is an investigation, I will, of course, make inquiries. But I will also convey, on behalf of the honourable senator as well as all senators, as I did already with respect to Senator Joyal's statement, the seriousness which we feel this deserves.

Senator Smith: Thousands of Canadians have submitted personal information to the government as part of its appointments process, including yourself, Senator Harder, and many other colleagues in this chamber. These Canadians deserve to have their personal information treated with respect. If that information is purposely leaked, then the leak should be investigated.

Could you please help us by making inquiries and let us know if your government has contacted the Privacy Commissioner Daniel Therrien about the leak of information surrounding the Supreme Court nomination process and of Chief Justice Joyal?

Senator Harder: I will indeed make such inquiries.

TREASURY BOARD SECRETARIAT

VICE-ADMIRAL MARK NORMAN— QUALIFICATION FOR LEGAL REPRESENTATION

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I have one question for the government leader in the Senate concerning the legal cost incurred by Vice-Admiral Mark Norman and a double standard that has emerged.

Members of the Prime Minister's staff that were alleged to have interfered in the criminal prosecution of SNC-Lavalin are receiving the support of outside legal counsel. These lawyers are being paid for by Canadian taxpayers under Treasury Board's policy on legal assistance and indemnification.

In 2017, Vice-Admiral Norman applied to have his legal costs covered under the same Treasury Board policy, but it was denied.

Honourable senators may remember that in April 2017, long before Vice-Admiral Norman was charged with anything, the Prime Minister publicly stated that the case would end up before the courts.

Senator Harder, why does the Prime Minister's staff qualify for taxpayer-funded legal representation, while Vice-Admiral Norman does not?

Hon. Peter Harder (Government Representative in the Senate): Again, I thank the honourable senator for her question.

I am unaware of the details of that except to say, as the honourable senator references, there are Treasury Board guidelines with respect to the use of public funds in such matters. I'll make inquiries and report back.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

CHINA—CANOLA EXPORTS

Hon. Robert Black: Honourable senators, my question is for the Government Representative in the Senate. I would like to follow up on a question asked yesterday by my honourable colleague Senator Wallin about canola exports to China.

We all know that the trade dispute with China will have very negative effects on our canola farmers and our economy with 40 per cent of our canola exports usually going to China.

We've heard the government will be sending a delegation to China and has also formed a working group that includes representatives from the two canola companies whose exports have been suspended.

I am absolutely hopeful that they will come to some sort of a resolution soon, but we don't know when.

Now a third company is in jeopardy of having their exports to China halted. Canadian canola farmers are preparing for planting now and are the ones bearing the brunt of this trade dispute.

Does the government have plans to compensate or protect Canadian canola farmers?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question, and he's absolutely right in citing the concern of this chamber and the government. Questions have been asked before, and I want to assure the honourable senator that this is a high priority for the government.

As he referenced in his preamble, it is our hope as a government to send a high-level delegation to China to deal with whatever concerns they might have and to offer assurance on a scientific basis of the confidence we have in our product.

As I indicated yesterday, those dates are still being negotiated and discussed.

• (1400)

I should also reference the ongoing consultation with the industry affected and provinces of particular concern. This is a Canada-wide priority, one that is taking place in the context of a difficult period in our bilateral relationship.

With respect to potential compensation, I think that's a premature commitment at this point, but I want to undertake and state the priority the government has to support our agriculture exporters and on an ongoing basis to review this issue with them. I will certainly bring the honourable senator's concerns on this matter to the attention of the minister.

FINANCE

BUDGET 2019—SOCIAL FINANCE FUND

Hon. Ratna Omidvar: Honourable senators, my question is for Senator Harder, the Government Representative in the Senate.

I would like to turn our attention to Budget 2019. When you read through that — and I won't pretend I have read through every item, but one item caught my eye, and it relates to the creation of a $755 million social finance fund. I want to point out to colleagues that in some small part it was the result of a special Senate study conducted by the Social Affairs Committee. It is indeed wonderful.

I think it is wonderful when our aspirations are given a legislative foundation and there is money attached to it, but there are a lot of Canadians who are very impatient to see the social finance fund up and running.

Can you tell us when we can expect to see the fund operational? Can you share with us which government department will hold the key responsibility in managing the rollout of the fund?

Hon. Peter Harder (Government Representative in the Senate): Again, I thank the honourable senator for her interest and for her reference to the good work of the Senate on this subject matter.

Obviously, it is one that the Senate cannot uniquely take credit for. There was, as the Senate will know, a co-creation steering group composed of 16 stakeholder interests and one government official to make recommendations with respect to the creation of the SISF strategy.

A number of key departments participated. They conducted consultations, both targeted and online, as well as community sector consultations. The Fall Economic Statement first proposed to make available up to $755 million on a cash basis over the next 10 years to establish this fund, the SFF. Additionally, the government proposed to invest $50 million over two years in investment and readiness screening for social purpose organizations to improve their ability to successfully participate in social finance marketing.

Budget 2019 recommits to the funding on the investment readiness stream and provides additional details on the social finance fund. A $50 million investment made through the social finance fund is being proposed for the Indigenous growth component of the fund, and a minimum of $100 million will be allocated towards projects that support greater gender equity.

Funding will be managed through professional investment managers, with expertise on social impact reporting and a proven ability to promote inclusive growth and diversity in social finance.

Budget 2019 clarified that the fund would be delivered, as I say, through professional managers. The government expects the fund to be operational, and competition is already under way to put in place the managers of the fund. The target date for starting is 2020-21. The Government of Canada, through ESDC, which is the department most closely associated with the fund, will put in place the appropriate accountability systems with respect to the fund manager.

[*Translation*]

ENVIRONMENT AND CLIMATE CHANGE

CARBON TAX

Hon. Ghislain Maltais: My question is to the Leader of the Government in the Senate. Today is April 4, 2019. Since April 1, four provinces have gotten good news about the carbon tax. This tax penalizes one category of workers and owners more than others: farmers. No matter their size — whether small, medium or large — farms consume fuel. Other more forward-thinking provinces have come up with specific plans to help farmers, because agriculture remains essential and fundamental to our country. Could the Leader of the Government tell me whether the Government of Canada has planned for an assistance or conversion program for farmers to go along with this tax?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): Again, let me thank the honourable senator for his question.

I can only assume — or hope, I guess — that this might be the last question he asks of me, but he's got another week left. He is also the first senator that I recall — and I'll reference this perhaps in a more formal way. When he asked me his first question, he taught me the lesson of — at least with this senator — he knows the answer before he asks the question, and I get a grade on the basis of how my answer accords with his understanding of it.

So let me, with some trepidation, answer the question by stating, as the minister responsible did when she was here earlier, that putting a price on carbon is an appropriate and progressive way of dealing with climate change. In the plan that the government has put forward, the framework, there were exemptions and special treatment for the agriculture sector, fishers and the like. Those programs are available.

The honourable senator will also know that there is a return to the provinces for the revenues collected with respect to pricing of carbon. I would be happy to provide the honourable senator references to the specific needs of the four provinces that he cites, but again, the framework legislation is national, and individual provinces have made choices that they will be accountable for.

[*Translation*]

Senator Maltais: Thank you. When the law was passed, the government said that it would reimburse Canadian taxpayers to the tune of $300 or $325 a year, which they could receive after producing documentation of fuel expenses. That makes perfect sense. On average, families in the four provinces will pay about $300 or $325 more a year in tax, and I'm not talking about family business owners, but families who use their car to go to work.

On one side, you have Canadians paying $325 more, and on the other, the government giving $325 refunds. How will that help save the environment in Canada?

[*English*]

Senator Harder: Again, I want to reiterate it is the view of the Government of Canada, supported by many economists and indeed many in the political class outside of the government's party, that the best way of dealing with pollution is to put a price on it and manage the pollution pricing regime in a fashion that supports the costs to Canadians of such pricing. That pricing, along with other measures that are part of Canada's response to climate change, are the best ways of addressing the global commitments that Canada has made, and frankly, the net necessity of dealing with climate change at an increased level of dedication.

• (1410)

The specific framework is nationwide, as I referenced, but there is also provision for those provinces who do not participate in the framework for their citizens to receive funding as is appropriate in the framework. By far, the better solution is for provinces to participate as the vast majority of provinces are.

FINANCE

BUDGET 2019

Hon. Nicole Eaton: Honourable senators, my question is to the Leader of the Government in the Senate.

Senator Harder, we all know to what lengths the Prime Minister will go to save jobs. He has even lost two senior ministers over this concern. Last month, Minister Morneau brought in a budget which was full of bobbles, bangles, bells and bright shiny things.

As a highly intelligent person, can you tell me why Minister Morneau ignored the pillars of good financial planning? I'm thinking of productivity — we all know Canada lags the G7 in productivity — tax competitiveness, and there is nothing to attract investment into Canada. We know that foreign investment has fallen off badly. Are you leaving this for the next government to deal with?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her question, particularly the preamble in which she referenced my genius. I don't often have the occasion to thank senators for their preambles.

Let me reiterate the priority this government has in making investments in a period of some anxiety in the workplace. Those investments have, over the course of now four budgets, yielded Canada's growth to be the highest in the G7. That has led to an ever-diminishing debt-to-GDP ratio, which is the anchor, which has led to the lowest unemployment rate in many years, and these investments are achieving the results of bringing some stability to the labour markets and some economic growth that otherwise would not be there.

The honourable senator references properly the ongoing historic concern in Canada with regard to private sector productivity and innovation. The honourable senator will know there have been, over the course of these four budgets, investments in the innovation sector, particularly targeted investments, that are strengthening the capacity of the Government of Canada to work with the private sector and innovators to not only bring their products to market, but to find new markets to invest in the highly qualified personnel who are the essential requirement of an innovative and highly competitive marketplace.

These are ongoing projects. They are multi-year and, frankly, they have been multi-government. They will have to have more attention over the course of budgets in the future.

Hon. Douglas Black: Honourable senators, my question is also for the Leader of the Government in the Senate.

Senator Harder, in the present budget, the government very quietly — and some journalists have suggested deviously — has again, unfortunately, targeted Alberta industry, this time the Alberta tourist industry. On page 295 of the recent budget, the government has eliminated the $7 million Jasper Icefields Trail project. Quietly, just gone.

Of equal significance, on page 328, the Government of Canada indicates that it intends to amend the National Parks Act to alter the agreed boundaries of the ski area in Banff National Park. This, unfortunately, has been done after protracted and failed negotiations between the government and the industry.

The CEO of Sunshine Village, which many of you would know as one of North America's leading ski resorts, has indicated that they were intending to invest $75 million in that resort over the next five years. If what the government is now threatening should come to fruition, perhaps they will invest $5 million over the next 20 years.

Leader, this is no major investment in ski areas or in tourism. Jobs will suffer, tourism will suffer and it will continue to make businesses in this country uncompetitive.

Leader, can you please seek clarity from Environment Canada that they will respect the interests of the tourist industry and the citizens of Alberta and reverse these plans?

Senator Harder: I thank the honourable senator for his question.

I want to assure him and all senators that Parks Canada is committed to downhill skiing in national parks. Downhill skiing has provided a cornerstone for the winter tourism ski areas, as he will know, having participated in such activity.

The amendments identified in the budget are administrative in nature and reflect what was developed and agreed upon collaboratively with the Lake Louise ski area as they develop their site guidelines with Parks Canada. In each case, the ski area operator agreed to make significant environmental improvements which resulted in a reduction of their lease area without impacting visitor experience. These amendments are well known to the respective ski area operators and support the commitments they have made to Parks Canada's ski area planning process.

As the honourable senator will know, I would expect that the budget implementation act will be before the Senate for pre-study and, later in the session, before the Senate chamber, and I would invite him to probe on this matter as appropriate. But I do want to assure him, as I hope I have, with respect to the intentions behind this matter.

FAMILIES, CHILDREN AND SOCIAL DEVELOPMENT

NATIONAL HOUSING STRATEGY

Hon. Rosemary Moodie: Honourable senators, my question is directed to the Government Representative.

Senator Harder, as a senator from Toronto, I know that a significant number of people rely on affordable housing. I was happy to see that this government set aside just over $1 billion to increase energy efficiency in buildings across Canada, and that about one third of that funding was directed toward affordable housing innovations.

We know that the residents of affordable housing units often face challenges with degrading and inefficient buildings, and as a result they often pay disproportionately higher bills. We also know that 17 per cent of Canada's greenhouse gas emissions come from residential, commercial and institutional buildings.

The money set aside in this budget was a one-time allotment to the Green Municipal Fund and this is to be commended. There is no question about that. However, more needs to be done.

According to Canada Green Building Council, creating an economy for housing retrofits will require sustained government support and investment. Given the social, economic and environmental benefits of a retrofit economy, we cannot rely on a limited revolving fund.

Senator Harder, my question is this: How does this government plan to promote an economy that supports affordable and scalable housing retrofits going forward? Is there a plan for more increased investments in this area?

Hon. Peter Harder (Government Representative in the Senate): Again, I thank the honourable senator for her question. If my memory serves me right, I believe this is the first question from the honourable senator and I congratulate her.

Hon. Senators: Hear, hear.

Senator Harder: Her area of priority is fitting given her residence in Toronto.

I won't repeat the preamble's investment announcements with respect to the Green Municipal Fund and the $1 billion that the government in its budget is investing. I do want to highlight elements of National Housing Strategy led by Minister Duclos. Over the next 10 years, up to $200 million in federal lands will be transferred to housing providers to encourage and develop affordable housing units, and this fund will also be utilized for renovations and retrofits.

As to whether additional funding streams will be added or are contemplated over future budgets, I will certainly bring the concerns of the honourable senator to the attention of the minister, but the funds that I have spoken about are those that the government has already committed to.

PRIME MINISTER'S OFFICE

SNC-LAVALIN

Hon. Denise Batters: Senator Harder, on December 19 the Prime Minister, the Privy Council clerk and senior PMO staff had lunch shortly before the clerk's 17-minute call with Jody Wilson-Raybould. Mr. Wernick said four times in that call that the PM was firm and in a mood about a deferred prosecution agreement with SNC-Lavalin.

• (1420)

The Clerk of the Privy Council stated that this issue was important to the Prime Minister. At the end of that call, he said he was going to have to brief Prime Minister Trudeau on the call before he goes. The Prime Minister and the Clerk are now claiming the Clerk failed to brief the Prime Minister about this disastrous call with the Attorney General on an issue Mr. Wernick stated was so important to the Prime Minister. This defies belief. There are only two possibilities: Was the Clerk totally incompetent or is this Prime Minister Trudeau's desperate attempt to hide the truth from Canadians?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her question. There is actually a third possibility in that they are telling the truth.

Some Hon. Senators: Oh, oh!

Senator Batters: I don't think so, Senator Harder.

Michael Wernick was a 38-year career civil servant who worked his way up to the highest job in the Canadian public service. When I asked you about him previously, you lauded his accomplishments and called him a friend. In what world would it not set off alarm bells for Mr. Wernick when the Attorney General of Canada says she feels this conversation reminds her of the Saturday Night Massacre. It's ludicrous.

Senator Harder, if Mr. Wernick was actually so incompetent, why was he not immediately fired after the Prime Minister learned about this call during Jody Wilson-Raybould's testimony in February? Or is Prime Minister Trudeau trying to cover his tracks, that he knew about it all along? If so, how much severance will the Clerk of the Privy Council receive from Canadian taxpayers so Prime Minister Trudeau can buy his silence?

Senator Harder: I thank the honourable senator for her question. Let me simply say, in the number of years that I've known the Clerk, the soon-to-be-retired Clerk, I have known him to be a person of high integrity. He has certainly demonstrated that in service to a number of governments. Any question to impugn his integrity I find distasteful. I take him at his truth and I stand by that.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

BUSINESS OF COMMITTEE

Hon. Marilou McPhedran: Honourable senators, my question, which is essentially the same question on accountability, is to be put to the chair of the Standing Senate Committee on Energy, the Environment and Natural Resources and to the chair of the Standing Senate Committee on Transport and Communications if time allows.

The Hon. the Speaker: Senator McPhedran, if you have a question, it can only be for one chair at a time.

Senator McPhedran: I will start with Senator Galvez, please. It is not often that committees travel in the midst of considering a bill, but the Standing Committee on Internal Economy, Budgets and Administration has approved a budget of almost half a million dollars for members of the standing committee to travel while studying Bill C-69. Here is my question: Will you be following through on the rationale given to justify this exceptional expenditure of public monies and the bigger carbon footprint and the reason the committee needs to travel? What has been put in place to guarantee — as indicated to this chamber by proponents of this exceptional travel — that the voices of Canadians who have not yet been heard by this committee will in fact be heard as a result of this substantial, almost-half-million-dollar travel cost for the committee to travel at this time? Would your committee please include answering this question in detail through a report to this chamber after your travel is completed?

Hon. Rosa Galvez: I thank my colleague for the question. I think it's an important question when it's a matter of accountability and transparency with respect to public money. For me, that is very important. Deputy Chair Senator MacDonald and I went to CIBA and we spoke in front of Senator Tannas. Actually I asked Senator Tannas your question. I asked him, is there a mechanism by which we have to report whether our trip was efficient? He said we have to answer on the money terms; we have to present receipts for the funds. However, we can, in parallel, present a report that says whether or not this was an efficient way of consulting and reaching people.

The Hon. the Speaker: Senator Galvez, you have about 20 seconds to finish your answer. Question Period is expiring.

Senator Galvez: We will be doing that report. Thank you.

The Hon. the Speaker: Honourable senators, the time for Question Period has expired.

ORDERS OF THE DAY

POINT OF ORDER

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, I am ready to rule on the point of order raised by Senator Plett on March 19, 2019. The point of order concerned an amendment to motion 435 dealing with allegations about interactions between the staff in the Office of the Prime Minister and the former Minister of Justice and Attorney General, which have attracted considerable attention in recent weeks. The original motion, moved by Senator Smith, the Leader of the Opposition, proposes that the Legal and Constitutional Affairs Committee study the issue. The amendment, moved by Senator Harder, the Government Representative, would change the motion so that the Senate takes note of the fact that the Conflict of Interest and Ethics Commissioner is investigating the matter, rather than having the Senate take action by authorizing a committee study.

Senator Plett's concern is that the amendment is beyond the scope of the original motion. He noted that it would change an order of reference authorizing committee work into a statement of fact. Senator Carignan shared this concern. He argued that the amendment has nothing to do with a committee study. It therefore amounts to the rejection of the original proposal. Both senators noted that Beauchesne and *House of Commons Procedure and Practice* state that a proposal contrary to the main motion or one that is essentially a new proposal should not come before the Senate by means of an amendment. It requires separate notice.

In dealing with this point of order, let me first address the issue of timing. As explained at page 216 of *Senate Procedure in Practice*:

> While a point of order need not be raised at the first opportunity, it should be raised when the object of the complaint … is still before the Senate, or the issue is still relevant … In particular, a point of order relating to a procedural matter should be raised promptly and before the matter is decided …

While it is preferable that a point of order be raised as soon as possible in proceedings, it is worth remembering that the fact that this did not happen when the amendment was first moved does not render the point of order invalid. Points of order are very different from questions of privilege, where timing is one of the key criteria.

In terms of the specific issue before us, the Senate is often flexible in its procedures. Generally speaking, our practice is that, unless an item is clearly out of order, debate is allowed to continue until a specific concern is raised, and the matter is found to contravene the Rules or practices. When such a concern is raised, however, it is the duty of the Speaker to evaluate the matter in terms of our procedural requirements.

The issue of the receivability of amendments usually arises in terms of proposed changes to bills, where issues of principle, relevancy, and scope have been examined with some regularity. As noted in a ruling of December 9, 2009:

> It may generally be helpful to view the principle as the intention underlying a bill. The scope of the bill would then be related to the parameters the bill sets in reaching any goals or objectives that it contains, or the general mechanisms it envisions to fulfil its intentions. Finally, relevancy takes into account how an amendment relates to the scope or principle of the bill under examination.

This general framework can help us when considering amendments to motions. *Senate Procedure in Practice*, at page 90, identifies other factors to be considered, some of which were mentioned in the point of order. Beauchesne, at citation 579(2) of the sixth edition, explains that "An amendment may not raise a new question which can only be considered as a distinct motion after proper notice". The third edition of *House of Commons Procedure and Practice*, at page 541, states that an amendment is out of order if it is "completely contrary to the main motion and would produce the same result as the defeat of the main motion."

In addition, Erskine May, at page 409 of the 24th edition, notes that an expanded negative, striking out all the words in the motion to propose the opposite conclusion, is out of order. Concerns about an amendment being an expanded negative have led to proposed modifications being rejected in the Senate. On March 30, 1915, for example, a subamendment to a motion dealing with bilingual education in Ontario was found out of order because it contradicted the amendment it proposed to change. As another example, on May 31, 1934, an amendment proposing that Canada remain in the League of Nations was found to be out of order, since the motion proposed that the country leave that organization. To the extent that Senator Harder's amendment is understood as effectively a lengthy rejection of Senator Smith's motion, it does cause concern.

Even if the amendment is not seen as an expanded negative, however, other Senate precedents show that amendments to add significant new elements to a motion have been found to be out of order. I would, for example, refer honourable colleagues to the decision of September 9, 1999, dealing with an amendment to expand an investigation about actions by the Canadian Forces in Somalia to include Croatia, as well as a decision of September 19, 2000, which would have tacked on to a proposal to establish two new committees elements relating to the size of all committees and the process by which members are chosen.

In the case before us, the content of the amendment would probably not cause concern if it had been moved as a substantive motion after notice. It takes note of certain facts. The point of order only arises because the process used to bring this proposal before the Senate may have circumvented normal notice. This does indeed raise issues, particularly in relation to the scope of the main motion.

Senator Smith's motion proposes that the Senate take action by authorizing a committee to conduct work. The committee could then come back to the Senate with its conclusions. The amendment proposes to remove the core of the original proposal. As such, it removes the proposed path, without proposing any other action by the Senate, which is simply asked to acknowledge facts. Replacing a proposal for Senate action with a simple recognition of facts is a major change in the basic goal of the motion. As such, the content of the amendment should more appropriately be brought before the Senate as a separate motion, on notice.

For the foregoing reasons, I find that the amendment is out of order and is to be discharged from the Order Paper. Debate on the main motion can proceed when called.

• (1430)

[*Translation*]

BUSINESS OF THE SENATE

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, pursuant to rule 4-13(3), I would like to inform the Senate that as we proceed with Government Business, the Senate will address the items in the following order: motion No. 261, followed by second reading of Bill C-83, followed by all remaining items in the order that they appear on the Order Paper.

[*English*]

THE SENATE

NOTICE OF MOTION PERTAINING TO CERTAIN BILLS WITHDRAWN

On Government Business, Motions, Order No. 261, by the Honourable Peter Harder:

That, notwithstanding any provisions of the Rules, usual practice or previous order:

1. if a bill is still on the Orders of the Day for second reading at 5:15 p.m. on the day that, pursuant to this order, second reading of the bill must conclude, the Speaker interrupt any proceedings then before the Senate at 5:15 p.m. in order to put all questions necessary to dispose of the bill at second reading, without further debate, amendment or adjournment;

2. if, pursuant to this order, there is a date by which a committee must report a bill:

   (*a*) on that day the committee be permitted, notwithstanding usual practices, to present its report on the bill with the Clerk of the Senate once the Senate has passed the heading "Presenting or Tabling Reports of Committees" or if the Senate does not sit on that day, with the report being published in the Journals for that day or the next day thereafter that the Senate does sit, as the case may be, and being deemed to have been presented in the Senate, with the following provisions then applying:

      (i) if the committee reported the bill with amendment, or with a recommendation pursuant to rule 12-23(5), the report be placed on the Orders of the Day for consideration at the next sitting of the Senate, or

      (ii) if the committee reported the bill without amendment, the bill be placed on the Orders of the Day for third reading at the next sitting of the Senate; and

   (*b*) if the committee has not reported the bill by the end of that day:

      (i) the committee be deemed to have reported the bill without amendment, whether the Senate sat that day or not, and

      (ii) the bill be placed on the Orders of the Day for third reading at the next sitting of the Senate;

3. if, pursuant to this order, there is a date by which third reading of a bill must conclude, and, at 5:15 p.m. on that day, the order for consideration of a committee's report on the bill or for third reading of the bill is still on the Orders of the Day, the Speaker interrupt any proceedings then before the Senate at 5:15 p.m. in order to put all questions necessary to dispose of the bill at third reading, without further debate, amendment or adjournment, with the following provisions then having effect if required:

   (*a*) if the report of a committee on the bill is on the Orders of the Day, but has not yet been moved for adoption, a motion for the adoption of the report be deemed to have been moved and seconded, with the provisions of sub-point (*b*) applying thereafter;

   (*b*) if the report of a committee on the bill is still before the Senate, a motion for third reading be deemed to have been moved and seconded, if applicable, once the report has been decided on; and

   (*c*) if the bill is on the Orders of the Day for third reading, but third reading has not yet been moved, a motion for third reading be deemed to have been moved and seconded;

4. for the purposes of points 1 and 3 of this order:

   (*a*) if the Senate does not sit on the date by which either second or third reading must conclude under the terms of this order, the terms of this order govern proceedings at the next sitting of the Senate as if that day were the date by which either second or third reading must conclude;

   (*b*) if a vote is underway at the time an item is to be dealt with under the terms of this order, the terms of the order only take effect immediately after the vote and any consequential business;

   (*c*) if there are multiple items to be dealt with under the terms of this order at a single sitting, they be dealt with according to the order in which they are listed in this order;

   (*d*) if a standing vote on an item governed by the terms of this order had been deferred so that it would normally occur after 5:15 p.m. on the date provided for in this order, the vote be instead dealt with at 5:15 p.m. on that day, so that the standing vote occur as if it were governed by the terms of the following sub-point;

   (*e*) if a standing vote is requested after the Speaker is required to interrupt proceedings under the terms of this order, the vote not be deferred and the bells to call in the senators ring only once and for 15 minutes, without the further ringing of the bells in relation to any subsequent standing votes requested during that sitting on items governed by this order; and

(*f*) if a previously deferred standing vote, except one covered by sub-point (*d*), would conflict with any time provided for under this order, the previously deferred vote be further deferred until the conclusion of proceedings under this order, provided that if the bells have already rung for the taking of a standing vote under the terms of this order, they not ring again for the previously deferred standing vote;

5. for the purposes of points 1, 2 and 3 of this order, if the date by which second or third reading must conclude or the committee must report falls on or before the adoption of this order, the terms of this order govern proceedings at the next sitting of the Senate after this order is adopted, as if that day were the relevant date;

6. at any sitting during which the terms of this order govern any proceedings, no motion to adjourn the Senate be received, and the provisions of the Rules and any previous order relating to the time of automatic adjournment and the suspension of the sitting at 6 p.m. be suspended, until all questions necessary to dispose of any item governed by the terms of this order have been dealt with pursuant to this order;

7. the provisions of this order apply to the following bills:

(*a*) Bill C-48, An Act respecting the regulation of vessels that transport crude oil or persistent oil to or from ports or marine installations located along British Columbia's north coast (with the date by which the committee to which the bill is referred must report being May 9, 2019, and the date by which third reading must conclude being June 6, 2019);

(*b*) Bill C-55, An Act to amend the Oceans Act and the Canada Petroleum Resources Act (with the date by which the committee to which the bill is referred must report being April 5, 2019, and the date by which third reading must conclude being April 11, 2019);

(*c*) Bill C-58, An Act to amend the Access to Information Act and the Privacy Act and to make consequential amendments to other Acts (with the date by which the committee to which the bill is referred must report being April 5, 2019, and the date by which third reading must conclude being April 11, 2019);

(*d*) Bill C-59, An Act respecting national security matters (with the date by which the committee to which the bill is referred must report being May 16, 2019, and the date by which third reading must conclude being May 30, 2019);

(*e*) Bill C-68, An Act to amend the Fisheries Act and other Acts in consequence (with the date by which the committee to which the bill is referred must report being May 7, 2019, and the date by which third reading must conclude being May 30, 2019);

(*f*) 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 (with the date by which the committee to which the bill is referred must report being May 9, 2019, and the date by which third reading must conclude being May 30, 2019);

(*g*) Bill C-71, An Act to amend certain Acts and Regulations in relation to firearms (with the date by which the committee to which the bill is referred must report being April 10, 2019, and the date by which third reading must conclude being May 9, 2019);

(*h*) Bill C-75, An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts (with the date by which second reading must conclude being April 4, 2019, the date by which the committee to which the bill may be or is referred must report being May 10, 2019, and the date by which third reading must conclude being May 16, 2019);

(*i*) Bill C-78, An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act and the Garnishment, Attachment and Pension Diversion Act and to make consequential amendments to another Act (with the date by which second reading must conclude being April 11, 2019, the date by which the committee to which the bill may be or is referred must report being May 14, 2019, and the date by which third reading must conclude being May 16, 2019);

(*j*) Bill C-81, An Act to ensure a barrier-free Canada (with the date by which the committee to which the bill is referred must report being May 7, 2019, and the date by which third reading must conclude being May 16, 2019); and

(*k*) Bill C-85, An Act to amend the Canada-Israel Free Trade Agreement Implementation Act and to make related amendments to other Acts (with the date by which second reading must conclude being April 4, 2019, the date by which the committee to which the bill may be or is referred must report being April 30, 2019, and the date by which third reading must conclude being May 9, 2019); and

8. for greater certainty, nothing in this order prevent a committee reporting before, or proceedings at any stage concluding before, the dates provided for in this order.

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, pursuant to rule 5-10(2), I ask that Notice of Motion No. 261 be withdrawn.

(Notice of motion withdrawn.)

CORRECTIONS AND CONDITIONAL RELEASE ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Marty Klyne moved second reading of Bill C-83, An Act to amend the Corrections and Conditional Release Act and another Act.

He said: Honourable senators, I rise today as sponsor of Bill C-83, An Act to amend the Corrections and Conditional Release Act and another Act.

Essentially this bill replaces Canada's current system of administrative segregation with a much more progressive system of structured intervention units.

I begin my remarks today emphasizing two points, the first regarding offenders being purposefully separated from others. This bill is a very progressive proposal compared to the status quo and stands to benefit all concerned.

The second point is that recent court decisions have ruled the current system of administrative segregation as being unconstitutional, requiring an overhaul or an acceptable alternative that meets specific requirements. Otherwise, administrative segregation, as we know it today, will be shut down without an immediate and acceptable solution, creating an environment that is highly problematic and precarious beyond my and your comprehension.

Honourable senators, I submit for your consideration that this bill is the breakthrough solution, and we must advance this bill through our system, giving it full consideration in the interests of all concerned.

Let's make no mistake: Prisons can pose extraordinary threats and are therefore extraordinarily difficult environments to manage, considering they can turn dangerous at any given time. Prison authorities are responsible and accountable to keep everyone safe in these environments, balancing needs between safety and security.

Canadians unfamiliar with the term "administrative segregation" might think of it as solitary confinement. Basically, we are talking about situations where an inmate has been separated from the general population for reasons of safety.

The number of people in administrative segregation daily is approximately 350, which is less than half the number from five years ago. Almost all of them are men. In 2016-17, the median stay in segregation was 11 days.

Isolating offenders, or segregation, is a last resort when no other reasonable alternative is apparent, a last resort limited by constitutional laws and resultant policies.

Administrative segregation is the separation of an inmate when specific legal requirements are met and thought to be a reasonable alternative or measure and in some situations short of a disciplinary decision.

An offender may be placed in segregation because a problem or situation exists requiring a solution for protection of the offender. Such is often the case for a former police officer, sex offender or police informant.

An offender may be placed in administrative segregation to prevent association with other inmates, maintain security in the event an offender poses a risk to themselves or a risk to another offender or a member of the staff or the institution. They might also find themselves in administrative segregation because their presence in the general population could interfere with a criminal investigation or because of violent or disruptive behaviour.

Today, segregation for the offender results in confinement to a cell, limited to a maximum of two hours per day outside cells, without any meaningful contact or interaction with others and no benefit from any program or programming or health care unless necessary, all of which can arguably impede any rehabilitation and overstep constitutional rights.

Some of the conditions in segregation are extremely poor and must be improved to allow offenders access to programs and to spend more time outside of the cells.

This bill acknowledges that reasonable alternatives under the current legislation and resultant policies are extremely limited, and parliamentarians must therefore consider substantial changes through a progressive and solution-oriented lens.

Bill C-83 is that solution, moving to end the use of solitary confinement or administrative segregation by establishing structured intervention units, or SIUs, that will house offenders that cannot be safely managed in the general population. While in an SIU, the offender will be given access to rehabilitation, mental health care and other productive interventions and programs tailored to meet the unique needs of the offender.

• (1440)

Offenders in SIUs will be allowed outside of their cells for four hours each day, versus two hours under the current administrative segregation model. They will be allowed at least two hours each day to access meaningful human contact with an elder, counsellor, family member or a friend. In addition, they will be visited daily by a registered health care professional and have access to health care advocates.

The prison system will retain its powers to separate dangerous offenders from the general population, but those offenders will no longer be deprived of human contact or programs that can help them rehabilitate. With a focus on the unique needs of the offender, a shorter time to rehabilitate is expected.

Under the new model of SIUs, the overall goal is to minimize confinement in an SIU and mitigate, if not eliminate, the offender's return to an SIU. The goal is to positively impact the rehabilitation of offenders and, through addressing their unique needs and prescribed rehabilitation, safely integrate them back into society that much sooner.

Upon first entering a structured intervention unit, a behavioural assessment of the offender is conducted to establish a baseline and identify their unique needs. With that baseline established, registered health care workers can measure rehabilitation progress.

The new model will hold convicted offenders to account while creating an environment that achieves the principles of rehabilitation and safe integration back into society and a reduction in the number of repeat offenders.

It has been identified that unless health care is provided independent of Correctional Service Canada, health care providers will not be able to practice without undue influence on their professional judgment in regards to the care and treatment of their patients.

Greater autonomy and independence for health care professionals working in prisons and allowing the patient advocates is built into this new model.

Colleagues, people of all classes, nations and countries tend to think about prisons only when they make the news, sometimes because of concerns that an offender is being treated too harshly, or perhaps not being punished enough.

As parliamentarians, we are all entitled to visit correctional institutions, and our colleagues on the Human Rights Committee have recently been availing themselves of that.

Most of us will not visit a correctional institution, even though we are considered lawmakers. Yet the structure of our corrections system — the physical structures, the programs and services it provides, and the legal framework that underpins it — is a critical part of our justice system. In their purpose, prisons restrict the liberty of those persons who have done damage to society through their criminal acts.

Though we may wish it otherwise, incarceration is sometimes necessary to manage the risk such persons may present, and it's necessary to give offenders the controlled opportunity to change their course. In this context, specific supports for those inmates seeking to make positive decisions are essential.

As a matter of practical self-interest, we are all safer when the system successfully prepares people who have broken the law to return to our communities and be safely integrated back into society as productive, law-abiding fellow citizens.

As well, how well we accomplish this objective and the means we employ to do so reflects our society and its humanitarian values.

To quote Fyodor Dostoevsky, a Russian journalist and philosopher who reflected much on the issues of crime and punishment:

> The degree of civilization in a society is revealed by entering its prisons.

I have scheduled visits to the penitentiaries in Kingston and Prince Albert in the coming weeks to measure for myself the degree of civilization in our society. My cousin, retired now, after 42 years of being a veteran, and running programs in correctional institutions tells me to be prepared to be shocked by what I see.

It has been 30 years since the Correctional Service of Canada, also known as CSC, adopted a new mission statement, namely:

> . . .contributes to public safety by actively encouraging and assisting offenders to become law-abiding citizens, and by exercising reasonable, safe . . . and humane control.

Since that time, there have been significant steps forward.

The old Penitentiary Act, in which prisoners' rights were of little concern, was replaced by the Corrections and Conditional Release Act which required the use of least-restrictive measures, consistent with the institutional and public safety.

CSC has reached agreements with Indigenous community organizations to run their own correctional facilities for federal inmates.

People in federal custody acquired the right to vote.

New institutions for women have been designed so that inmates live in houses within fenced-in areas that include a courtyard rather than traditional cells.

Let me be clear, such progress has been neither simple nor straightforward. This is the case for the central issue, administrative segregation, which is being addressed in Bill C-83.

Bill C-83 addresses the matter of segregation head on. It also addresses several other important aspects of federal corrections and takes significant steps in a progressive direction.

This bill proposes changes ranging from parole hearings to health care to the interdiction of contraband.

Most observers agree that Correctional Service must be able to separate inmates from the general prison population, on occasion, for safety reasons.

During committee study in the other place, that point was made by the president of the John Howard Society, Catherine Latimer; the Correctional Investigator, Dr. Ivan Zinger; and former inmate, Lawrence DaSilva.

Recent court decisions in British Columbia and Ontario have reached similar conclusions. In the words of the B.C. Court of Appeal:

> Administrative segregation or a more appropriate alternative regime must be in place to protect inmates who would be exposed to risk in the general population and to provide safety for persons who work in penitentiaries.

Bill C-83 provides this more appropriate alternative in the form of the new model, structured intervention units.

The new system will, among other advancements, comply with the United Nations Mandela Rules for the treatment of prisoners.

The current system of administrative segregation works like this: Inmates who need to be separated from the rest of the institution for safety reasons are moved from their cell in a regular part of the prison to a cell in the section reserved for segregation.

The physical conditions in a segregation cell are generally similar, if not identical, to those of regular cells. But currently segregated inmates spend a minimum of 22 hours a day in those cells. And time out of their cell is often spent alone elsewhere, like in the prison yard.

Safety concerns prevent them from accessing programs and rehabilitative interventions that would put them in rooms with other inmates.

This means that they are unable to receive necessary services while in segregation because providing them with these one-on-one services is not a possibility with the current resources available to CSC.

The new SIU system introduced with Bill C-83 will improve the current system in significant ways that will respond to safety concerns as well as inmate rights. SIUs will be designed to provide the individualized, one-on-one attention these inmates require. This legislation ensures they receive mental health services that address the factors that led to their separation so that they can return safely to the general population of the institution as soon as possible.

• (1450)

While in the SIU, they will be offered a minimum of four hours out of the cell every day, which is twice what is currently provided while they are in segregation. They will also get at least two hours daily of meaningful human contact in the form of interactions with staff, elders, chaplains, volunteers, visitors and other compatible inmates.

By providing four hours outside the cell each day, the SIU model would exceed the standards established by the United Nations, referred to as the Nelson Mandela Rules, which define solitary confinement as 22 hours or more of confinement a day without meaningful human contact.

For safety reasons, Bill C-83 does not propose a cap on the number of days an inmate can spend in an SIU. If there were to be, for example, a 15-day limit as suggested by the decision of the Ontario Court of Appeal, the question would be what to do with a person who still poses a danger on day 16. Forcing them back into general population before they're ready could be dangerous not only for them but for other inmates and correctional staff.

Having said that, Bill C-83 essentially creates a continual presumption that an inmate will be moved out of the SIU. Proposed section 33 prescribes that:

> An inmate's confinement in a structured intervention unit is to end as soon as possible.

And the bill is clear that an inmate may only be in an SIU if there is no reasonable alternative. The moment that a reasonable alternative is identified or the inmate no longer poses a safety risk, Bill C-83 requires that they be moved out.

This question of a time limit is particularly relevant in light of a recent court decision in Ontario. That decision requires a 15-day cap replacement in administrative segregation in Ontario, effective April 12. The question therefore becomes whether such a cap must now be included in Bill C-83.

The answer to that question can also be found in the very first line of the court's ruling, which states:

> The distinguishing feature of solitary confinement is the elimination of meaningful social interaction or stimulus.

That is precisely the defect that the new system corrects. In other words, the court says inmates may not spend more than 15 days without meaningful social interaction. In the new SIU system, inmates won't have to go even a single day without it.

To summarize, SIUs will provide twice as much time out of the cell than provided in administrative segregation, and two hours of legally mandated human contact, compared to zero. These are quantitative improvements.

There are also the qualitative improvements I mentioned, including specialized rehabilitative interventions and mental health services.

Accordingly, during committee study in the other place, the bulk of the criticism was not about the nature of SIUs, as I have just described them. Rather, witnesses generally questioned whether SIUs would truly function as envisioned.

Concerns mostly fit into three main categories: adequacy of resources, potential loopholes in the language of the bill and oversight. Each of these areas of concern has since been addressed, with opportunity for the Senate to further examine this legislation in committee.

With regard to adequate resources, Bill C-83 was tabled before the Fall Economic Statement was issued and the government had not yet announced a dollar figure to accompany the bill, so it is understandable that witnesses raised this as a concern.

Catherine Latimer of the John Howard Society said that:

> The success of the SIU vision presented to the committee by Minister Goodale is dependent upon the adequacy of the resources for infrastructure programs and appropriate personnel . . . .

The National President of the Union of Canadian Correctional Officers, Jason Godin, said in reference to Bill C-83:

> There are good intentions there . . . .
>
> . . . but we're asking how you are going to deliver that from an operational standpoint to safely manage the institution. Right now, the way the bill sits, it's virtually impossible to do that without the proper resources.

And Stanley Stapleton, National President of the Union of Safety and Justice Employees, which represents parole officers and program staff, said the bill contains:

> . . . measures to make Canada's federal prisons more humane and improve offenders' chances of rehabilitation . . . . However . . . new resources are needed to ensure its successes.

The government has now confirmed that adequate resources will be in place. The Fall Economic Statement allocated $448 million over six years to implement the new system, with ongoing funding of $148 million per year. Most of the money will be used to hire approximately 950 new employees, including an estimated 650 who will provide health care, programs and targeted interventions. The remaining 300 will be security personnel to help ensure that all of the other staff are doing their rehabilitative work in a safe environment.

With regard to the second category of concerns about possible loopholes in the legislative language, the committee adopted a number of amendments to address them. For example, there were questions about whether the opportunity for time out of cell mandated by the bill would be offered at unreasonable hours, like in the middle of the night. So an amendment was adopted requiring time out of the cell to be provided between 7 a.m. and 10 p.m.

There were also questions about the human interactions mandated by the bill and if that would happen through doors or meal slots. So the committee adopted an amendment creating a presumption that interactions will be face-to-face, and if that is not the case, to provide documentation to explain why not.

Questions were similarly raised about the section of the bill that allows for time out of the cell to be denied in exceptional circumstances. To prevent it from being misused, the committee specified some of the truly exceptional circumstances that would justify denying time out of the cell, such as natural disasters or a power failure.

There were also questions about the section that allows health care professionals to recommend to the warden that an inmate be removed from the SIU or that their conditions be altered. Some witnesses thought there could be circumstances when such recommendations would not be taken seriously by the warden. Therefore, the committee added a requirement that any disagreement on this point between the health care professional and the warden be elevated to a senior CSC committee external to the institution.

In other words, to summarize, committee members listened to witness testimony about concerns and potential loopholes and responded by making thoughtful, concrete amendments to the bill.

Finally, the third main category of concern is related to oversight. There were calls for independent oversight of SIU placements from, among others, the John Howard Society, the Correctional Investigator, the Canadian Civil Liberties Association and the B.C. Civil Liberties Association.

In particular, the B.C. Civil Liberties Association called for an external oversight body with decision-making power to ensure that the Correctional Service complies with its statutory obligations and that inmates get their mandated hours of human interaction and time out of the cell. Accordingly, the bill has since been amended to include independent external decision makers. The current law requires persons designated by the warden to review the case "at the prescribed time and in the prescribed manner." Bill C-83 instead creates a significantly more robust review process in providing for binding decisions by independent external decision makers, including the right of an appeal to the Federal Court by both the inmate and Correctional Service Canada, by virtue of section 18 of the Federal Courts Act.

• (1500)

This external oversight will apply in three scenarios. First, the independent decision-maker will conduct a review if, for whatever reason, an inmate in an SIU doesn't get their minimum hours of human contact or hours out of cell for five consecutive days or 15 days out of 30.

If a decision-maker concludes that CSC has not taken all reasonable steps to provide the mandated hours, they can make recommendations. After a week, if those recommendations aren't being followed, they can order the inmate's removal from the SIU.

Second, external oversight will also apply in the scenario I mentioned earlier involving a recommendation from a healthcare professional. If the warden disagrees with the recommendation and the senior CSC panel sides with the warden, the independent decision-maker will adjudicate.

Finally, the independent decision-maker will review every SIU placement at the 90-day mark and every 60 days thereafter. That is on top of regular internal reviews by the warden, which are conducted within five days, followed by another review every 30 days with the inmate's participation and written reasons from the warden.

Independent decision-maker reviews are in addition to reviews by the Commissioner of the Correctional Service.

Another point made at the House committee was that there are significant distinctions between the realities of the current segregation system at men's and women's institutions. On a given day, across the entire federal corrections system, the number of men in segregation is usually between 300 and 400; for women, it's between zero and three.

Women's stays in segregation are usually far shorter. There is a real difference between segregation cells and ordinary living conditions at women's prisons. In that regard, I am pleased to advise you that the Public Safety Minister confirmed a few weeks ago that Correctional Service Canada will be taking a gender-informed approach to the implementation of SIUs. I understand there have been consultations with organizations, including the Canadian Association of Elizabeth Fry Societies and the Native Women's Association of Canada, and that discussions in greater detail will continue between officials of Correctional Service Canada and representatives of those groups.

In other words, honourable colleagues, the government and Correctional Service Canada have been open to amendments and responsive to feedback. This bill as initially drafted was already an improvement over the current state of affairs. Since its introduction, there have been numerous improvements and amendments to address stakeholder concerns. As well, considerable resources have been allocated to ensure successful implementation, and binding independent oversight has also been added.

For good measure, the minister has announced that he will appoint an advisory committee to monitor implementation and ensure that the new SIU system is functioning as planned. This committee will be comprised of people with a variety of relevant experience and expertise, including in the areas of mental health, rehabilitation and institutional safety. Its role will be to advise the Commissioner of CSC on an ongoing basis, as well as to bring matters of concern directly to the minister's attention, as required.

Honourable senators, replacing segregation with SIUs is clearly a major step in a positive, progressive direction. With mandated hours out of cell and meaningful human interaction in SIUs, as well as the delivery of rehabilitative interventions and mental health care services, Bill C-83 will improve the lives of both federal inmates and staff. It will also promote offenders' successful rehabilitation, make correctional institutions safer while these individuals remain incarcerated, and make all of us safer by better preparing them for successful release and safe integration back into society.

The last point I want to remind you of before discussing other elements of the bill is that Parliament's study of Bill C-83 has been occurring in the context of several ongoing legal proceedings about the constitutionality of the current segregation regime, including constitutional challenges in B.C. and Ontario. In both of those cases, there have been rulings declaring the section of the law governing administrative segregation contrary to the Canadian Charter of Rights and Freedoms. Initial declarations of constitutional invalidity have been suspended: until the end of April in Ontario and until mid-June in B.C. Also, the Ontario Court of Appeal recently set an April 12 date for the invalidity of segregation that lasts longer than 15 days.

As I mentioned at the outset, the courts themselves have said it would be dangerous to end segregation with no substitute system in place. In the words of the B.C. Court of Appeal this past January:

> We agree that the security of penitentiaries would be at risk if the [existing law] were immediately struck down.

And the courts explicitly delayed the effect of the rulings to give Parliament time to enact Bill C-83. Again, to cite the B.C. Court of Appeal:

> The Government has now introduced a bill in the House of Commons. There is no reason to doubt the government's resolve or ability to have the legislation passed before Parliament rises for the summer break.

It is possible that at least some of these deadlines will be further extended. Sooner or later, however, rulings will take effect. If we don't adopt this bill by that time, we will leave Correctional Service of Canada in a legal vacuum, unable to use segregation to deal with dangerous situations and without any safe, viable and acceptable alternative found within the context of the current legislation and policies.

Bill C-83 allows for the protection of the correctional staff and the people in their custody, while meeting the rehabilitative and mental health imperatives that segregation does not. Bill C-83 is therefore far better than the current system and obviously far better than no system at all.

Briefly, honourable senators, I will now address the other elements of Bill C-83, all of which fit within the same general objective of building a more progressive and effective correctional system.

The legislation enshrines in law the principle of the independence of health care providers within Correctional Service Canada, and it allows for patient advocates to ensure inmates and their families know and can exercise their rights with regard to medical care. This is something that was called for by the inquest into the death of Ashley Smith, a young woman who died of self-inflicted strangulation while in custody several years ago. Having patient advocates will improve the quality of medical care for inmates who are not always able to advocate for themselves.

The bill allows all victims of crime access to recordings of parole hearings, as opposed to the current law, which only allows victims to access recordings if they were absent from the hearing. This is significant in that, as you can imagine, parole hearings are often stressful experiences for victims of crime, and if they understandably don't remember everything that was said, there's no reason the law should prevent them from listening to proceedings a second time in a less stressful state of mind.

Bill C-83 also allows for the use of body scanners as a search tool. These are like the technology used at airports and are already in place in several provincial correctional systems, providing an alternative to more invasive strip and body-cavity searches.

In keeping with the Supreme Court of Canada's 1999 *Gladue* decision, Bill C-83 enshrines in law the requirement that the Correctional Service consider systemic and background factors when making decisions that affect Indigenous offenders. Considerations unique to Indigenous offenders are to be factored into all correctional decision making and programs unique to Indigenous offenders.

On a related note, I know there have been some concerns about changes the bill would make to the section of the current law related to the involvement of Indigenous communities in the correctional system. The fact is these changes are technical in nature and will not affect the way these provisions function in any practical way.

For example, section 81 of the current law allows the Minister of Public Safety to enter into an agreement with an Aboriginal community to provide correctional services. This is the provision that governs community-run healing lodges. Bill C-83 would change "aboriginal community" to "Indigenous governing body or any Indigenous organization."

• (1510)

The new language simply makes more legal and practical sense, because it refers to identifiable legal personalities. Similarly, the bill modifies section 84 of the act, which allows for the release of Indigenous offenders into Indigenous communities. Currently, the law requires that CSC give the community notice of the offender's pending release. Bill C-83 would change that to require that notice be given to the community's "Indigenous governing body." This change will simply reflect established practices that ensure "notice" is provided to community leadership.

Finally, honourable colleagues, committee members in the other place amended the bill to reinstate the principle of "least restrictive measures." For 20 years, the Corrections and Conditional Release Act required that the correctional system impose on inmates the "least restrictive measures consistent with the protection of society, staff members and offenders."

In 2012, that language was changed to "measures that are consistent with the protection of society, staff members and offenders and that are limited to only what is necessary and proportionate to attain the purposes of this Act." By reverting to the previous language, Bill C-83 now reasserts the principle that federal custody is not about imposing hardship, but about protecting society and promoting the rehabilitation and reintegration of people who have broken society's laws.

Indeed, that is the principle that underpins this entire bill. I have no doubt that honourable senators will conduct a thorough examination of Bill C-83, scrutinizing the wording of particular clauses, asking solid questions and considering potential modifications towards improving the bill. But I urge us all to remain clear-eyed about the fact that this bill is a significant improvement over the current law governing our corrections system.

At the expense of being repetitive, I remind you of the recent court rulings and that we must provide CSC with an acceptable alternative as one of the tools to maintain that balance between safety and security for all concerned and safely integrate offenders back into society that much sooner.

Bill C-83 will make correctional institutions across Canada safer, it will ensure better rehabilitation and more humane conditions for those who must be separated from the general prison population for a measured period and it will help meet the overall objective of safer communities.

These reforms will protect the safety of correctional staff and those under their care while ensuring offenders receive more effective rehabilitative programming, interventions and mental health support.

I look forward to hearing your varied perspectives and to participating in constructive debate in the chamber and, importantly, during committee study. Your active participation is greatly appreciated as we work for the ultimate adoption and enactment of this legislation.

Will this bill be a progressive alternative to segregation and result in other benefits enshrined? It aims to do so, and I trust progress will be made, measured and reported.

My hope is that we get this bill to committee where it can be studied further, resulting in a Senate committee report coming back to the Senate swiftly and effectively for the Senate's deliberation and further discussion. Thank you.

Hon. Senators: Hear, hear.

Hon. Patricia Bovey (The Hon. the Acting Speaker): Senator Klyne, will you take a question?

Senator Klyne: Yes, absolutely.

Hon. Jane Cordy: Thank you for your speech, Senator Klyne. Perhaps you would like to join our Human Rights Committee.

I'm pleased the government has recognized that segregation is inhumane. I'm a member of the Human Rights Committee and we did travel to prisons and, in fact, some of us were in the cell where Ashley Smith took her own life while prison guards were watching. It was an emotional time to be there. We also talked through the meal slots to prisoners who were in segregation and it was clear that many of them suffered from poor mental health, and I know you mentioned mental health in your speech.

During our study of the human rights of prisoners, we heard testimony indicating that in order to have human interaction — not through the meal slots but, rather, real interaction — that pursuant to Bill C-83, health professionals and program staff will be accompanied by two prison guards when they speak with the prisoners.

My concern is the potential breaches of confidentiality, that you have a health care professional talking about physical or mental health, that you have two prison guards accompanying the medical personnel. I'm wondering if, when the committee is meeting — and I'm not sure what committee it will be yet — whether or not you would suggest and encourage that the committee hear from medical personnel who go into the prisons and what can be done to ensure confidentiality, because these prisons are homes to the prisoners. They are there 24/7 and to have their medical files being spoken of before the prison guards would be intimidating, and you wonder whether or not the medical professionals are going to get the true picture. If they do get the true picture, the confidentiality aspect of that would be extremely important to a prisoner for whom, as I said earlier, this is their home.

Senator Klyne: Thank you for that question. I will say that I agree with you. That is something which should be of concern and I would certainly support that they do hear testimony from experts in that regard. I would think that there can be reasonable solutions found for this.

I am not a person that likes to work within extremes, but I understand there is a spectrum of the situation and I'm pretty sure through that the dialogue and hearing from witnesses, we can come up with a made-in-Canada solution on that.

[*Translation*]

Hon. Renée Dupuis: Senator Klyne, will you take another question?

Senator Klyne: Sure.

Senator Dupuis: I'd like to know if Bill C-83 contains any measures that will be offered to both female and male inmates, since that hasn't been the case so far. Does the bill contain any specific provisions in that regard? That would be important, especially since we don't have the gender-based analysis that was performed during the bill's study.

Does the bill contain any measures to ensure that these elements are explored more thoroughly under a new system? You made it clear that this system is meant to improve the current system, but I think we need to not only improve it, but also consider the issue of respecting men's and women's rights within the correctional system.

[*English*]

Senator Klyne: Thank you for the question. My belief is that the gender analysis will continue. It's an ongoing process. It's an evolving process and the intent is to be on a continual improvement basis once it's implemented. It's clear that the situation between men and women are different, as are the requirements around them. Specifically I can't point to something in the bill that would say that, but I would be pleased to look into that and get back to you.

Hon. Frances Lankin: Senator Klyne, would you accept another question?

Senator Klyne: Yes.

Senator Lankin: Thank you. If I may tell you the perspective from which I come in looking at this, when I was an elected politician, I ran in a riding where many years before, the predecessor was the Honourable Agnes MacPhail, a prison reformer renowned in Canada. I learned a lot about the prison system from a woman by the name of Ruth Morris who is internationally known abolitionist, a member of the Quakers and a Canadian Friend.

I also have another perspective. I was a jail guard and have worked in these situations and with inmates in general population, in protective custody in administrative segregation, in punitive segregation and mental health segregation. I recognize the complexity. I appreciate you taking on the sponsorship of this bill. I think you've presented a lot of issues and shown us there is good intent for reform. I worry about the issue that Senator Cordy raised, not just from confidentiality but from the ability for inmates to express the concerns of how they are being treated when the medical professional is not there and how it bears on their mental or physical health when it's in front of correctional personnel.

• (1520)

My more fundamental question, given the court reviews and the reasons that gave rise to court reviews, could you tell me if you've looked at this and if you have an understanding you can share with us of how the provisions in this bill would have prevented Ashley Smith's death? I don't see it. This is being introduced into an institutional culture that exists and that is quite contrary to the commitments that the words seem to intend. How would this have prevented Ashley Smith's death?

The Hon. the Acting Speaker: Senator Klyne, your time has expired. Are you asking for more time?

Senator Klyne: Please.

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

Hon. Senators: Five minutes.

Senator Klyne: Thank you for the question. I don't know the report following that unfortunate death, but I believe the intent there is for health care advocates to be available, accessible and have an open process of dialogue with an inmate or their family so they can provide advocacy. Quite often I would think the inmate is unable to seek that or gain that advocacy from health care, so someone will be sought who can act on their behalf.

Maybe even in the absence of that — and I use the word "maybe" because I'm not certain — a health care advocate will do what they can to represent the issues and concerns of an inmate who is in a situation that is troubling, precarious and requiring some attention.

Hon. Wanda Elaine Thomas Bernard: Senator, I want to ask a question around prisoners of African descent. Those prisoners represent 9.3 per cent of people in federal penitentiaries in Canada, despite representing only 2.9 per cent of Canada's population.

According to the Office of the Correctional Investigator, this disproportionate representation in federal prisons is actually growing. These alarming numbers prompt me to inquire what steps Bill C-83 will take to address the over-representation of prisoners of African descent in federal prisons, particularly those in segregation or in the proposed structured intervention units?

Senator Klyne: Thank you, senator, for that question. Currently under section 3 of the Corrections and Conditional Release Act, the purpose and principles outline that the federal corrections system is meant to contribute to assisting the rehabilitation and reintegration of offenders back into society. The principles to achieve these are found in section 4(g) of the CCRA, which currently lists many groups of Canadians, such as Indigenous Canadians, women and those facing mental illness, who require considerations when applying the CCRA, but there is no mention of minorities.

Bill C-83 adds specific language to this section to ensure that Correctional Service will now be responsive to the special needs faced by Canadians who are visible minorities, Indigenous and women, among others. Furthermore, the additional supports offered by SIUs are tailored to the individual needs, social organizations engaged and considerations surrounding the services they are provided.

With your engagement, senator, I look forward to clarifying any language within the legislation to further ensure it considers African Canadians and other minorities who are disproportionately represented in the correctional system. Thank you.

Hon. Marilou McPhedran: Senator Klyne, thank you for your very thorough overview of Bill C-83. As you know, and as you've referenced in a number of examples, this bill was studied in the other place. There was another recommendation that you didn't mention that went along these lines.

Given the testimony that the committee heard from the Correctional Investigator and other stakeholders and the fact that there are only 10 women currently housed in administrative segregation units in all of Canada, the committee addressed the whole idea of a substitute system in this way:

> The committee strongly encourages the Correctional Service of Canada to consider alternatives to segregation in women's institutions, such as the pilot program proposed in 2016 by the Canadian Association of Elizabeth Fry Societies.

As a member of the Human Rights Committee, I too visited a number of prisons. I too stood in the cell where Ashley Smith died. I'm very appreciative of the question raised by Senator Lankin. In fact, as you know, the Human Rights Committee of the Senate has visited more than 25 prisons in this country, so you have a tremendous resource available to you.

The pilot program referred to by the committee in the other place proposed an end to segregation and isolation by any name, in any form, for women, relying instead on representatives of the Elizabeth Fry and the Canadian Human Rights Commission to be on call in situations where women would otherwise be segregated in order to assist in promptly finding an alternative solution.

The Hon. the Acting Speaker: Senator McPhedran, the senator's time has expired. Could you ask your question quickly, please?

Senator McPhedran: Thank you. Do you agree with the committee's recommendation?

Hon. Yonah Martin (Deputy Leader of the Opposition): Sorry, Your Honour. If the senator's time has expired, you would need leave from the Senate.

The Hon. the Acting Speaker: Senator Martin, I was going to let the senator finish asking her question quickly and then —

Some Hon. Senators: No, no.

An Hon. Senator: It's not agreed.

The Hon. the Acting Speaker: Senator Klyne, your time has expired. Are you asking for more time?

Senator Klyne: I would like to answer the question.

Some Hon. Senators: No.

The Hon. the Acting Speaker: Senators, extra time has been declined. I'm sorry.

POINT OF ORDER—SPEAKER'S RULING RESERVED

Hon. Frances Lankin: On a point of order. I may find myself rising on a point of order that you will tell me is not a point of order. I sit in the chamber and I hear much debate about wanting to have a considered and deliberative approach of looking at bills, and as a member and a senator with individual rights who seeks answers to questions, I object completely to a process that on a knee-jerk basis time and time again with members of the

opposition leadership saying "five minutes," unless, I have noted often, it is members from that side who are asking questions of the sponsor of a bill.

I seek your intervention at least in encouraging this chamber to allow a question to finish and an answer to come as we look at trying to raise the important issues that need to be looked at in committee instead of endless numbers of second reading speeches, which may in fact serve to delay the kind of consideration that a committee can bring. Thank you.

The Hon. the Acting Speaker: Would any senators wish to intervene on the point of order?

Some Hon. Senators: That's not a point of order.

The Hon. the Acting Speaker: Senator Lankin, I will take this under advisement. I appreciate the situation and I understand the rules of this chamber.

Senator Martin: I move the adjournment of the debate.

Senator Lankin: This is so unnecessary.

The Hon. the Acting Speaker: It is moved by the Honourable Senator Martin, seconded by the Honourable Senator Smith, that further debate be adjourned until the next sitting of the Senate.

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

Hon. Senators: Agreed.

Senator Lankin: On division.

The Hon. the Acting Speaker: Carried, on division.

(On motion of Senator Martin, debate adjourned, on division.)

• (1530)

[*Translation*]

CRIMINAL CODE
YOUTH CRIMINAL JUSTICE ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Sinclair, seconded by the Honourable Senator Campbell, for the second reading of Bill C-75, An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts.

Hon. Claude Carignan: Honourable senators, I rise today at second reading of Bill C-75, An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts, to share with you my concerns. This bill makes major changes to our criminal justice system. One of its objectives is to comply with the teachings of the Supreme Court of Canada, more specifically those set out in *Jordan*, by reducing delays in the Canadian court system. However, I think the way the bill goes about meeting that objective is questionable and that the bill contains a number of inconsistencies. I'll be drawing your attention to a few specific issues today, namely, the reclassification of offences, the amendments to the jury selection process, and the changes to the Youth Criminal Justice Act.

With regard to the first issue, the reclassification of offences, I was very surprised to see that the bill would reduce sentences for so-called white-collar crime, which gives the impression that that sort of crime is less serious and more acceptable in our society. Contrary to what the government would have us believe, these changes will affect sentencing and will not necessarily reduce court delays. On the contrary, there will most likely be an increase in the number of cases that must be heard before the provincial courts. I'm not the only one worried about this negative effect. The Canadian Bar Association, which has examined the practical implications of these amendments, is also concerned about this. It said that the bill, and I quote:

> . . . would likely mean more cases will be heard in provincial court. This could result in further delays in those courts . . . .

This is another example, and there are many, of the government completely foisting its problems onto the provinces instead of tackling them head-on. Honourable senators, you know that fighting corruption and fraud is important. Therefore, I cannot acquiesce to the amendments introduced by Bill C-75, which hybridizes certain criminal offences and makes them summary offences. The offences reclassified as hybrid offences include the following: section 121(3) of the Criminal Code, frauds on the government; section 122 of the Criminal Code, breach of trust by public officer; section 123(1) of the Criminal Code, municipal corruption; section 123(2) of the Criminal Code, influencing municipal official; section 125 of the Criminal Code, influencing or negotiating appointments or dealing in offices; and section 126(1) of the Criminal Code, disobeying a statute.

It is rather ironic that changes regarding these types of crimes are being proposed at a time when events involving similar accusations have caused much ink to flow since February 7. Should we be asking why amendments concerning remediation agreements are not found in Bill C-75 but were included in the budget? I remind you that Bill C-75 is entitled An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts. Bill C-74, which contained the provision on remediation agreements, is entitled An Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures.

Honourable senators, how do you explain that a government that's preparing to introduce an important bill to amend the Criminal Code drops or rather slips part of its changes in a budgetary bill? I want to draw your attention to the fact that these two bills were introduced two days apart — Bill C-74 on March 27, 2018, and Bill C-75 on March 29, 2018. It seems like more than a coincidence to me. We can all agree that if the government didn't really want to shine the spotlight on a change to the Criminal Code that would allow for a remediation

agreement to be negotiated to address corporate criminal wrongdoing, it would have handled this differently. Maybe one day we'll hear the end of this mysterious story.

Let's come back to Bill C-75. As for the second issue raised by this bill, namely the changes made to the jury selection process, some have raised concerns and reservations about the provisions that repeal the right to peremptory challenges, as it affects a constitutional right, the right to a fair, equitable, and impartial trial. Let's not forget what a peremptory challenge is. The defence and the Crown can exclude a certain number of potential jurors without explanation. The peremptory challenge originated in the common law tradition more than 300 years ago and is founded on the right to an impartial trial, which was enshrined in our Constitution under article 11(d) of the Canadian Charter of Rights and Freedoms. In 1979, Supreme Court Justice Pratte explained the following in *Cloutier v. The Queen*:

> The very basis of the right to peremptory challenges, therefore, is not objective but purely subjective. The existence of the right does not rest on facts that have to be proven, but rather on the mere belief by a party in the existence of a certain state of mind in the juror. The fact that a juror is objectively impartial does not mean that he is believed to be impartial by the accused or the prosecution . . . .

Provisions concerning peremptory challenges ensure that the right of both the Crown and the accused to an impartial trial and the selection of an impartial jury is respected. The changes in Bill C-75 are a response to the headline-grabbing *R. v. Stanley* case in Saskatchewan, in which the jury was not representative of the diverse local community. I agree with the Barreau du Québec's statement in its brief to the House of Commons committee on the need for and usefulness of peremptory challenges. I quote:

> In fact, through the appearance of prospective jurors, lawyers can perceive through their words and non-verbal language whether those jurors will have the capacity to listen objectively to the evidence to be presented and to make an impartial judgment as to that evidence. They also ensure that the accused accepts the legitimacy of the jury and, by extension, the verdict and sentence that will be pronounced.

It's obviously disappointing to realize that some peremptory challenges are based on discrimination. However, completely abolishing these challenges won't make juries across the country culturally diverse but could seriously affect the parties' and the public's trust in the impartiality of verdicts and sentences. I also remind senators that civil law in Canadian provinces, other than Quebec, follows common law practices, and jury trials may be held for civil matters. Some provinces allow for peremptory challenges in civil trials. The total abolition of peremptory challenges in criminal law would create inequalities among the provinces and inconsistences between federal and provincial law.

The last aspect I want to talk about is the part about youth criminal justice. Criminal law in Canada is made up of a fragile balance between utilitarian and retributive theories. Punishments therefore act as both a condemnation and a deterrent, meaning that they deter the subjects of Canadian law from committing crimes. The amendments made to the Youth Criminal Justice Act seriously undermine the latter objective. Clause 376 of Bill C-75 repeals the obligation for the Attorney General to consider whether it would be appropriate to seek an adult sentence if the offence is a serious violent offence and was committed after the young person attained the age of 14 years.

• (1540)

Repealing that provision, which protects the public interest, will make it easier for adults to use adolescents to commit serious crimes because the likelihood of a harsh sentence will be lesser.

Moreover, studies have shown that young people are likely to receive adult-type sentences in fewer than 3 per cent of cases involving adolescents, and most of those involve very serious crimes or adolescent repeat offenders.

Those cases are the exception, but they exist, and the victims are very human. Why deprive the courts and Crown prosecutors of that tool?

The government says that Bill C-75 addresses issues that arose in *Jordan* and will reduce delays in the justice system. If the government truly wants to achieve that objective, it should start by filling the 50 or so vacancies on Canadian benches. Unlike Bill C-75, that would be a worry-free way to tackle the problem.

The government introduced a bill that doesn't tackle the problem and won't reduce delays in Canada's justice system. Not only will Bill C-75 not speed things up, but it will also weaken our justice system. Thank you.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

(Motion agreed to and bill read second time, on division.)

REFERRED TO COMMITTEE

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

(On motion of Senator Sinclair, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

[*English*]

CANADA-ISRAEL FREE TRADE AGREEMENT IMPLEMENTATION ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Wetston, seconded by the Honourable Senator Bovey, for the second reading of Bill C-85, An Act to amend the Canada-Israel Free Trade Agreement Implementation Act and to make related amendments to other Acts.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Omidvar, bill referred to the Standing Senate Committee on Foreign Affairs and International Trade.)

[*Translation*]

THE SENATE

MOTION TO AFFECT QUESTION PERIOD ON APRIL 9, 2019, ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of April 3, 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, April 9, 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.

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

Hon. Senators: Agreed.

(Motion agreed to.)

ADJOURNMENT

MOTION IN MODIFICATION ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of April 3, 2019, moved:

> That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Monday, April 8, 2019, at 6 p.m.;
>
> That committees of the Senate scheduled to meet on that day be authorized to do so for the purpose of considering government business, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto;
>
> That, notwithstanding rules 9-6 and 9-10(2), if a vote is deferred to that day, the bells for the vote ring at the start of Orders of the Day, for 15 minutes, with the vote to be held thereafter; and
>
> That rule 3-3(1) be suspended on that day.

She said: Honourable senators, pursuant to rule 5-10(1), I ask leave of the Senate to modify the motion so that it reads as follows:

> That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, April 9, 2019, at 2 p.m.

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

Hon. Senators: Agreed.

(Motion agreed to, as modified.)

[*English*]

UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES BILL

SECOND READING—DEBATE CONTINUED

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. Dennis Glen Patterson: I rise today to speak to 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. I also rise in my role as critic of this bill.

To be honest, colleagues, I feel some apprehension in taking that title. I know we have a critic and a sponsor for every bill, but, particularly with this bill, I find it difficult to fully embrace a title which insinuates that I am in any way opposed to the principles, goals and aspirations of this bill.

Some of you may know that I am the father to four Indigenous children. I have grandchildren who are Inuit beneficiaries of Nunavut. Let me be clear: It is of utmost importance to me to ensure that I am doing whatever I can to further the rights of Indigenous people in Canada because — and I believe this is true of all caring parents — I want to leave this world better for my children and their descendants.

I have listened with an open mind and an open heart to the discussions that have taken place in this chamber and to the many stakeholders who have reached out to my office via email or in person, and probably as well to your offices.

I know that this bill has taken on a huge meaning for many people and has huge symbolic importance.

• (1550)

In my 10 years as a senator, I have heard and participated in debate on the question of the Senate's role as a protector of minorities. I have repeatedly stated my fervent belief that we must ensure the voices of the regions are also heard with every bill we debate in this place.

When I joined this hallowed chamber, I took an oath — the same oath as all of you. I promised to be loyal to Her Majesty. By agreeing to serve, I promised to uphold the laws of this great nation and to do everything in my power to ensure that the bills we passed here would not only protect minorities and respect regional concerns but would also respect and preserve the Canadian Constitution.

When listening to Senator Tannas' thoughtful speech on this issue, I took note of his report back to this chamber on a meeting he had with Mr. Saganash, who sponsored this bill in the other place, and his legal adviser where they confirmed "...their intention to codify every last word of the United Nations Declaration on the Rights of Indigenous Peoples into Canadian law...".

Now Senator Sinclair has told us, in response to concerns raised regarding the issue of consent versus veto, which Senator Tannas also discussed, that there exists a fairly lengthy body of court decisions that bring clarity to how this has been interpreted within the Canadian context.

I asked the Library of Parliament what the legal force of international declarations are in Canada. They responded:

> Unlike conventions, international declarations "are not always legally binding." Further, as opposed to conventions, declarations are not ratified by signatory countries and are simply endorsed. They also do not require countries to report on their compliance. Declarations are often seen as having moral force and generally represent, "universally recognized human rights principles." (as per the UN Treaty Collection Glossary). According to the Government of Canada, they represent [what the Government of Canada in the Glossary of terms – human rights are described as] "a statement of principle rather than an agreement by which countries bind themselves under international law."
>
> In the context of the United Nations Declaration on the Rights of Indigenous Peoples (the Declaration), the Government of Canada, when it endorsed the Declaration in 2010, characterized it as an "aspirational document" and "a non-legally binding document that does not reflect customary international law nor change Canadian laws." While Prime Minister Justin Trudeau later vowed to implement the Declaration in Canadian law, the Government of Canada maintains that, "Declarations only represent political commitment from the states that vote in favour of adopting them."

I struggle, in my mind, to reconcile how exactly we will be able to codify these general principles without the full force of the government behind it. I will repeat the Government of Canada's position that, "Declarations only represent political commitment from the states that vote in favour of adopting them."

I must say, colleagues, I am troubled that this is not a bill initiated by the state, although it could have been.

As former Attorney General Honourable Jody Wilson-Raybould said:

> ... simplistic approaches, such as adopting the UNDRIP as being Canadian law are unworkable and, respectfully, a political distraction to undertaking the hard work actually required to implement it...
>
> What we need is an efficient process of transition that lights a fire under the process of decolonization but does so in a controlled manner that respects where Indigenous communities are in terms of rebuilding.

The question I will take with me, as we give this bill the thorough and appropriate scrutiny it deserves in committee, is: Does this bill bring the "controlled manner" that will bring about true and meaningful rebuilding?

I look forward to hearing and learning more about what this bill means to the witnesses we will hear. Some argue that it is symbolic. Others say that this is one of, if not the most significant piece of legislation regarding reconciliation. I have heard the argument that this creates a veto and the rebuttal that Canadian law is clear and this is not a veto.

I will reserve my opinion on these important questions until after we have concluded our committee study.

Honourable senators, I support moving this bill to committee in order for us to give it proper and due consideration. Thank you.

Some Hon. Senators: Hear, hear.

Hon. Yonah Martin (Deputy Leader of the Opposition): I move the adjournment of the debate.

The Hon. the Acting Speaker: It is moved by Honourable Senator Martin, seconded by Honourable Senator Smith, that further debate be adjourned until the next sitting of the Senate.

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

Some Hon. Senators: No.

Some Hon. Senators: Agreed.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

The Hon. the Acting Speaker: In my opinion, the "yeas" have it.

And two honourable senators having risen:

The Hon. the Acting Speaker: The vote will be at 4:56 p.m.

Call in the senators.

• (1650)

Hon. Marc Gold: Your Honour, I am pleased to report that an agreement has been reached whereby this motion will be adjourned, on division.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(On motion of Senator Martin, debate adjourned, on division.)

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, before continuing with the Order Paper, I understand there was a point of order raised earlier regarding time constraints on senators entering debate.

Honourable senators will know that rule 6-3(1) imposes those time constraints, and rule 6-3(2) requires the Speaker to notify senators, when they are in debate, when their time has expired. It is really not a point of order. It is perhaps more of an expression of frustration about not being able to enter debate.

I would advise honourable senators that, if they feel that the rules ought to be changed, they can bring the matter up in the Senate or to the Rules Committee.

NATIONAL LOCAL FOOD DAY BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Cormier, seconded by the Honourable Senator Hartling, for the second reading of Bill C-281, An Act to establish a National Local Food Day.

Hon. Robert Black: Colleagues, this item was previously adjourned in the name of Senator Plett. With his agreement, I will adjourn the item in Senator Plett's name at the conclusion of my remarks.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Hon. Robert Black: Honourable senators, I rise today to speak to Bill C-281, An Act to establish a National Local Food Day.

The bill, introduced by Member of Parliament Wayne Stetski in the House of Commons, aims to establish a national local food day on the Friday before Thanksgiving each year.

You will not be surprised to hear me reiterate the importance of food in the daily lives of all Canadians. The agriculture and agri-food sector contributes $110 billion per year to the country's GDP. More than that, we eat every single day and we should be thankful for that.

I completely agree with the points made in the preamble to the bill, which state that:

> Canada's national sovereignty is dependent on the safety and security of our food supply . . . strengthening the connection between consumers and producers of Canadian food contributes to our nation's social, environmental and economic well-being . . . supporting local farmers contributes to a sustainable Canadian agricultural industry . . .

I appreciate Mr. Stetski's intentions when introducing this bill, and, of course, I support the idea of celebrating food and our local farmers.

However, do I have a few issues with it that I would like to address.

My main reservation comes from the fact that we already have Food Day Canada, or *Journée des terroirs du Canada*. It takes place on the Saturday of the August long weekend, and 2019 will be its sixteenth year. This day promotes eating, cooking and shopping for local food. The initiative to establish Food Day Canada was spearheaded by Dr. Anita Stewart, who has spent her life promoting local food and has even received the Order of Canada for her work.

• (1700)

Food Day Canada started as Canada's longest barbecue in 2003 in support of Canada's beef industry, which had been hit by U.S. sanctions. It has continued to grow ever since. Last year, Food Day Canada trended number one across Canada on Twitter. The CN Tower was even lit up last year for Food Day Canada.

Upon the introduction of this bill in the other place, Dr. Stewart reached out to Mr. Stetski to inform him of the conflicting days. She suggested they join forces to promote the existing Food Day Canada. However, he did not accept this invitation. At the same time, Michael Chong, Member of Parliament for Wellington—Halton Hills, also wrote Mr. Stetski, suggesting he get in touch with Dr. Stewart. Again, I know of nothing that came of this interaction.

Food Day Canada is widely recognized across Canada. Its partners include the University of Guelph, Dairy Farmers of Canada, Canada Beef, the Culinary Tourism Alliance, the Ontario Craft Brewers, Arrell Food Institute, the Centre for Hospitality and the Culinary Arts at George Brown College, Ontario Agricultural College, Restaurants Canada, KitchenAid, *Taste&Travel Magazine*, the Canadian Centre for Food Integrity, Taste of Nova Scotia, Farm and Food Care Saskatchewan, and Farm and Food Care Prince Edward Island.

Food Day Canada is also supported by farmers, chefs, restaurateurs and producers from coast to coast to coast.

Like you, I thoroughly enjoyed listening to the sponsor, Senator Cormier, as he delivered a passionate and very eloquent second-reading speech on the bill recently. He mentioned Food Day Canada and said that it is "proof that Canadians all over the country are ready for an annual pan-Canadian celebration of our abundant local food." I absolutely agree; however, I would argue that Canadians were ready 16 years ago, and Food Day Canada has been filling that need ever since.

Former Canadian Minister of Agriculture and Agri-Food Lawrence MacAulay, and Ontario Minister of Agriculture, Food and Rural Affairs Ernie Hardeman, have both published letters of support for Food Day Canada, which are posted on the FDC website. In his letter to Dr. Stewart, Minister Hardeman wrote:

> The initiatives and projects you have led and been part of have contributed significantly to a renewed and sustained interest in local food across the country.

All honourable senators will have recently received several letters from chefs and others who are opposed to Bill C-281 and who support Food Day Canada. Chef Michael Smith, who is one of Canada's most renowned chefs, said:

> For more than 15 years we've celebrated Food Day Canada coast-to-coast-to-coast in August. We've built a community around this event.

He also suggests that many would be supportive of the bill with a date change, noting that "aligning the dates will allow all existing momentum for Food Day Canada to continue flourishing."

Another letter was received from Alison Bell, a British Columbia chef with a Masters in Gastronomy. She stated her support of Food Day Canada. Apparently, Ms. Bell also reached out to Mr. Stetski last year, suggesting he work with the existing Food Day date. In her letter, she said:

> There are so many great reasons to do this, most notably, that Food Day Canada has already created a template and has the support of industry and culinary professionals across Canada.
>
> Does it not make sense to avoid reinventing the proverbial wheel?
>
> Should we not work collaboratively whenever we have the opportunity, especially when the purpose of an initiative is to break bread together?

I believe that the answer to all her questions is "yes."

In addition to the conflict with the existing Food Day Canada, October is not an ideal time. The average date for first frost is in October for much of this country, September in some parts and even mid to late August in some of the colder parts of the country. The early August date was chosen specifically as it is during peak harvest time. Our entire country is full of fresh fruits and vegetables, making it a perfect time to celebrate local food.

I look forward to this bill going to committee so we can examine it at the Agriculture and Forestry Committee. My hope is that, during the committee study, we will be able to amend the bill to match the date of the existing Food Day Canada, which has been created by industry. This change would avoid redundancy and the creation of an entirely new day.

Regardless, I do plan to continue to celebrate local and Canadian food on Food Day Canada, which will take place this year on August 3. Thank you.

[*Translation*]

Hon. René Cormier: Would Senator Black take a question?

[*English*]

Senator R. Black: Absolutely.

[*Translation*]

Senator Cormier: Thank you, senator, for your plea for keeping Food Day Canada in July. I would first like to say that, like you, I fully support Food Day Canada. It is a wonderful initiative that we have been celebrating for many years now.

That being said, in October, when the summer has come to an end, as people settle back into their regular routines and tourists start to leave our regions, if we can't find a way to convince them to stay, our rural regions are particularly focused on tourism and activities like the oyster festivals in Maisonnette or St. Andrews or the wine festival in late September in Ontario. Don't you think that establishing a national local food day on the Friday before Thanksgiving would contribute to the economic development of our regions, particularly our rural communities, and serve as a great promotional tool for restaurateurs and festivals? Don't you think this would be good for the local economy, Senator Black?

[*English*]

Senator R. Black: Thank you for that question, Senator Cormier. I will say again that the frost-free time is in August, and that is the time when the bounty of our harvest in Canada is available. So I do think that time in August is the better time, personally. Certainly, extending the shoulder seasons of the tourist sector and things like that for that Friday before Thanksgiving — I think we have enough to do on the Friday before Thanksgiving, to be frank.

[*Translation*]

Senator Cormier: Do you at least recognize that local products consist of more than just garden produce and vegetables? They include oysters, wine, fish products and so on. Do you think that those products could also be showcased in October, since that is a good time to do it?

[*English*]

Senator R. Black: I agree that those things are available at that time, and it's likely worth promoting them at that time as well.

Hon. Michael Duffy: Senator Black, as Chef Michael Smith, whom you quoted in your speech, is fond of saying, are you aware that in P.E.I. we have a thing called Fall Flavours, which does exactly what Senator Cormier is suggesting? That base is already covered in Prince Edward Island. Are you aware of that?

Senator R. Black: Thank you for that. I was not aware of that.

Hon. Colin Deacon: Has the sponsor of the bill given reasons why he doesn't want to collaborate with something that already has the partnerships in place and traction around a national day?

Senator R. Black: Thank you for the question. I have not heard his reasoning.

Hon. Ratna Omidvar: I have a question. Did this come up in committee in the House of Commons?

Senator R. Black: I'm not aware that it did. I do not know.

The Hon. the Speaker: As previously agreed, honourable senators, this matter stands adjourned in the name of Senator Plett.

(On motion of Senator Plett, debate adjourned.)

• (1710)

[*Translation*]

DEPARTMENT OF HEALTH ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Galvez, seconded by the Honourable Senator Klyne, for the second reading of Bill C-326, An Act to amend the Department of Health Act (drinking water guidelines).

Hon. Rosa Galvez: Honourable senators, I am pleased to rise as the sponsor at second reading of Bill C-326, An Act to amend the Department of Health Act (drinking water guidelines). This bill was introduced in the other place by Francis Scarpaleggia, the member for Lac-Saint-Louis. The purpose of the bill is to ensure good drinking water quality by requiring Health Canada to adopt water treatment standards recommended by foreign governments or international agencies with high water quality standards.

[*English*]

Honourable senators, let me first give you some background on how drinking water is tested and treated in Canada. In Canada, the vast majority of our drinking water comes from local rivers or groundwater. While they are typically of excellent water quality, these sources are never pure. They may contain non-desirable substances such as minerals, soil particles, biological material but also harmful substances such as fertilizers or pesticides. Some of these contaminants may pose a health risk, which is why our water needs to be treated.

The responsibility to treat water rests with the provinces and territories. It is implemented at the municipal level through water purification plants. These plants employ a series of traditional mechanical and physicochemical processes that include coagulation, sedimentation, filtration and disinfection to remove sediment and kill pathogens to safe levels for transport through pipe networks and into our homes and businesses.

Generally, drinking water available in cities with sophisticated water treatment systems is of high quality. Unfortunately, some municipalities, many rural areas and First Nations communities in Canada do not have access to the same standard of drinking water.

Canada's water treatment processes are generally consistent with other treatment methods used around the world with some small differences. For example, the exact disinfectant used can vary between cities, provinces and countries depending on the availability of chemicals or operator preferences. We do, however, have some lessons to learn from other jurisdictions. For example, Europe's focus on source protection that drives down treatment costs and their proactive distribution network maintenance programs reduce the need for disinfection once the water has entered circulation. New technologies such as membrane treatment and cost reductions in disinfection by ultraviolet light and ozone are being used both at home and abroad to treat drinking water.

In terms of the compounds being treated in drinking water, Health Canada establishes a maximum allowable concentration, called MAC, for contaminants in drinking water. Some compounds are found naturally in the environment. For example, manganese is an essential element that humans need in their metabolism, as well as animals, but it may cause unwanted effects such as discolouring the water, causing undesirable tastes and may lead to an accumulation of microbial growths in the water distribution system.

More recent work, however, shows that ingesting too much manganese from drinking water may have some health effects on infants. This demonstrates clearly the need for ever-evolving guidelines in terms of establishing and testing MACs and monitoring new compounds which may affect drinking water sources.

Some compounds found in drinking water, however, are more noxious to human health. I have spoken before in this chamber about the environmental disaster caused by single-use plastics and microparticles. Did you know these products, these plastics, food packaging and electronics contain compounds and chemicals which may disrupt hormones in the human body? For example, flame retardants, phthalates and Bisphenol A are substances that can react with estrogen receptors in the human body and may play a role in the pathogenesis of endocrine disorders such as infertility or breast and prostate cancer. Even at very low dosages, endocrine-disrupting compounds may be dangerous for human consumption.

A 2014 report from Ecojustice compared Canadian MACs to corresponding standards in the U.S., Europe and Australia and to the World Health Organization standards. In 24 cases, Canada has the or is tied for the strongest standard or guideline. In 27 cases, Canada has or is tied for the weakest standard or guideline. But more important, in 105 cases, Canada has no drinking water standards.

For example, the pesticide 2,4-D does not have a guideline or a standard for drinking water in Canada.

[*Translation*]

Honourable senators, I have given you information and examples to explain why it is so important to have standards that reflect our reality and scientific discovery. This is how we keep human beings and the ecosystem healthy. This bill would require the Minister of Health to identify and acknowledge any foreign government or international agency that has drinking water quality standards that should be studied and compared to Canadian standards. The comparisons should only be made to countries with stringent, science-based criteria to determine the maximum allowable concentration of chemicals and compounds found in drinking water.

Many scientists are studying hydrology and water quality in Canada, but they can't study millions of combinations of water types and millions of chemicals and biological substances at the same time. However, we can certainly learn from other countries' research and standards. I think Canada should consider data from other countries if they have a better understanding of contaminant behaviour and of the maximum allowable levels of these contaminants in drinking water.

This bill unanimously passed in the House of Commons after the committee adopted an amendment to expand the scope of the comparison to include any foreign government or international agency that has high water quality standards.

[*English*]

Dear senators, this bill will strengthen Canada's water quality standards. I encourage it and hope you will support it together with me.

Thank you very much.

Hon. Senators: Hear, hear.

Hon. Lillian Eva Dyck: Would the honourable senator take a question?

Senator Galvez: Yes.

Senator Dyck: Thank you for that great speech. The one question that came to me while you were speaking is whether or not the bill talks anywhere about prescription pharmaceuticals because a lot of people when they have leftover prescription drugs apparently they flush them down the toilet. In some places that has been found to be, of course, they are active compounds that affect not only humans but other living beings in the water.

Senator Galvez: Thank you very much for the question. You are absolutely right. That's why I was speaking about millions of compounds, and the guidelines only have hundreds of compounds. Every year industry puts in the market new compounds. It's true that now in water and waste water treatment plants we can trace antibiotics, contraceptive products and many

other — analgesic products. It is important that we have awareness and knowledge about what is the maximum allowable concentration that is safe for human consumption.

(On motion of Senator Martin, debate adjourned.)

• (1720)

THE SENATE

MOTION TO RESOLVE THAT AN AMENDMENT TO THE REAL PROPERTY QUALIFICATIONS OF SENATORS IN THE CONSTITUTION ACT, 1867 BE AUTHORIZED TO BE MADE BY PROCLAMATION ISSUED BY THE GOVERNOR GENERAL— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Patterson, seconded by the Honourable Senator Runciman:

Whereas the Senate provides representation for groups that are often underrepresented in Parliament, such as Aboriginal peoples, visible minorities and women;

Whereas paragraph (3) of section 23 of the *Constitution Act, 1867* requires that, in order to be qualified for appointment to and to maintain a place in the Senate, a person must own land with a net worth of at least four thousand dollars in the province for which he or she is appointed;

Whereas a person's personal circumstances or the availability of real property in a particular location may prevent him or her from owning the required property;

Whereas appointment to the Senate should not be restricted to those who own real property of a minimum net worth;

Whereas the existing real property qualification is inconsistent with the democratic values of modern Canadian society and is no longer an appropriate or relevant measure of the fitness of a person to serve in the Senate;

Whereas, in the case of Quebec, each of the twenty-four Senators representing the province must be appointed for and must have either their real property qualification in or be resident of a specified Electoral Division;

Whereas an amendment to the Constitution of Canada in relation to any provision that applies to one or more, but not all, provinces may be made by proclamation issued by the Governor General under the Great Seal of Canada only where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies;

Whereas the Supreme Court of Canada has determined that a full repeal of paragraph (3) of section 23 of the *Constitution Act, 1867*, respecting the real property qualification of Senators, would require a resolution of the Quebec National Assembly pursuant to section 43 of the *Constitution Act, 1982*;

Now, therefore, the Senate resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by His Excellency the Governor General under the Great Seal of Canada in accordance with the Schedule hereto.

SCHEDULE

AMENDMENT TO THE CONSTITUTION OF CANADA

1. (1) Paragraph (3) of section 23 of the *Constitution Act, 1867* is repealed.

(2) Section 23 of the Act is amended by replacing the semi-colon at the end of paragraph (5) with a period and by repealing paragraph (6).

2. The Declaration of Qualification set out in The Fifth Schedule to the Act is replaced by the following:

I, *A.B.*, do declare and testify that I am by law duly qualified to be appointed a member of the Senate of Canada.

3. This Amendment may be cited as the *Constitution Amendment, [year of proclamation]* (Real property qualification of Senators).

Hon. Marc Gold: Honourable senators, I note that this item is at day 14 and I'm not ready to speak at this time, Therefore, with leave of the Senate and notwithstanding rule 4-15(3), I move adjournment of the debate for the balance of my time.

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

Hon. Senators: Agreed.

(On motion of Senator Gold, debate adjourned.)

LEGAL AND CONSTITUTIONAL AFFAIRS

MOTION TO AUTHORIZE COMMITTEE TO EXAMINE CERTAIN EVENTS RELATING TO THE FORMER MINISTER OF JUSTICE AND ATTORNEY GENERAL OF CANADA AND TO CALL WITNESSES WITHDRAWN

On the Order:

Resuming debate on the motion of the Honourable Senator Smith, seconded by the Honourable Senator Martin:

That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine and report on the serious and disturbing allegations that persons in the Office of the Prime Minister attempted to exert pressure on the former Minister of Justice and Attorney General of

Canada, the Honourable Jody Wilson-Raybould, P.C., M.P., and to interfere with her independence, thereby potentially undermining the integrity of the administration of justice;

That, as part of this study, and without limiting the committee's right to invite other witnesses as it may decide, the committee invite:

The Right Honourable Justin Trudeau, P.C., M.P., Prime Minister of Canada;

The Honourable Jody Wilson-Raybould, P.C., M.P.;

The Honourable David Lametti, P.C., M.P., Minister of Justice and Attorney General of Canada;

Michael Wernick, Clerk of the Privy Council;

Kathleen Roussel, Director of Public Prosecutions;

Katie Telford, Chief of Staff to the Prime Minister;

Gerald Butts, former Principal Secretary to the Prime Minister;

Mathieu Bouchard, Senior Advisor to the Prime Minister;

Elder Marques, Senior Advisor to the Prime Minister; and

Jessica Prince, former Chief of Staff to the Minister of Veterans Affairs;

That the committee submit its final report no later than June 1, 2019; and

That the committee retain all powers necessary to publicize its findings until 180 days after tabling the final report.

Hon. Larry W. Smith (Leader of the Opposition): Honourable senators, pursuant to rule 5-10(1), I ask for leave from the Senate to withdraw non-government Motion 435.

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

Hon. Senators: Agreed.

(Motion withdrawn.)

SPEAKER'S STATEMENT

The Hon. the Speaker: Honourable senators, the withdrawal of this motion renders the point of order on motion 470 moot.

NATIONAL SECURITY AND DEFENCE

MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE, AS MODIFIED, ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Boniface, seconded by the Honourable Senator Deacon (*Nova Scotia*):

That the Standing Senate Committee on National Security and Defence have the power to meet for the purposes of its study of Bill C-59, An Act respecting national security matters, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

Hon. Gwen Boniface: Honourable senators, pursuant to rule 5-10(1), I ask leave of the Senate to modify the motion so that it reads as follows:

That the Standing Senate Committee on National Security and Defence have the power to meet for the purposes of its study of Bill C-59, An Act respecting national security matters, on Thursday, May 2, 2019, and Thursday, May 9, 2019, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

(Motion agreed to, as modified.)

ANTI-BLACK RACISM

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Bernard, calling the attention of the Senate to anti-black racism.

Hon. Jane Cordy: Honourable senators, I rise today to speak to Senator Bernard's inquiry and anti-Black racism in Canada. I would like to speak specifically about anti-Black racism as it exists within our education system. I want to thank Senator Bernard for bringing this inquiry to the floor of the Senate for debate.

In her remarks, Senator Bernard spoke about the importance of this inquiry on anti-Black racism in light of the report of the United Nations Working Group of Experts on People of African Descent which examined the ways in which systemic anti-Black racism persists in Canada.

I would also like to recognize, as did Senator Bernard, that other racialized groups in Canada are impacted by racism. Members of the Human Rights Committee who travelled to prisons across Canada for our study on the human rights of federal prisoners heard stories of racism within the prison system and within the justice system.

Honourable senators, unfortunately, racism exists within Canadian society, sometimes overtly and sometimes covertly. As Senator Bernard mentioned in her speech, this includes our education system.

Racism in the education system is nothing new. In 1994, the Black Learners Advisory Committee, or BLAC, released a report that pointed to systemic racism in the Nova Scotia educational system. The report presented 46 recommendations to the Government of Nova Scotia to address racism in the education system. As a direct result of the BLAC report, the African Canadian Services Branch was established to take the recommendations found in the BLAC report and work to continue to identify and implement solutions to combat institutional racism in the Nova Scotia education system. The branch operates within the Nova Scotia Department of Education and Early Childhood Development and is dedicated to building a Nova Scotia education system that is equitable, culturally responsive and a safe learning environment for all learners.

Within its mandate, the branch is tasked with advancing the achievement and well-being of African Nova Scotian learners; working collaboratively with Education and Early Education Development staff and other stakeholders to identify and eliminate barriers impacting African Nova Scotian Black learners; working collaboratively across the department and with government to consult with and provide advice regarding African Nova Scotian/Canadian education; and promoting understanding of African Nova Scotians/Canadians and their history, heritage, culture, traditions and contributions to society, recognizing their origins as African people.

The creation of the African Canadian Services Branch was an acknowledgment by the Nova Scotia government that anti-Black racism was an issue within schools which required immediate attention and long-term monitoring. It is a positive step, and there continues to be a need for improvement.

Nova Scotia is not unique in Canada. Anti-Black racism, along with other racism, exists in education jurisdictions and institutions from coast to coast to coast. Unfortunately, racism exists in all its forms in many of our institutions.

In the fall of 2016, at the invitation of the Canadian government, the UN Working Group of Experts on People of African Descent visited four Canadian cities: Toronto, Ottawa, Montreal and Halifax. The purpose of the visit was to examine in detail the situation of people of African descent living in Canada and to identify any problems and to make recommendations for how these problems could be resolved. The group also identified good practices that could be replicated in other countries. The UN report focused on anti-Black racism within the criminal justice system, health services, housing, employment and education.

The working group shared their concerns regarding racism in the education system. The report stated:

> The Working Group was concerned to learn about anti-Black racism and the lack of social inclusion in the education system in Canada. African Canadian students have disproportionately low educational attainment, high dropout rates, suspensions and expulsions and they are more likely than other children to be streamed into general and basic-level academic programmes, instead of advanced-level programmes. Race-based stereotypes about African Canadian students' scholastic ability have had a devastating impact. The three primary concerns expressed were differential treatment, lack of Black and African-Canadian history and culture in the curriculum and the absence of Black teachers.

• (1730)

The quality of education received and the outcome of their educational experiences affects the employment and income potential of African Canadians.

Unfortunately, the UN working group's report highlighted that the same racial discrimination that has played a major part in denying African Nova Scotians equal opportunity to education is indeed a Canada-wide issue. This inequality within the education system is mirrored in the health care system, housing and in employment. As a Black Learners Advisory Committee report stated in 1994:

> Most African Canadian children are from birth trapped in a vicious cycle of societal rejection and isolation, poverty, low expectations, and low educational achievement . . .

It can be discouraging to think that little progress has been achieved over the last 25 years. Education and community advocates continue to point to the same problems in the system: Too few Black teachers, a curriculum that is not Afrocentric enough, cultural clashes between teachers and students, and poverty.

One way this systemic racism shows itself in Nova Scotia is through suspension statistics. Data collected for five of the eight school boards in Nova Scotia for the 2015-16 school year showed that Black students face out of school suspensions at a rate of 1.2 to 3 times higher than the overall representation of African Nova Scotians in the school population.

In the Halifax Regional School Board, those numbers were significantly higher. Students of African descent accounted for 22.5 per cent of the suspensions in the cases where students self-identified as being Black. Black students only represented 7.8 per cent of the school population but 22.5 per cent of the suspensions. Community advocates have rightfully described the situation in Halifax as a crisis.

Honourable senators, reports and studies only shed light on the problems of the deep-rooted prejudices that exist in our institutions. They are not the solution, but they are a starting point in providing a roadmap to an education system that should be equitable and prejudice-free.

It is a positive step for our governments to acknowledge the problems that exist, but, honourable senators, for real change to happen, governments on every level have to take seriously the recommendations in reports like the *BLAC Report on Education* or the recommendations of the African-Canadian Services Branch. It is understandable that marginalized segments of society are sceptical of political promises when little progress has occurred over the last 25 years.

Honourable senators, on February 1, in celebration of Black History Month, Prime Minister Trudeau announced that Canada will officially recognize the UN International Decade for People of African Descent. The decade, which spans from 2015 to 2024, is an opportunity for Canada to participate with other nations to celebrate the important contributions people of African descent have made to Canada.

The hope is Canada will use this opportunity to acknowledge the challenges and systemic racism experienced by large numbers of Canadians. The goal of the UN declaration is to provide a framework for recognition, justice and development to fight racism, discrimination, and the ongoing inequalities that Canadians of African descent face. Honourable senators, let us not waste another opportunity to make needed changes.

Honourable senators, I would like to thank Senator Bernard for bringing this inquiry to the Senate, and to both her and Senator Lankin for their moving speeches. Racism is all around us in many aspects of society. For many, it goes unnoticed until we are directly confronted with it.

Unfortunately, for too many Canadians, it is a part of their daily lives each and every time they leave their home. It is important for us, not only as parliamentarians but also as Canadians, to recognize this. We must always be aware and take responsibility for our words and actions in our daily lives.

We must also refuse to turn our heads and be silent when we hear racist and hateful comments. As a society, we must recognize the systemic racism that persists in many of our institutions, and we must as a society aspire to do better.

We only succeed as a society when everyone has equal opportunities to succeed. If segments of Canadians continue to be marginalized and left behind because of systemic racism, then, honourable senators, as Canadians, we all fail.

Hon. Senators: Hear, hear.

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

(On motion of Senator Mercer, debate adjourned.)

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTINGS AND ADJOURNMENT OF THE SENATE WITHDRAWN

On Motion No. 432 by the Honourable Rosa Galvez:

That, for the purposes of its 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, the Standing Senate Committee on Energy, the Environment and Natural Resources:

(*a*) be authorized to sit even though the Senate may then be sitting, with the application of rule 12-18(1) being suspended in relation thereto; and

(*b*) be authorized, notwithstanding rule 12-18(2), to meet from Monday to Friday, even though the Senate may then be adjourned for more than a week, or for more than a day but less than a week.

Hon. Rosa Galvez: I withdraw the motion standing in my name.

The Hon. the Speaker: So ordered.

(Notice of motion withdrawn.)

FISHERIES AND OCEANS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Fabian Manning, pursuant to notice of April 2, 2019, moved:

That the Standing Senate Committee on Fisheries and Oceans have the power to meet, in order to continue its study of Bill C-68, An Act to amend the Fisheries Act and other Acts in consequence, on Tuesday, April 9, 2019, at 5 p.m., even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to.)

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO MEET DURING SITTINGS OF THE SENATE

Hon. Rosa Galvez, pursuant to notice of April 2, 2019, moved:

That the Standing Senate Committee on Energy, the Environment and Natural Resources have the power to meet, in order to continue its study 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, on Tuesday, April 30, 2019 and Tuesday, May 7, 2019, at 5 p.m., even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to.)

THE SENATE

MOTION TO STRIKE SPECIAL COMMITTEE ON PROSECUTORIAL INDEPENDENCE—DEBATE ADJOURNED

Hon. André Pratte, pursuant to notice of April 2, 2019, moved:

That a Special Committee on Prosecutorial Independence be appointed to examine and report on the independence of the Public Prosecution Service of Canada and of the Attorney General of Canada;

That the committee be composed of six senators from the Independent Senators Group, three Conservative senators and one Independent Liberal senator, to be nominated by the Committee of Selection, and that four members constitute a quorum;

That the committee examine and report on the separation of the functions of the Minister of Justice and those of the Attorney General of Canada, and on other initiatives that promote the integrity of the administration of justice;

That the committee also examine and report on remediation agreements as provided by PART XXII.1 of the *Criminal Code*, in particular, the appropriate interpretation of the national economic interest mentioned in subsection 715.32(3) of the *Criminal Code*;

That the committee have the power to send for persons, papers and records; to examine witnesses; and to publish such papers and evidence from day to day as may be ordered by the committee;

That, notwithstanding rule 12-18(1), the committee be authorized to meet even though the Senate may then be sitting;

That, notwithstanding rule 12-18(2)(b)(i), the committee have the power to meet from Monday to Friday, even though the Senate may then be adjourned for a period exceeding one week; and

That the committee be empowered to report from time to time and submit its final report no later than June 1, 2019, and retain all powers necessary to publicize its findings until 30 days after the tabling of the final report.

He said: Honourable senators, I know it's late, so I promise this may hurt a little bit, but it will be short.

Honourable senators, when I spoke a month ago on Senator Smith's motion and Senator Harder's amendment, I said that we in the Senate should seek the truth, and that by seeking the truth, we would be serving Canadians.

Now, with Ms. Jody Wilson-Raybould's written testimony and recording, and with Mr. Butts' own written testimony, the truth is pretty well-known in all its details. However, interpretations of this truth vary considerably. These interpretations need to be examined with rigorous objectivity in order for us to draw sound conclusions and find useful solutions.

Most importantly, we need to thoroughly reflect on ways to prevent this type of situation in the future. Such controversies undermine Canadian's confidence in the administration of justice. This is where the Senate can play a complementary role.

• (1740)

Senator Plett's motion suffers from many of the same defects as Senator Smith's motion. It employs exactly the same language. The only difference is that instead of requiring the committee to hear a long list of witnesses, it lists only one, the former Attorney General. Frankly, after all that we have heard and read, I wonder what else we could learn by having Ms. Wilson-Raybould appear, but the hope is obviously to continue to embarrass the government.

On the other hand, the government's —

The Hon. the Speaker: Order, please.

Senator Pratte: On the other hand, the government's aim is to put an end to the controversy. Our objective, as an independent Senate, should be neither to prolong nor to stifle the scandal but to provide a thorough review of the facts and their possible interpretations through a thorough review and, most of all, we should suggest a way forward.

[*Translation*]

Colleagues, the facts are now out in the open. The committee I am proposing should not be tasked with investigating what happened. Rather, it should reflect on what it all means and what lessons we should learn from what happened. Was the pressure put on the Attorney General inappropriate or not? What principles can we use to reach a conclusion? How does the Shawcross doctrine apply in the modern context of today's Canada? In future, is it possible to pinpoint the rare circumstances in which the attorney general can intervene with the Public Prosecution Service?

The relatively new remediation agreements provided for in the Criminal Code also deserve another look. I think a special committee could address certain questions. For example, how can we reconcile the apparent contradiction between one of the purposes of these agreements, which is "to reduce the negative consequences of the wrongdoing for persons — employees, customers, pensioners and others — who did not engage in the wrongdoing," and the factors that prosecutors must not consider for foreign bribery offences, specifically the national economic interest? Should the Public Prosecution Service be provided with additional guidelines for granting these remediation agreements? The justice committee in the other place heard only five witnesses on these substantive issues and did not come to any conclusions. A Senate committee might do much better.

That is what I am proposing in the motion we are beginning to debate today. Some will say that these are theoretical, legal or technical matters, but there is nothing theoretical about them. These are matters of fundamental principles and public policy on the administration of justice. These questions need answers if we really want to understand the meaning and gravity of what happened and propose ways to prevent this from happening again.

[*English*]

There are those who argue that the functions of Minister of Justice and Attorney General should be separated, with only the Minister of Justice attending cabinet meetings. In the Canadian context, this would be a major change that the special committee could and should study. I note that in the United Kingdom, where this has been the practice for decades, there nonetheless have been controversies around the independence of the Attorney General.

Some will say that this special committee's mandate would resemble the task given by the Prime Minister to former Attorney General Anne McLellan. This is true, although there is nothing in Ms. McLellan's mandate regarding remediation agreements. More importantly, Ms. McLellan is not Parliament. Her advice to the Prime Minister will undoubtedly be very valuable, but many heads are better than one. Moreover, she will not do her work in public as a Senate committee would do, thereby educating both the public and parliamentarians on these complex issues.

Colleagues, this controversy, however you interpret it, cannot be ignored. Many of us, I know, feel that they are in a bind. On one hand, adopting either of Senator Smith's or Senator Plett's motions would have us play the opposition game; on the other hand, doing nothing would have us apparently favour the government.

This is why I try to suggest a different, more neutral, senatorial approach. If this motion is adopted, a special committee would be formed. This is Senator Dalphond's idea and it's a good one because all the other committees, including the Legal Affairs Committee, are overloaded with work.

The mandate of the committee is set out in the motion. It is to examine and report on the independence of the Public Prosecution Service of Canada and of the Attorney General of Canada, to report on the separation of the functions of Minister of Justice and of Attorney General of Canada, and on other initiatives that could promote the integrity of the administration of justice, and to study remediation agreements, notably the provision that excludes the consideration of the national economic interest.

This special Senate committee would be composed of six ISG senators, three Conservative senators and one independent Liberal senator, therefore each group would be represented in the same proportion as in the Senate. The committee would report back on June 1 at the latest. Because time is short, it would be allowed to meet while the Senate is sitting and during break weeks.

Honourable senators, I believe this is a balanced, rigorous and moderate approach, that allows us to avoid either a political circus or political paralysis. Yes, there is a real risk that some senators will use this forum for partisan purposes. However, I am confident that most Canadians would prefer an independent, thoughtful examination of the issues and will not look kindly on senators whose only interest is it to score political points.

I move this motion so that the Senate does not sit on the sidelines while fundamental questions on the administration of justice in this country are being asked. I move this motion in the hope that this Senate will have the opportunity to do what it does best: Delve into the issues, review them with rigour and objectivity and suggest solutions. I move this motion in the hope, perhaps naive, that even in the most difficult of circumstances the Senate can find a nonpartisan path forward for doing its work for carrying out its duty.

It may be that the only way to counter partisanship is partisanship in return. I hope this is not the case. This is why I'm moving this motion.

Will the committee hear from Jody Wilson-Raybould? Will it invite PMO officials who have not been heard yet? It will be for the committee to decide if such appearances are necessary for it to fulfill its mandate.

Honourable senators, let us continue to show Canadians that there is a different way of doing politics. Let us show them what sober second thought really means even in the difficult context of this controversy.

[*Translation*]

Dear colleagues, the Senate must rise to the challenge in the present circumstances. It must not hide. It must not be paralyzed with fear of controversy or failure. As has happened often in my career, I see that everyone is against me, but for different reasons. No matter. While there are risks associated with creating this special committee, I'm looking for a non-partisan, independent, objective approach that is more than simply opposition to opposition.

Doing something carries risk, but so does doing nothing. We could be seen as a chamber that lacks courage and relevance. When we are asked where we were while this massive crisis was unfolding, what will we say?

[*English*]

It is so hard to listen.

The Hon. the Speaker: Order.

Senator Pratte: Why don't you just try to listen for once? You might learn something.

[*Translation*]

I'd love to be able to say that we were here, that we studied the matter carefully, objectively and diligently, and that we proposed solutions. I'd like to be able to say that this is what today's independent Senate looks like. Thank you for listening.

Some Hon. Senators: Hear, hear.

[*English*]

Thank you for listening so closely.

Some Hon. Senators: Hear, hear.

Hon. Leo Housakos: Thank you, Senator Pratte, I was listening quite attentively. I find it very interesting that all of a sudden you've had this profound interest in the Public Prosecution Service of Canada.

You mentioned in your speech about the interpretation of the truth. Where we come from as parliamentarians on this side, the truth is only one; it's not open to interpretation. Unfortunately over the last couple of months on the other side of the house there's been a Prime Minister and a Prime Minister's Office and a Clerk of the Privy Council unfortunately, who all they've been doing is interpreting the truth. That's we have today more questions than we have answers. That's why, after more than two months in this unfortunate affair where we have a Prime Minister of Canada being accused of obstruction of justice, on a daily basis, the media and the Canadian public are still asking difficult questions they don't have answers to.

• (1750)

All we've gotten from the other side is we've lost the top member of the civil service in a resignation, a guy who had the opportunity of going twice before a committee of justice of the house. We lost the principal secretary and the senior-most adviser to the Prime Minister, who had the opportunity to express himself twice to that justice committee. And we have the Attorney General, who is at the core of this whole issue, who herself has systematically brought evidence forward where she's pushed back — it's not a question. I'm on debate.

The Hon. the Speaker: Honourable senators, I have recognized Senator Housakos on debate. He's not building up to a question. He's actually on debate.

Senator Housakos: In due time, eventually we'll all learn the rules in this place.

More importantly, in due time, the government will also learn the rules of the essential element of our Parliament, the separation of the judiciary, the legislative and the executive.

At the end of the day, that's the game that's being played here, Senator Pratte. We have a government and a Prime Minister that has encroached upon the most serious principles of this Parliament. He has had 23 successors before him. Not one has ever been accused of this most egregious crime and breach of parliamentary principle, not one. One hundred and fifty years, not one Attorney General and not one Minister of Justice has ever accused the Prime Minister of interfering in a criminal prosecution case. This is the first time.

We have a Parliament in place on the other side with a majority government that is hindering the committee of justice of that Parliament from asking the difficult questions to whomever the committee wants to bring before them.

Senator Plett has put forward a motion here that is very reasonable. The people of Canada and the media in this country are crying out for justice and clarity. All we've had for a number of weeks from Trudeau-appointed senators and from the government leader are procedural attempts — we know what they are — getting up on points of order in order to drag this motion out and prevent it from actually being exercised and calling the players who have been accused of a very serious breach to come before a Senate committee. Yes, an independent one, where Trudeau-appointed senators will have the majority on it and have their opportunity to show how independent they actually are and ask the questions to the former Attorney General and any other witnesses who we think would be able to shed light on this particular issue.

I will conclude because I have a lot to say on this issue and I want to prepare a speech. I want to say that the Public Prosecution Service of Canada has been around for a long time. The Ministry of Justice has been around for a long time. Our process in changing the rules of how the Ministry of Justice works are clear. The cabinet and the minister, with officials from the Justice Department, can table legislation in the House of Commons, can send that legislation for proper and thorough debate to the committee of justice, can get it through the House of Commons, get it over to the upper chamber, send it to a standing committee that we have here, a Senate committee that has been around for years and is very respected. How many times has our justice committee's work been quoted in the Supreme Court of Canada through the years? Even more often than that, the work of the House of Commons Justice Committee. So we don't need a special committee.

Just because Justin Trudeau showed up and doesn't know how the rules of Parliament work, we're going to create special committees? We're going to infringe upon the rights and privileges of the Justice Committee of the House of Commons and the Legal Committee of the Senate because Justin Trudeau doesn't agree with it? He's had a track record such that when he does things that are egregious to the rules of Parliament, he changes them. The government leader, we summon him as the government leader to the Senate, but he'll be modelled as the representative. He summoned them as the government leader because those are the rules.

Colleagues, this is again another example of the games that are being played in this chamber in order to circle the wagons, to defend the Prime Minister who has done something the Canadian public and the press for weeks have been calling upon him to respond to clearly and unequivocally.

Honourable senators, I think a number of senators on this side of the chamber have a lot to say on this. That's why I will ask to take adjournment for the balance of my time.

(On motion of Senator Housakos, debate adjourned.)

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Diane F. Griffin, pursuant to notice of April 2, 2019, moved:

> That the Standing Senate Committee on Agriculture and Forestry have the power to meet on Tuesday, April 9, 2019, at 6:00 p.m., even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

She said: Honourable senators, 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.)

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. A. Raynell Andreychuk, pursuant to notice of April 3, 2019, moved:

> That the Standing Senate Committee on Foreign Affairs and International Trade have the power to meet on Tuesday, April 9, 2019, at 4:00 p.m., for the purpose of hearing from the Minister of Foreign Affairs, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

She said: Honourable senators, 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.)

(*At 5:56 p.m., the Senate was continued until Tuesday, April 9, 2019, at 2 p.m.*)

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