SENATE
SÉNAT
CANADA

Rulings of the Speaker of the Senate

December 2015 to May 2023

September 2023

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INTRODUCTION

This collection brings together the rulings given during the speakership of the Honourable George J. Furey, K.C., the 45th Speaker of the Senate, who served in this role from December 3, 2015 until his retirement on May 12, 2023.

The Senate underwent profound changes during this period. The Prime Minister implemented a new process for Senate appointments, resulting in significant changes in the composition in the Senate, as it transitioned from a traditional two-party system to one consisting of multiple recognized groupings – both recognized parties and recognized parliamentary groups – in addition to non-affiliated senators. Amendments were made to the *Rules of the Senate* and other governing documents to address this changing institutional situation.

The COVID-19 pandemic also brought its share of challenges for the Senate, which continued to demonstrate its ability to adapt through this period of uncertainty. After sitting in person until October 2020 with reduced coordinated attendance and temporary adjustments to ensure physical distancing, the Senate adopted a motion to allow hybrid sittings using Zoom. Speaker Furey became the first Speaker of the Senate to preside over a hybrid sitting, even doing so remotely on a few occasions. This hybrid structure lasted until mid-2022, when exclusively in-person sittings resumed.

As the Senate navigated through these changes and challenges, Speaker Furey was called upon to rule on a number of matters, including the use of unparliamentary language, various aspects of question period, and the receivability of certain motions and amendments. He was also asked to rule on the prima facie merits of several questions of privilege, including leaks of confidential information and the ability of senators to fulfil their duties as members of the Senate. Furthermore, there were two requests for emergency debates, both of which took place: one regarding the actions by the British Columbia government to block the Trans Mountain pipeline expansion, and one regarding the rise in reports of acts of racism against Afro-Canadians, Indigenous Canadians and Asian Canadians.

This collection illustrates the range of factors the Speaker must deal with and how they are considered, and will be a useful tool for all those who follow the work of the Senate.

Gérald Lafrenière

Interim Clerk of the Senate and Clerk of the Parliaments

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PRESIDING OFFICERS

Speaker: The Honourable George J. Furey, K.C.

December 3, 2015 - May 11, 2023

Speaker pro tempore: The Honourable Senator Nicole Eaton

December 9, 2015 - September 11, 2019

Speaker pro tempore: The Honourable Senator Pierrette Ringuette

May 1, 2020 -

RULINGS AND STATEMENTS

42nd Parliament, 1st Session (December 3, 2015 - September 11, 2019)

Speaker's Ruling – Question of Privilege: Questions of Privilege from a Previous Session

Journals of the Senate, December 8, 2015, pp. 24-25:

Honourable senators, the point of order is, in essence, that a senator cannot raise a question of privilege that was raised in a previous session, since it does not meet the criterion of being raised at the earliest opportunity.

This point of order raises one of the criteria for giving a question of privilege priority, as set out in rule 13-2(1). Specifically, paragraph (a) states that a question of privilege must "be raised at the earliest opportunity." Senator Hervieux-Payette has not yet had the opportunity to argue how her question of privilege meets the criteria of rule 13-2(1). The point of order has therefore jumped ahead in the process, raising a point that should be considered as part of the debate on the question of privilege itself.

In addition, it must be noted that the process that Senator Hervieux-Payette has followed reflects our practice. Questions of privilege and points of order are not automatically revived in a subsequent session. They must be raised once again in a new session after the Speech from the Throne. This happened, for example, at the start of the Second Session of the Thirty-sixth Parliament. Both our former Speaker Kinsella and Senator Andreychuk raised questions of privilege previously raised in the first session. The questions of privilege had been sent to committee, but it had not completed its work or reported prior to prorogation.

Senator Cools certainly raised an interesting point about whether this is the best process. Perhaps senators would prefer that questions of privilege from a past session be automatically revived, through some mechanism. But our current Rules and practices do not provide for automatic revival. In terms of process, Senator Hervieux-Payette is following current practices. We should now give her the chance to present her question of privilege. Other senators can certainly present their points of view.

I therefore rule that consideration of the question of privilege can proceed.

Speaker's Statement: Parchment Error (Bill C-3)

Journals of the Senate, December 11, 2015, p. 49:

Honourable senators, I would first like to read a statement just made by the Speaker of the House of Commons.

> I wish to inform the House that a number of administrative errors occurred with respect to Bill C-3, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2016.
>
> Due to these administrative errors, the copy of the bill that was circulated at the opening of yesterday's session did not contain the usual schedule that reflects how the global amount for the supplementary estimates is allocated amongst the various votes. As is the usual practice on the final supply day, the House considered and concurred in the supplementary estimates, followed by the supply bill based upon these estimates.
>
> I have instructed the Acting Clerk and his officials to take the necessary steps to ensure that a corrected copy of Bill C-3, one that accurately reflects the will of the House, is forwarded to the other place.
>
> I thank hon. members for their attention.

Let me begin, honourable senators, by thanking Senator Day for identifying the issue with Bill C-3.

Senator Day's usual attentiveness, acuity and attention to these bills are always appreciated by this house.

We have ascertained, colleagues, that the Senate received a defective version of the bill. I would therefore suggest that proceedings on the bill thus far be declared null and void. If we do this, we could then read the corrected message and give the corrected bill first reading. Subsequent proceedings would then depend upon the will of the Senate.

While it is not our place to look into the functioning of the House of Commons, I am appalled that we received a defective bill. If it is the wish of the house, I would be prepared to write to my counterpart in the House of Commons to seek his assurance that this will not happen again.

Speaker's Ruling – Question of Privilege: Release of Report of the Auditor General

Journals of the Senate, January 26, 2016, pp. 68-69:

I am ready to rule on the question of privilege raised by the Honourable Senator Hervieux-Payette on December 8, 2015. The senator's complaint dealt with alleged leaks of information from the report of the Auditor General on senators' expenses before it was tabled in this place. Senator Hervieux-Payette initially raised the issue on June 9, 2015, as a question of privilege, which was found to have prima facie merit. The issue was then referred to the Standing Committee on Rules, Procedures and the Rights of Parliament for study. However, the committee did not present a report on the matter prior to the dissolution of the 41st Parliament.

It is not unprecedented to have a question of privilege brought back from a previous session, and, in keeping with practice in such cases, I have reviewed all the arguments that were raised on this issue.

As senators know, the report tabled on June 9, 2015 was the result of an audit undertaken at the request of the Senate, and there was every expectation that the report would be provided to the Speaker and tabled in the Senate before being made public. It was, therefore, in many ways analogous to a committee report – the Senate should be the first to receive the results of the work it requests.

The leaks that started the first week of June 2015, of which we are all aware, violated the confidential framework within which the audit was undertaken. Let me also note that the leaks put a number of senators in an extremely awkward situation, facing questions about details of a document that was not yet before the Senate and not yet public. That was not right.

To be treated under the special provisions of Chapter 13 of the Rules, a question of privilege must meet the four criteria outlined in rule 13-2(1).

First, it must "be raised at the earliest opportunity." As I stated in my ruling on a point of order on December 8, 2015, our rules and practices do not provide for the automatic revival of questions of privilege in a subsequent session. The matter must be raised again in the new session. The first two sitting days of the 42nd Parliament, December 3rd and 4th, were devoted to the traditional ceremonies and procedures related to the opening of a new Parliament. As such, Senator Hervieux-Payette followed the process correctly, as it stands now, and acted as expeditiously as possible.

Let me again note, however, that, if honourable senators believe that there could be a better, more efficient process for dealing with outstanding questions of privilege, it is within the powers of this body to develop some other mechanism. This could perhaps be through a recommendation from the Rules committee. Any possible changes are in the hands of honourable senators.

The second criterion is that the question of privilege must "be a matter that directly concerns the privileges of the Senate, any of its committees or any Senator." As already explained, the audit was undertaken at the request of the Senate, and there was every expectation that the Senate would be the first to receive the resulting report. It should also be noted that the leaks were of a report dealing with sensitive information related to individual senators. Just as the Senate considers the leak of committee reports to be a serious matter, the leak of this audit report, I believe, satisfies the second criterion.

Third, the question of privilege must "be raised to correct a grave and serious breach." The answer in this case flows from that given to the second question. The Senate should have received the audit report first, and so this third criterion has been met.

Finally, the question of privilege must "be raised to seek a genuine remedy that the Senate has the power to provide and for which no other parliamentary process is reasonably available." Senator Hervieux-Payette has indicated that she is prepared to move an appropriate motion, and, given the serious impact of such a leak, that is a reasonable approach.

At this stage of the process the Speaker determines whether the question of privilege seems, at first appearance, to have a reasonable basis. This gives the senator who raised the matter the chance to move a motion, on which the Senate itself will make a decision.

On June 5, 2015, towards the end of the last Parliament, it was determined that a prima facie case of privilege had been established in relation to the leaks of the report in question. It is my opinion that, for the reasons outlined here, there is a reasonable concern that the leaks surrounding the release of the audit report may have breached the privileges and rights of the Senate as an institution and those of individual senators. Consequently, I have reached the same determination that was reached last June. A prima facie question of privilege has been established, and, pursuant to rule 13-6(1), Senator Hervieux-Payette can move her motion at this time. Debate will, however, only begin at the earlier of 8 p.m. or the end of the Orders of the Day.

Before recognizing Senator Wallace, let me remind honourable senators of rule 2-5(1), which reads as follows:

The Speaker shall hear arguments before ruling on a point of order or a question of privilege. When the Speaker has heard sufficient argument to reach a decision, a ruling may be made immediately or the matter may be taken under advisement. The Senate shall then resume consideration of the item of interrupted business or proceed to the next item, as the circumstances warrant.

This means that the rules that generally govern debate are placed in abeyance when the Senate is dealing with a question of privilege or a point of order. This includes the provisions regarding speaking times and the number of times a senator may speak. These matters remain at the sole discretion of the Speaker. The Speaker also determines when sufficient arguments have been heard, and can then end the discussion.

I would also like to remind senators that there is no right of reply. While my predecessors have, before concluding consideration of a question of privilege or point of order, sometimes returned to the senator who initiated the matter, this remains at the discretion of the Speaker.

Speaker's Statement: Debate on Questions of Privilege

Journals of the Senate, January 26, 2016, pp. 71:

Before recognizing Senator Wallace, let me remind honourable senators of rule 2-5(1), which reads as follows:

> The Speaker shall hear arguments before ruling on a point of order or a question of privilege. When the Speaker has heard sufficient argument to reach a decision, a ruling may be made immediately or the matter may be taken under advisement. The Senate shall then resume consideration of the item of interrupted business or proceed to the next item, as the circumstances warrant.

This means that the rules that generally govern debate are placed in abeyance when the Senate is dealing with a question of privilege or a point of order. This includes the provisions regarding speaking times and the number of times a senator may speak. These matters remain at the sole discretion of the Speaker. The Speaker also determines when sufficient arguments have been heard, and can then end the discussion.

I would also like to remind senators that there is no right of reply. While my predecessors have, before concluding consideration of a question of privilege or point of order, sometimes returned to the senator who initiated the matter, this remains at the discretion of the Speaker.

***Speaker's Ruling – Point of Order: Requirements to Amend the* Rules of the Senate**

Journals of the Senate, February 4, 2016, pp. 147:

Senator Fraser has already given notice of the motion. Under rule 5-6(1)(a), two days' notice is required for a motion to amend the Rules, while under rule 5-5(a) one day's notice is required to suspend a rule or part of a rule. So debate can proceed.

Speaker's Ruling – Question of Privilege: Lack of a Government Leader in the Senate

Journals of the Senate, February 4, 2016, pp. 149:

I am now prepared to rule on the question of privilege raised by Senator Housakos on December 8, 2015. His basic concern relates to the lack of a Leader of the Government in the Senate.

In his remarks, Senator Housakos noted that the Senate has always had among its senators a representative of the government. He argued that the Prime Minister has not fulfilled an obligation to name a government leader in the Senate, which is an affront to our parliamentary system and contempt to the dignity of Parliament. He went on to state that senators would not have the right to question the leader on matters of public affairs during Question Period, a key component in senators' role to hold the government to account. Senator Batters supported Senator Housakos' premise and reasoned that the failure to appoint a leader impeded the Senate's ability to regulate its own proceedings and deliberations as well as the ability of senators to protect regional interests.

Other senators questioned which of the Senate's privileges were being breached by the lack of a Government Leader and noted that historically the Senate has evolved and adapted its Rules and practices to address changes in its organization. Senator Cools indicated that Question Period is only a relatively recent addition to the Senate's procedure. Senator Joyal remarked that even though the Leader of the Government is recognized in statute, the Senate does not have a corollary right to compel the government to appoint a leader.

Senator Fraser stated that the core function of the Senate is to review, initiate or amend legislation, not to hold the government to account, which she argued is primarily a role for the other place as the confidence chamber. Senator Joyal affirmed that the essence of a senator's role is to debate and that the lack of a Government Leader does not impede this ability. Both argued that senators can continue to invite ministers to appear in the Senate or before our committees as a means for the government to answer questions relating to its policies or legislation.

Senators McCoy and Maltais also contributed to the debate on this question of privilege. I would like to thank all senators for their contribution to this important question.

The Speaker's role at this stage is not to decide whether a breach of privilege has in fact occurred, which is a decision that ultimately belongs to the Senate. My role at this initial stage is limited to determining whether the question of privilege raised meets the four criteria listed in rule 13-2(1) and should, therefore, be accorded priority over other proceedings of this house.

The first criterion is that the question "be raised at the earliest opportunity." The leader in the Senate of a new government has traditionally been appointed when the Cabinet is sworn in. The current government was sworn in on November 4, 2015, and no senator has since been appointed as Government Leader. The first two sitting days of the 42nd Parliament, December 3rd and 4th, were devoted to the traditional ceremonies and procedures related to the opening of a new Parliament. Senator Housakos raised his question of privilege on December 8th, the first normal sitting of the new session and the first sitting at which he could avail himself of the procedure established in Chapter 13 of the Rules. As such, I am satisfied that the first criterion has been met.

The second and third criteria can be, and often have been, considered together in rulings. They are that the matter "...directly concerns the privileges of the Senate, any of its committees or any Senator" and that it "be raised to correct a grave and serious breach."

Parliamentary privilege relates to the privileges, immunities and powers enjoyed by the Senate and each of its members without which they could not discharge their legislative and deliberative functions. Senator Housakos argued, in substance, that the Senate and senators cannot discharge their parliamentary functions in the absence of a Leader of the Government in the Senate.

The appointment of a Leader of the Government has always been a prerogative of the executive. Since Confederation there has always been a senator who was designated by the government to manage government business and ensure its dispatch in this chamber. The senator was first chosen among one of the ministers of the Crown in the Senate. Over time, as the number of ministers in this house declined, this responsibility was entrusted to a minister without portfolio designated as the Leader of the Government in the Senate. The position was first recognized in statute in 1947 for the purpose of providing an additional allowance to its holder.

The Senate only explicitly recognized the position of Government Leader over time and integrated the office into its procedure gradually, notably in 1968 – when the Rules were amended and Question Period established – and in 1991 – when a formal distinction was made between Government and Other Business.

Senator Housakos and Senator Batters stated that the absence of a Leader of the Government would impede the Senate's ability to regulate its own proceedings and deliberations, and the freedom of speech of senators. They also argued that it would impede senators' right to hold the government accountable and to represent their constituents.

The right of this house to regulate its proceedings free from outside interference and senators' freedom of speech are both authoritatively established parliamentary privileges. The absence of a Leader of the Government does not, in any way, jeopardize these privileges. The Senate still has the unfettered right to establish its procedure and conduct its proceedings as it sees fit, and senators can participate in debate without inhibition and with the full protection of privilege. Furthermore, while this house might not benefit from the government's perspective as presented by the Leader of the Government in the Senate, this is a political matter rather than one of privilege.

As for the right of the Senate and its members to hold the government to account and for senators to represent their constituents, these do not relate to known parliamentary privileges but are rather aspects of the parliamentary work that freedom of speech already allows each senator to accomplish.

I note that while there might not be a Leader of the Government in this chamber, senators have other avenues to engage the government and question its legislation and policies. I would remind senators of the existence of rule 2-12, which allows for ministers to participate in proceedings in the chamber in certain circumstances, although this provision has been rarely used in recent years. We also have the very well established practice of ministers appearing before our committees as witnesses. I also take note of the motion proposed by Senator Carignan, and adopted by the Senate on December 10, 2015, regarding ministers participating in Question Period, which has indeed occurred recently. The mechanism of written questions to the government is also available to honourable senators.

Thus, the question raised by Senator Housakos does not concern a serious breach of privilege either of this House or of its members. The second and third criteria have not been met.

The final criterion is that a question of privilege "be raised to seek a genuine remedy that the Senate has the power to provide and for which no other parliamentary process is reasonably available." While Senator Housakos has indicated that he would be prepared to move a motion seeking genuine remedies should the matter be found to be a prima facie case of privilege, I have already indicated that the appointment of a Leader is the prerogative of the Crown over which the Senate has no power. Therefore, this criterion has also not been met.

Since a question of privilege must meet all the criteria of rule 13-2(1) to be given priority, my ruling must be that there is no prima facie case of privilege.

Speaker's Ruling – Question of Privilege: Selection Committee Report

Journals of the Senate, February 24, 2016, pp. 201-203:

I am prepared to rule on the question of privilege raised by Senator Wallace on January 26. His concern focused on the second report of the Committee of Selection, presented to the Senate on December 9, 2015, and adopted the following day. The report recommended the members of the various standing committees. Senator Wallace's question of privilege was motivated by the fact that the report only recommended two independent senators to serve on these committees. This, he argued, denied him, and other independent senators, the right to participate in an essential parliamentary function. In his view, the independent senators are, consequently, prevented from fully contributing to the Senate's role as a legislative chamber of sober second thought.

Senator Wallace characterized this limitation on independent senators as unreasonable, unfair, inequitable and discriminatory; this is an affront to Parliament. He rejected the current system for establishing and managing committee memberships, in which the two whips play a key role. Several senators who intervened later shared at least some of Senator Wallace's concerns.

Other senators, however, were not convinced that Senator Wallace's grievance amounted to a question of privilege. Senator Fraser, for example, provided references to various parliamentary authorities in arguing that the current practices are actually well established and quite normal. She also suggested that the most important role for senators is in the Senate Chamber itself, not in committees. In addition, Senator Fraser explained how the Senate has the right to organize its work as it sees fit, and has established the present system for dealing with committee memberships. Senator Joyal later underscored this point, while also emphasizing the importance of debate in shaping the outcome of parliamentary business. Debate allows all senators to contribute to the final decision reached by the Senate, and, he argued, it would be preferable to deal with Senator Wallace's complaint through a motion rather than rely on a question of privilege.

Senators Baker, McCoy, Smith (*Cobourg*), Cools, Dyck and Ringuette also participated in debate, and I thank all of them. Allowing all senators an opportunity to contribute to committees is an issue on which senators obviously have strong views. Even those interveners who did not think there was a question of privilege sympathized with Senator Wallace.

As Speaker, my role at this stage is to evaluate the issue in terms of the four criteria of rule 13-2(1), all of which must be met for a prima facie case of privilege to be established. That rule indicates that "a question of privilege must:

(a) be raised at the earliest opportunity;

(b) be a matter that directly concerns the privileges of the Senate, any of its committees or any Senator;

(c) be raised to correct a grave and serious breach; and

(d) be raised to seek a genuine remedy that the Senate has the power to provide and for which no other parliamentary process is reasonably available."

In terms of the first criterion, the contested report was presented to the Senate on Wednesday, December 9, 2015. The Selection Committee's recommendations about committee members were known to all senators from that time. A senator could have initiated the process for a question of privilege on the following day, which would have been the earliest opportunity. Therefore, the first criterion is not met.

The second and third criteria can generally be evaluated together, since they are so closely interconnected. Senators are familiar with the definition, from Appendix I of our Rules. Privilege is "[t]he rights, powers and immunities enjoyed by each house collectively, and by members of each house individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals." The privileges of individual members do not exist in a vacuum. They exist so that we can perform our role as members of the Senate. Our privileges as individuals cannot trump those of the Senate itself. As stated in Erskine May, at page 203 of the 24th edition, "Fundamentally … it is only as a means to the effective discharge of the collective functions of the House that the individual privileges are enjoyed by Members."

Senate Procedure in Practice makes the same point at page 224, when it notes that "Privilege belongs properly to the assembly or house as a collective."

With this question of privilege, Senator Wallace is arguing that the Committee of Selection's report was a breach of privilege, even though the Senate actually adopted the report. So the senator is claiming that the Senate breached its own privileges or the privileges of individual members. To repeat, these privileges exist to serve the institution itself. The Senate's decisions cannot breach the Senate's privileges. Neither the second nor the third criterion has therefore been met.

In relation to the final criterion, Senator Wallace has indicated a willingness to move a motion to seek an effective remedy. We should, however, also consider the requirement that it must be established that "no other parliamentary process is reasonably available" to deal with the matter. In this case, there were and are alternate processes to deal with the issues senators have noted about the way in which senators are named to committees and how memberships are managed. Under rule 12-14, any senator can attend and participate in the work of the Selection Committee and any other committee, except the Ethics and Conflict of Interest Committee. In this particular case, when the Selection Committee's report was before the Senate, Senator McCoy proposed that it be returned to the committee. Other senators could also have moved amendments, and the Senate could have rejected the report if dissatisfied with its contents. Even now, after the adoption of the report, other remedies are still available. A senator could, for example, move a substantive motion, after notice, to amend relevant provisions in the Rules or to adjust the memberships of some or all committees. Accordingly, the fourth criterion has not been met.

Although Senator Wallace has raised a concern shared by many colleagues, an analysis of the question in terms of parliamentary procedure leads to the conclusion that there is no prima facie case of privilege. This being said, my decision in no way precludes either Senator Wallace or other honourable senators from seeking to address this important matter through other mechanisms. As has already been noted, many colleagues share a wish to find ways to allow independent senators to contribute fully to every aspect of our work. It is within the power of the Senate to adapt its Rules and practices as it sees fit to take into account the increasing number of independent senators in our Chamber.

Speaker's Ruling – Point of Order: Government Deputy Leader and Government Whip in the Senate

Journals of the Senate, May 19, 2016, pp. 514-517:

I am ready to rule of on the point of order raised by Senator Carignan, the Leader of the Opposition, on May 3. The senator questioned the role and function of Senator Bellemare as the Legislative Deputy to the Government Representative as well as that of Senator Mitchell as the Government Liaison. Neither of these positions is recognized in the *Rules of the Senate*. Further, he asked whether these two senators would be entitled to the additional remuneration provided for the Government Deputy Leader and the Government Whip under the *Parliament of Canada Act*.

The point of order gave rise to comments from several others senators, including Senator Harder, who stated that Senator Bellemare and Senator Mitchell were the Government Deputy Leader and the Government Whip respectively. He explained that they are to be styled the Legislative Deputy and the Government Liaison in accordance with the Government's preference, in order to emphasize a non-partisan, independent approach to their functions, similar to his own as the Government Representative. After hearing the arguments I reserved my decision, although I did agree to hear additional points the following day from Senator Carignan, Senator Bellemare and Senator Fraser. Subsequently, in addition to considering the issues raised by honourable senators, I conducted my own research to better understand the issues relevant to this point of order.

Let me begin by quoting the letter I received from Senator Harder, to which he made reference during his interventions on the point of order:

> The Honourable Senator Diane Bellemare will serve as the Deputy Leader of the Government in the Senate. In keeping with the non-aligned, independent model announced by the government, the position of Deputy Leader of the Government will be styled "Legislative Deputy to the Government Representative".

> Similarly, the Honourable Senator Grant Mitchell will serve as Government Whip to be styled "Government Liaison". This reflects his role in supporting the Government's Representative in facilitating the passing of government legislation and contributing to the effective functioning of the Senate in a non-partisan and open way.

Copies of this letter were sent to the Leader of the Opposition, the Leader of the Senate Independent Liberals, Senator Bellemare, Senator Mitchell and the Clerk.

This letter, like Senator Harder's intervention on May 3, confirms that Senator Bellemare is the Deputy Leader of the Government, while Senator Mitchell is the Government Whip. Their remuneration is one that flows from this fact under the *Parliament of Canada Act* and requires no further comment.

The ways in which the incumbents of the government leadership positions are appointed have varied over time. Based on past practices, it is perfectly appropriate for the Government Representative to designate the occupants of these positions, with whom he will work extremely closely. I also note that past practices provide freedom to each leadership group to work out how it will divide the various roles for which it is responsible. The language at the start of Appendix I of the Rules makes clear that the definitions it contains are not rigidly constraining, but adaptable as circumstances and context require.

The real question at issue in this point of order is, therefore, how these senators can be styled.

In considering this issue it is helpful to take account of a range of past experiences that demonstrate that formal titles need not be rigidly binding. Some reasonable level of flexibility as to how positions are designated in practice can be accepted.

A first illustration of this is to be found in the title of the Usher of the Black Rod. For centuries, the title had been "Gentleman Usher of the Black Rod." When the first woman was appointed to the position in the Senate in 1997, the executive changed the title to "Usher of the Senate." Subsequently, the Senate decided, through the adoption of a report of the Rules Committee, that the position should be referred to as "Usher of the Black Rod," which has been the title employed since then. The process of modernizing the title was started by government action, despite hundreds of years of precedent, and was characterized by a high degree of sensitivity to changing societal realities and a level of adaptability that gave a good result.

Flexibility also characterizes the designations used by many senators from outside Quebec. For that province, senators must be appointed for specific defined geographical areas. Elsewhere, senators are appointed for the entire province or territory. Despite this fact, we have a long standing-practice of allowing senators to adopt a designation indicating that they are focused on a specific area – perhaps their residence or an area of personal significance and meaning. Some of these designations can get quite specific indeed, as when our retired colleague Senator Stollery used the designation of "Bloor and Yonge." To take some examples among current senators, Senator Munson's commission states that when appointed he was "Of Ottawa, in the Province of Ontario," but he has chosen the specific designation of "Ottawa/Rideau Canal" within the province. Although Senator Plett's commission does read "of Landmark, in the Province of Manitoba," and his designation is also "Landmark," that is because he has made that choice. If he had not done so, he would not have a specific designation. Let me also note that senators may change these designations as they wish, a fact best illustrated by looking at Senator Cools' case over her many years of contribution to this institution. Her commission states that she was a resident "Of the City of Toronto, in the Province of Ontario" at the time of her appointment. Her current designation is "Toronto Centre-York." Once again, this demonstrates adaptability, within reasonable limits.

Another example of this capacity to adjust is found in our practices surrounding political affiliations. Senators have, within limits, been allowed to determine their own affiliation. This practice has been accepted, as it does not have a direct impact on proceedings. For example, our colleague Senator McCoy initially adopted the designation "Progressive Conservative," when appointed, although that was no longer a recognized party in the Senate, before becoming "Independent Progressive Conservative," and now using the designation "Independent." Although details of practices relating to political affiliation have evolved over time, the basic principle remains that the Senate has shown a level of flexibility to accommodate senators' reasonable wishes. This can be particularly important at times that the political landscape is evolving at a pace that exceeds the institution's capacity to make formal changes. A level of accommodation is required to take account of this fact.

Let me also note the history of the position of Speaker *pro tempore*. The *Constitution Act, 1867*, does not provide for a deputy speaker of the Senate, unlike the situation in the House of Commons. To accommodate occasional absences of the Speaker, Parliament in 1894 passed legislation enabling the Senate to select a senator to preside when the Speaker was absent. To remove doubts about the validity of this law, the British Parliament then passed a statute in 1895. Almost one hundred years later, in 1982, when the possibility of establishing a Deputy Speaker was under consideration, the Legal and Constitutional Affairs Committee determined that the proper creation of the office would require legislation, which it did not think should be pursued at that time. While the committee acknowledged that it was beyond the authority of the Senate itself to formally establish the office of deputy speaker, it determined that the Senate could create a sessional position of a senator to replace the Speaker. This was the basis of the position of Speaker *pro tempore*, who takes the chair when the Speaker is absent. This idea was accepted by the Senate, and it was only later incorporated into law. Once again, a flexible approach was adopted to deal with an issue in a creative way that has served us very well.

These examples from the Senate show how a reasonable and adaptable approach can be acceptable, and can serve the institution well. If we look outside our house, I would remind honourable senators that, for a number of years after 1993, the Reform Party in the House of Commons used the term "caucus coordinator" rather than whip. As one of these coordinators, Mr. Chuck Strahl, explained in September 19, 2001, "[t]his was an attempt to try to describe the role given to that position, which is to co-ordinate the activities of the group." He went on to state that "[t]he standing orders are completely silent on the term caucus co-ordinator. It does not exist in the *Parliament of Canada Act* as far as the extra salary to a caucus co-ordinator. It does not exist that the caucus co-ordinator meets with other caucus co-ordinators. It talks about whips because it is the tradition of the House to call them whips." The House of Commons functioned during this period with a term being used that was not in its Standing Orders.

Stepping outside the parliamentary realm, honourable senators will know that, despite the fact that particular statutes make provision for specific ministerial offices, there has always been some level of flexibility as to how the individual occupying a particular post will be designated in practice. I refer, for example, to the appointment of the Honourable Anne McLellan as Solicitor General in 2003 styled as Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness. Her designation as Minister of Public Safety and Emergency Preparedness instead of Solicitor General came in advance of Parliament deciding to abolish the office of the Solicitor General and to the establishment of the position of Minister of Public Safety and Emergency Preparedness. More recently, the current Minister of Indian Affairs and Northern Development is styled Minister of Indigenous and Northern Affairs. Once again reasonable adaptations to formal provisions are allowed in practice.

Taken together, these examples indicate that formal requirements need not always be rigidly binding. There can, within reason, be a level of adaptability that takes account of specific circumstances. Indeed the Senate has shown such flexibility in the past, and continues to do so. We have benefited from this.

In the days since this point of order was raised, Senator Harder has been addressed as both the Government Leader and the Government Representative. Under either title, no one was in any doubt who senators were speaking to. They were speaking to Senator Harder. I expect that the same will apply to Senator Bellemare in her capacity as Legislative Deputy to the Government Representative, formally the Deputy Leader of the Government in the Senate, and Senator Mitchell as Government Liaison or Government Whip. Proceedings have not been indecorous or disorderly. The examples outlined above show that flexibility on such points can be reasonably understood as being in keeping with our parliamentary tradition and practice. As such, I am satisfied that the use of titles other than those formally established under the Rules, is, within reasonable limits, acceptable.

This leads to the conclusion that there is no point of order. That being said, I do recognize that there is a risk of such a reasonable approach being carried to an extreme. As such, it might be desirable for the Standing Committee on Rules, Procedures and the Rights of Parliament to review the entire issue and recommend more detailed guidelines and practices to the Senate.

Speaker's Ruling – Point of Order: Receivability of an Amendment

Journals of the Senate, June 9, 2016, p. 581:

Senator Runciman raises a point of order that pertains to a point of law. My role as Speaker pertains to adjudicating on points of order relating to procedure. In my view, Senator Carignan's amendment is in order, and we will continue with the debate.

Speaker's Ruling – Point of Order: Receivability of an Amendment

Journals of the Senate, June 9, 2016, p. 584:

Rule 10-5 allows for any senator at any time to move reconsideration of any clause previously moved before the actual adoption of the bill. So according to rule 10-5, the amendment is in order.

Speaker's Ruling – Point of Order: Quoting of In Camera Transcripts

Journals of the Senate, June 16, 2016, p. 643:

Senator Lang raises a good point. I think it is inappropriate to quote directly from an in camera session. You can continue with your point of privilege with that caveat, but I should tell you as well at this stage I've heard a fair amount. I clearly understand your question of privilege.

Speaker's Ruling – Point of Order: Receivability of an Amendment

Journals of the Senate, June 17, 2016, pp. 672-673:

I am ready to rule on Senator Harder's point of order respecting Senator Joyal's motion in amendment. In brief, Senator Harder suggested that the amendment is beyond the scope of his motion and the amendments addressed by the message. I will preface my remarks by two points that shape my decision.

First, as indicated on page 220 of *Senate Procedure in Practice*, "In situations where the question raised is ambiguous, several Speakers 'have expressed a preference for presuming a matter to be in order, unless and until the contrary position is established.'" Senator Maltais emphasized this important point. We should, colleagues, jealously guard our right to debate in this chamber.

Second, we must recognize that we are engaged in a dialogue between the two houses to reach an acceptable compromise on Bill C-14. We have agreed on most points, and the disagreement between the two houses has narrowed to limited aspects of the bill. As Senator Cools pointed out, it would be inappropriate to bring entirely new issues into play at this point. It is this legitimate concern that is at the heart of Senator Harder's point of order.

However, as I understand it, the amendment that Senator Joyal has moved accepts most of what the House of Commons has proposed to us in relation to amendments 2(b), 2(c)(ii) and 2(c)(iii). The effect of his amendment, if accepted by the two houses, will be to delay the coming into force of a provision of the bill that is already included in the message. As such, the amendment can reasonably be seen as being relevant to the message. In situations such as this, however, where there is uncertainty, it is our longstanding practice to allow debate to continue.

Accordingly, debate on Senator Joyal's amendment can proceed.

Speaker's Ruling – Question of Privilege: "Political" Affiliation in the Senate of Canada

Journals of the Senate, June 22, 2016, pp. 745-748:

I am prepared to deal with the question of privilege raised by Senator Ringuette on June 16, respecting her "political" affiliation as it appears on the Senate's website. Her complaint is that she is now shown as "non affiliated," rather than "independent," as was previously the case. This change, authorized by the Internal Economy Committee in May, was made without consultation with the affected senators.

Senator Ringuette only became aware of the change fortuitously. She had specifically chosen an "independent" designation earlier this year, and objected to the decision of Internal Economy made without her input, a concern that Senator Wallace shared. Senator Ringuette also noted how this designation is not consistent with other documents and publications produced by the Senate. Subsequently, several other senators expressed support for Senator Ringuette's complaint, although not all were convinced that the issue constituted a breach of privilege.

The chair of the Standing Committee on Internal Economy, Budgets, and Administration, Senator Housakos, provided useful background. He indicated that the changes made by the committee were "in no way, shape or form … designed to offend or to denigrate anybody." He apologized if some senators had been hurt by the committee's action. He explained that the committee had acted in good faith and had sought to balance the needs of all senators. This included the many senators who are members of recognized parties. As Senator Housakos explained, they feel no less independent than their colleagues who are not members of a party caucus. The committee had concluded that "non affiliated" more accurately captured the current situation than "independent."

Senator Ringuette raised this question of privilege under the provisions of rule 13-4(a), which allow a senator to by-pass the normal requirements for written and oral notices.

Because the senator raised this complaint as a question of privilege, I am obliged, as Speaker, to assess its merits on the basis of criteria provided in the *Rules of the Senate* to determine if on its face, prima facie, it may involve a violation of privilege, the fundamental rights and immunities of Parliament and its members needed to carry out the work we do here.

There are four criteria as stated in rule 13-2(1). The first is that the matter must "be raised at the earliest opportunity." Normally, any type of delay would mean that the senator raising the question of privilege would not have access to the "priority process." As already noted, however, Senator Ringuette explained that she acted as expeditiously as possible once she became aware of the concern. I am satisfied that this criterion has been met.

The second and third criteria are that the matter must "directly concern the privileges of the Senate, any of its committees or any Senator" and must "be raised to correct a grave and serious breach." It is certainly true that the concern raised by Senator Ringuette affects a number of senators. All the independent senators have had their affiliation changed. No less than 23 senators are involved, more than a quarter of the current Senate. This is troubling, and does not reflect the idea, set out in the ruling of May 19, that senators should, within reasonable limits, be allowed latitude in how they designate themselves. Does this, however, rise to the level of a breach of privilege? The affected senators can sit in the Senate, they can take part in debate, they can vote, and they can — subject to the Rules — serve on committees and participate in their work. None of these essential rights has been impaired, and so it is unclear how the senators' privileges, as defined in our Rules, have been placed at risk.

The final criterion to assess the merits of a question of privilege is that it must seek a genuine remedy for which no other parliamentary process is reasonably available. In my view, it would not be difficult for Senator Ringuette to move a motion to provide direction as to how the subject of senators' designation should be dealt with or to direct that the Internal Economy Committee or the Rules Committee study and report on the issue. Any subsequent decision of the Senate would provide clear guidance as to how this subject should be managed in the future. Because reasonable alternatives are available, it is clear that this fourth criterion has not been satisfied.

As I have already noted, Senator Ringuette has raised an issue of direct interest to a large number of senators. Her complaint suggests that there was inadequate consultation and agreement before the decision was taken to change the designation of the independent senators on the Senate website and in certain Senate administrative documents. This decision also appears to be in conflict with the long established practice of allowing individual senators considerable latitude in how they designate themselves or their affiliations. Nonetheless, the claim that this is a question of privilege does not satisfy all the criteria of rule 13-2(1). I must rule therefore that a prima facie question of privilege has not been established.

This ruling does not really resolve the difficulty raised by Senator Ringuette nor does it fully discharge my responsibilities as Speaker. More needs to be said.

As we know, the Senate is going through some significant changes. It has survived a difficult period of intense scrutiny that to many of us seemed excessive and even unfair. Nonetheless, the Senate worked past this and learned some important lessons along the way. It is doing a lot more to demonstrate its accountability to the public. Much of this is due to the great work of Internal Economy and its current chair and deputy chair, Senators Housakos and Cordy. The Senate is also improving its communications and this is allowing the Senate to publicize the important work it does more effectively.

At the same time, the membership of the Senate is changing. It now includes more senators than ever who prefer not to be part of a political group. There is every indication that this reality will only become more evident in the coming months as current and future vacancies are filled. Eventually, I suspect this will lead to adjustments in the traditional way the Senate conducts its business that is now based on a model that operates through a government and an opposition supported by party caucuses.

This significant shift from party allegiance seems to be creating tensions as the new paradigm becomes more established. The dispute about "independent" and "non affiliated" seems to be part of that tension. In the past, there was no trouble in identifying some senators as independents. It was easily accepted because there were relatively few of them. Now, however, there is the real prospect that they may soon be the majority. This seems to have aroused a kind of resentment hinted at in one rebuttal comment to Senator Ringuette's claim to a question of privilege. In a remark that is probably shared by more than a few senators, it was suggested that party allegiance need not impede the independence of a senator. This, in turn, seems to have been the justification to use the term "non affiliated" rather than "independent." While I can appreciate this point of view, I also understand the objection as to the way it was used to implement certain decisions by Internal Economy without sufficient consultation among the affected independent senators.

The decision of Internal to use the term "non affiliated" was made at a public meeting on May 5 with respect to the proactive disclosure of senators' expenses which will be posted to the Senate website in the coming months. As I understand it, directions were subsequently given to officers in administration to apply the term throughout the website in order to insure consistency. This direction had an impact on numerous documents currently on the website. This is how Senator Ringuette and other senators discovered that they are now designated "non affiliated" rather than "independent." I have since learned that many of these senators share Senator Ringuette's objection to this. Hence the tension.

In reviewing the mandate of Internal Economy which is to be responsible for the financial and administrative matters concerning the internal administration of the Senate, it is not clear to me that it has the authority to determine and set the designation of senators as "non affiliated." Certainly, as has been noted, it is inconsistent with long established practice which has allowed senators themselves to choose their designation. Moreover, it is unlikely that Internal acting alone would be able to achieve total consistency since it does not have control over Senate parliamentary publications such as the Debates and the Journals; it can only order the structure or layout of the Senate's administrative documents or reports that fall under its jurisdiction. With respect to the parliamentary publications and information supplied by the Library of Parliament, senators can continue to identify themselves according to their declared preference. For example, in the printed edition of the Debates for June 1, 2016, some appendices list the senators as Conservatives, Liberals or Independents; none are identified as "non affiliated." Presumably the same will be true on the websites of individual senators.

So the question arises, honourable senators: where do we go from here? Internal has taken a decision that has prompted objections from many senators who do not want to be described or designated as "non affiliated." This is not a good situation and it is contrary to our usual and long-standing practice. Nor is it helpful to the maintenance of good relations among senators. This is what challenges us now and it is up to the Senate itself to resolve. However, I am concerned about the potential impact of any on-going tension among senators and how it could damage the conduct of business in the Chamber and in committees. What I would recommend for the consideration of the Senate is that this issue of the designation "independent" versus "non affiliated" be referred to the Rules Committee as quickly as possible. The Rules Committee should be able to conduct a thorough examination of the subject, canvassing the views of senators, noting past practice, and soliciting information from other jurisdictions. In the meantime, until a decision is made by the Rules Committee, Internal may wish to consider suspending its decision to use the term "non affiliated" for documents and records that are under its purview with respect to senators who clearly state a preference for the use of independent.

Speaker's Ruling – Point of Order: Unparliamentary Language

Journals of the Senate, November 15, 2016, p. 946:

Honourable senators will know, of course, that rule 6-13(1) states:

> All personal, sharp or taxing speeches are unparliamentary and are out of order.

I would therefore ask senators to avoid unnecessarily impugning motives to senators who enter debate. That has no place in debate; we are debating the substance of motions and bills, not what goes behind any particular senator's personal reason for doing it.

I therefore ask and urge all honourable senators to use tempered language and decorum in all debates.

Speaker's Ruling – Point of Order: Receivability of an Amendment

Journals of the Senate, November 29, 2016, pp. 1020-1023:

Honourable senators,

I am ready to rule on the point of order relating to the eighth report of the Standing Senate Committee on National Finance. Colleagues will recall that, when the adoption of the report was moved last Thursday, Senator Harder rose on a point of order. He challenged the receivability of the amendment in the report on the basis that it would increase taxes on some individuals over what is included in Bill C-2. He argued that it does not respect the basic constitutional principle that tax measures, as well as appropriations, must originate in the Commons. This increased tax burden would not, Senator Harder asserted, respect the recognized principle that the Senate can only amend tax bills so as to reduce taxes, not increase them. Senator Bellemare later supported Senator Harder's position, emphasizing that any analysis of the effects of the amendment needs to be done in relation to Bill C-2, not to the existing *Income Tax Act*.

In reply, Senator Smith, the chair of the committee, argued that consideration of the report should be allowed to proceed. He indicated that, with the amendment, no one's tax rate would rise when compared to existing rates. He did, however, clarify that with the amendment some individuals would pay more than they would if Bill C-2 were to pass without it. As examples, Senator Smith stated that, with the amendment, individuals making $93,000 per year would see their rate rise from 18 per cent to 18.2 per cent; while those making $95,000 per year would see their rate go from approximately 18.1 per cent to 18.8 per cent.

Senator Smith did not, however, limit his intervention to the merits of the amendment. He also questioned whether the Speaker should rule on this point of order, since, in his view, it is a constitutional or legal question, not a procedural one. Senator Cools raised a similar concern, claiming that the Speaker should not call into question the report of a committee. Senator Fraser noted that the Speaker's role is to rule on points of order using procedural analysis, unrelated to the content or merits of a particular issue.

Honourable senators, let me start by clarifying the role of the Speaker. As stated in rule 2-1(1)(b) the Speaker "rule[s] on points of order, the prima facie merits of questions of privilege and requests for emergency debates". A point of order is defined in Appendix I of the Rules as "[a] complaint or question raised by a Senator who believes that the rules, practices or procedures of the Senate have been incorrectly applied or overlooked during proceedings". A senator has raised a point of order, so it is my duty, as Speaker, to make a ruling. In doing so, I must take into account our Rules, practices, and procedures. No consideration is given to whether the matter at issue is desirable or not, only whether it respects our Rules and follows proper procedures and practices. I should also like to clarify that no one has in any way questioned the propriety of the bill as received from the other place, only of the amendment contained in the committee's report.

As senators know, the *Constitution Act, 1867* provides that any bills to appropriate public monies or to impose taxes must originate in the Commons. This is a basic principle of Canadian parliamentary democracy. In addition, measures to increase taxes are the sole initiative of the Crown in the other place, as they must be preceded by the adoption of a ways and means motion.

The authority of the Senate with respect to the application of this principle has led to occasional disagreements between the two houses. As an example, mention was made, during discussion on the point of order, of two earlier bills that had been initiated in the Senate but were found to be out of order in the Commons because they were considered to involve a tax. Those bills had, however, been determined by the Senate to deal with levies, not taxes. This is why the Senate had concluded that it was in order to adopt them. However, the other place reached a different conclusion, as is its right. But, let us be clear, the Senate did not initiate what it considered to be tax legislation.

To return to the disagreement on appropriation bills and tax measures, the Commons claims that aids and supplies are its exclusive right to grant and cannot be changed in any way by the Senate. The Senate has never accepted this interpretation.

In 1918, a special committee of the Senate was formed to consider "the question of determining what are the rights of the Senate in matters of financial legislation, and whether under the provisions of *The British North America Act, 1867*, it is permissible, and to what extent, or forbidden, for the Senate to amend a Bill embodying financial clauses (Money Bill)". The committee's report, commonly referred to as the "Ross report", was presented on May 15, 1918. It was subsequently adopted, together with an attached memorandum, by the Senate on May 22.

The conclusions and principles set out in the report dealing with money bills received from the House of Commons express and govern our practices, to the extent these matters are not specifically addressed in our Rules. Therefore, with respect to Bill C-2, I can assure senators that we are indeed dealing with a procedural matter, and not a legal or constitutional one. As an aside, I should note that this report did not actually examine the authority of the Senate in respect of bills originating in this place that seek to reduce a tax. This remains an unresolved issue.

The first conclusion in the Ross report, and one that still applies, is that the Senate does have the power to amend appropriation or taxation bills, but only by reducing amounts proposed therein. The report reads:

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

The report also states that "The Senate … cannot directly or indirectly originate one cent of expenditure of public funds or impose a cent of taxation on the people."

This fundamental conclusion has guided the Senate since, and on a number of occasions we have amended taxation bills.

This conclusion also makes clear that when amending such bills our power is limited. We can only propose changes that would reduce amounts contained in the bill. Whether an amendment is, overall, revenue neutral is not relevant — the question is whether it would increase taxes or not, and the Senate cannot increase the amounts.

When dealing with Senate amendments, reference must be made to the amounts in the bill before us, not to the existing law. This is clear from the use in the Ross report of the word "therein", which identifies the bill passed by the Commons. If the Senate deletes a clause or defeats a bill, we revert to the current law. This fact does not, however, mean that we can use the status quo to determine the amendments we can propose. Our reference point for textual amendments is the bill passed by the House of Commons, which is, in the case of tax increases, based on a ways and means motion introduced by the Crown and adopted by the House of Commons.

During consideration of the point of order, it became clear that the amendment proposed in the report would increase tax rates for some individuals. This increase would come about through a change initiated in the Senate, and is therefore contrary to established practice. It violates a basic principle governing parliamentary business in general, and the Senate's specific understanding of how it deals with tax bills.

The amendment in the report is not receivable, since it amends the bill by increasing taxes.

To be clear, this finding does not affect the conclusion of the Ross report that the Senate can amend money bills from the Commons by reducing the amounts they contain.

Let me hasten to note that this situation, in which amendments in a report are not receivable, is not without precedent. On December 8, 2009, a point of order was raised about amendments in a report being beyond the scope of the bill in question. The next day the Speaker ruled that this was indeed the case. The content of the report was therefore evacuated, resulting in the report being without amendment and the Speaker asking "When shall this bill be read a third time?".

This is a sound precedent that can be followed in the current case. Since the report only contains an amendment now determined to be out of order, the content of the eighth report of the National Finance Committee is evacuated. In consequence, the report proposes no amendments to Bill C-2 and, under rule 12-23(2), stands adopted. As in 2009, the next question that must be put to the Senate is therefore the procedural one of "When shall this bill be read a third time?". To be clear, this is for third reading of the bill without amendment.

Speaker's Ruling – Point of Order: Unparliamentary Language

Journals of the Senate, February 16, 2017, pp. 1282-1283:

I am ready to rule on the point of order raised by Senator Plett yesterday. On February 14, when Senator McPhedran gave her first speech in the Senate, she included the following statement:

> Last week, when Senator Plett was here, I heard him speak of his opposition to Bill C-16, and I have read some senators' concerns that Bill C-16 and new grammar on trans rights will infringe on their rights. I am not able to find any legal substance to these concerns but, as my fellow senator from Manitoba spoke, Senator Plett referred to "these people" or "those people," and, to my ears, I heard "othering." Othering can be understood as an indicator of bigotry. Colleagues, bigotry does not strengthen an inclusive democracy.

The substance of Senator Plett's point of order is that he has been identified as a bigot through association with "othering." He understood Senator McPhedran's statement as a direct accusation of bigotry, and he was not alone in his interpretation. Senator Pratte, for example, recognized the powerful nexus in the speech, when he stated:

> Even though there was subtlety in the words, I certainly perceived this as unparliamentary language. I know that if I had been the target of those words, I would have felt very unsettled and profoundly insulted. I understand Senator Plett's feelings today.

Senator McPhedran did attempt to clarify her remarks, arguing that they were not actually about Senator Plett. She stated that the language used by Senator Plett with respect to "those people" "can be" symptomatic of bigotry, but are not necessarily so. She also proposed to remove the specific references to Senator Plett if that would help address the objection.

Honourable senators, words are powerful; they do matter. This is especially true when they are used to criticize not just a different point of view, but those who hold that point of view. A statement must be looked at in its totality, taking account of its overall effect, and not just parsing fine gradations of meaning. Senator Pratte's statement to which I have made reference summarizes well the effect of the remark at issue.

Rule 6-13(1) states that "All personal, sharp or taxing speeches are unparliamentary and are out of order." The Senate is characterized by the respectful exchange of ideas and information, even when we deal with topics about which honourable senators have strong views. We should always show respect for each other, no matter our views on an issue, since the right to hold and express our divergent opinions is the basis of free speech.

I know that we do give some leeway to new senators — we were all new senators at one time — particularly in their first speech. However, the remarks alluding to Senator Plett were outside the bounds of acceptable parliamentary debate. They were hurtful and inappropriate. Such language does not help us in performing our duties. It creates discord and animosity and this does not serve the public good, the ultimate objective of all our work here as senators.

The language in Senator McPhedran's speech of February 14 can, in the context it was used, be characterized as unparliamentary. The point of order is well founded. I strongly urge Senator McPhedran, and of course all senators, to avoid offensive personal language. Colleagues, let us continue to engage in respectful debate and avoid, at all times, personal attacks.

Speaker's Statement: Parchment Error (Bill C-22)

Journals of the Senate, April 13, 2017, pp. 1632-1633

Honourable senators, I would like to read a statement that was made by the Speaker of the House of Commons yesterday:

> I wish to inform the House of an administrative error that occurred with regard to Bill C-22, An Act to establish the National Security and Intelligence Committee of Parliamentarians and to make consequential amendments to certain Acts.
>
> Members may recall that the House studied a number of motions at report stage. On March 20, 2017, the House adopted some of those motions and rejected others. One of the rejected motions was Motion No. 7, moved by the honourable member for Victoria, which was intended to delete clause 31 of the bill.
>
> The House concurred in the bill, as amended, at report stage with further amendments and eventually adopted the bill at third reading on April 4, 2017.
>
> As is the usual practice following passage at third reading, House officials prepared a parchment version of the bill and transmitted this parchment to the Senate. Due to an administrative error, the version of the bill that was transmitted to the other place was prepared as if Motion No. 7 had been adopted and clause 31 had been deleted, with the renumbering of another clause in the bill as a result. Unfortunately, the mistake was not detected before the bill was sent to the other place.

I wish to reassure the House that this error was strictly administrative in nature and occurred after third reading was given to Bill C-22. The proceedings that took place in this House and the decisions made by the House with respect to Bill C-22 remain entirely valid. The records of the House relating to this bill are complete and accurate.

However, the documents relating to Bill C-22 that were sent to the other place were not an accurate reflection of the House's decisions.

Speaker Milliken addressed a similar situation in a ruling given on November 22, 2001, found on page 7455 of Debates. My predecessor also dealt with a similar situation in a statement made on September 15, 2014, found on page 7239 of Debates. Guided by these precedents, similar steps have been undertaken in this case.

First, once this discrepancy was detected, House officials immediately communicated with their counterparts in the Senate to set about resolving it. Next, I have instructed the Acting Clerk and his officials to take the necessary steps to rectify this error and to ensure that the other place has a corrected copy of Bill C-22 that reflects the proceedings that occurred in this House. Thus, a revised version of the bill will be transmitted to the other place through the usual administrative procedures of Parliament. Finally, I have asked that the "as passed at third reading" version of the bill be reprinted.

The Senate will, of course, make its own determination about how it proceeds with Bill C-22 in light of this situation. I wish to reassure members that steps have been taken to ensure that similar errors, rare though they may be, do not reoccur.

I thank honourable members for their attention.

Honourable senators, as the Speaker of the other place noted in his statement, we have had to deal with such errors before.

Honourable senators will recall that the defective version of the bill was given first reading and is currently on the Orders of the Day for consideration. I believe that Senator Harder is prepared to ask for leave for a motion to declare the proceedings on the bill thus far null and void. If this proposal were accepted by this Chamber, we could then read the new message and give the corrected bill first reading. Subsequent proceedings would then depend upon the will of the Senate.

Speaker's Ruling – Point of Order: Receivability of an Amendment

Journals of the Senate, April 13, 2017, pp. 1627-1628:

I am ready to deal with the point of order raised yesterday by Senator Lankin in relation to the amendment of Senator Frum to Bill C-6, as amended. The point of order questioned whether the amendment violates the rules and practices governing the receivability of amendments and, as such, should not be considered by the Senate.

Senator Lankin was concerned that the amendment fundamentally undermines the basic principle of the bill, which she characterized as being to facilitate access to citizenship. Senator Lankin cited a range of procedural authorities and precedents in making her argument. I thank her for this very useful review.

Several other senators also participated in debate on the point of order. Among them was Senator Carignan, who expressed concern about adopting an excessively rigid approach when dealing with amendments.

It is a basic tenet of parliamentary practice that an amendment must respect the principle and scope of a bill, and must be relevant to it. A ruling of December 9, 2009, cited by Senator Lankin, noted that:

> 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.

Amendments must, therefore, be in some way related to the bill and cannot introduce elements or factors alien to the proposed legislation or destructive of its original goals. In addition, amendments must respect the objectives of the bill. In considering these issues, it may be necessary to identify the fundamental policy and goals behind a bill. Factors such as the long title of the bill, its content and the debate at second reading may be taken into account. Debate at second reading is particularly relevant since, according to rule 10-4, "The principle of a bill is usually debated on second reading." However, as acknowledged in previous rulings, it is often difficult to identify the principle.

There is another element, not directly raised during the point of order, which must also be taken into account. As noted in a ruling of April 16, 2013, several Speakers "have expressed a preference of presuming a matter to be in order, unless and until the contrary position is established." This approach is in keeping with the role of the Senate as a debating chamber, where legislation and policy issues are subject to vigorous discussion, and to the consideration of possible alternatives. As a result, unless an item of business, such as an amendment, is clearly out of order, debate should be allowed to proceed.

Debate on second reading of Bill C-6 included the following statement by the sponsor: "This bill finds a more appropriate balance between fulfilling reasonable requirements, on the one hand, and facilitating citizenship, on the other, because evidence shows that citizenship is a facilitator of integration." This was in a speech identifying three basic principles of citizenship that are woven through the bill. The other principles were the equality of Canadians and program integrity.

The amendment at issue does not affect many of the changes proposed in Bill C-6. As an example, it would not affect the proposed reduction of the total length of time a person must be resident in Canada to 1,095 days during the five years immediately before the application for citizenship. The current requirement under the *Citizenship Act* is 1,460 days during the period of six years preceding the application. What the amendment does propose is to maintain the current requirement, which Bill C-6 would remove, that a person must be "physically present in Canada for at least 183 days during each of four calendar years that are fully or partially within the six years immediately before the date of his or her application".

It is possible to understand this amendment as an effort to re-balance the competing aims of facilitating citizenship while maintaining reasonable requirements for becoming a Canadian citizen. Such a re-balancing of these two objectives is not clearly destructive of the basic intention underlying the bill. The reduced residency requirements in Bill C-6 would, as an example, be maintained with this amendment.

Honourable senators, it is not clearly evident that the amendment is fundamentally destructive of the original goals of Bill C-6. Taking into account the importance of allowing senators wide latitude in debate, the ruling is that the amendment is in order, and debate can continue.

Speaker's Statement: Question Period

Journals of the Senate, May 11, 2017, p. 2073:

Honourable senators, before beginning Question Period, I would like to take this opportunity to remind senators of certain provisions relating to Question Period. Under rule 4-8(1), questions can be asked of the Government Representative on matters relating to public affairs. Pursuant to the order of December 10, 2015, questions can be asked of a minister who is not a senator provided they relate to his or her ministerial duties. Questions can be asked of a committee chair during Question Period, but under rule 4-8(1)(c) they must relate to activities of the committee. They should not be on contents of a committee report tabled in the Senate. Senators are fully aware these matters are for debate when the subject matter is called during Orders of the Day.

Speaker's Ruling – Point of Order: Unparliamentary Language

Journals of the Senate, June 15, 2017, pp. 2233:

I thank Senator Jaffer for raising this point of order about language in debate, and I very much appreciate Senator Enverga's apology. I do remind senators of rule 6-13(1), and that not just sharp and taxing comments are unparliamentary and out of order, but also personal comments. When you are preparing your speeches, honourable senators, I ask you to please refer to this rule and to be constantly mindful of the decorum of the Senate and respect for all the individuals who make up this place.

Speaker's Ruling – Point of Order: Motion of Instruction Proposing the Division of a Bill

Journals of the Senate, June 15, 2017, pp. 2237-2239:

Honourable senators, I am ready to deal with the point of order raised yesterday by Senator Harder with respect to the motion, moved by Senator Pratte, proposing that the Standing Senate Committee on National Finance divide Bill C-44. Senator Harder's basic concern was that the adoption of the motion could result in there being two new bills, originating in the Senate, each requiring a Royal Recommendation, instead of just the one that came from the House of Commons.

Bill C-44 is a Budget Implementation Act. If the Senate were to agree to Senator Pratte's motion, it would start a process whereby the Senate proposes to the House of Commons that there be two bills, where we now have only one. One of the new bills would deal with the proposed Canada Infrastructure Bank, while the other would deal with all other parts of Bill C-44. This type of motion, which empowers a committee to do something it cannot normally do, is called a motion of instruction and requires one day's notice.

The process for dividing bills is rarely used. The general steps in such cases were recently summarized in the fifth report of the Rules Committee, presented to the Senate on April 6, 2017, and adopted on May 30. As the report notes, the process for dividing bills from the other place must include the Commons' agreement for the division to actually take effect. The adoption by the Senate of the Rules Committee's report makes it clear that, in at least some circumstances, we can initiate here in the Senate the division of a C-bill.

After searching the *Journals of the Senate*, only two precedents can be found in which the division of a bill has actually advanced beyond the adoption of a motion of instruction.

In 1988, the Senate proposed to divide Bill C-103. The Speaker ruled the motion of instruction out of order because of issues related to the Royal Recommendation. However, the decision was overturned. As a result, the Senate proposed to divide the bill. The House of Commons eventually rejected the proposal as an infringement of its rights and privileges, and the Senate did not insist on the division. The fact that the Speaker's ruling was overturned does not necessarily invalidate the analysis it contained. It is possible that the Senate simply chose not to apply the results in this situation.

Later, in 2002, the Senate dealt with Bill C-10. The Senate authorized the Legal and Constitutional Affairs Committee to divide the bill. In this case, no point of order was raised, and the motion of instruction was not challenged. The committee eventually reported its proposal as to how to divide the bill, and returned one part — Bill C-10A — to the Senate without amendment. It did not appear that Bill C-10A required a Royal Recommendation, so the issues at play in the current situation were not at the forefront of the Senate's considerations. The House of Commons was eventually asked to concur in the division of the bill and to agree to Bill C-10A. Although the Commons made clear that they did not consider this a valid precedent, they did agree to the division of the bill and to the passage of Bill C-10A, which then received Royal Assent. The other part — Bill C-10B — was still under consideration when Parliament was prorogued.

Senator Pratte's motion follows how the Senate has dealt with the division of bills in the past, and certainly reflects the summary provided by the Rules Committee. As such, concerns about the specific mechanics of the process to be followed need not be further considered here.

The real heart of the question is whether, in the case of Bill C-44, the Senate can properly propose the division of the bill. This issue, in turn, is directly tied to the actual nature of Bill C-44. It is a government bill that originated in the House of Commons with a Royal Recommendation. If the bill were to be divided, this would be as a result of a proposal that originated in the Senate, and not from the government. One must ask whether it would be reasonable to still consider the two bills to be government initiatives from the House of Commons.

Far more significant, however, is the matter of the Royal Recommendation. The Rules define the Royal Recommendation as:

> The authorization provided in a message of the Governor General for the consideration of a bill approving the spending of public monies proposed in a bill. The Royal Recommendation is provided only by a minister and only in the House of Commons. This requirement is based on section 54 of the *Constitution Act, 1867*.

Without a Royal Recommendation, a bill appropriating public monies is not properly before Parliament. This fact reflects the fundamental principle that the Crown must agree to proposed expenditures, which first must be considered by the elected house. This principle is part of the foundation of responsible government and helps ensure a coherent fiscal structure. It is given expression in rule 10-7, which establishes that "The Senate shall not proceed with a bill appropriating public money unless the appropriation has been recommended by the Governor General."

During consideration of the point of order, it was explained that the provisions of Bill C-44 relating to the Canada Infrastructure Bank authorize substantial payments from the Consolidated Revenue Fund. Other elements of the bill also authorize payments from the fund. Therefore, the proposed division of the bill would result in two bills appropriating public money as a result of a Senate initiative. It is difficult to see how this respects either the spirit or the letter of the Rules and basic parliamentary principles.

This does not, and let me emphasize this, mean that the Senate cannot amend a bill in accordance with rules and practice. The Senate can also defeat clauses, and even reject a bill entirely. All these possibilities are, however, substantially different from the Senate initiating steps to create two bills, both of which require the Royal Recommendation, where there was previously only one bill with one recommendation.

Although the motion at issue respects the mechanics for splitting a bill, its adoption would, in effect, result in Senate action initiating two bills, each requiring a Royal Recommendation. For this reason I feel compelled to rule the motion out of order.

Speaker's Ruling – Point of Order: Unanimous Consent (Leave)

Journals of the Senate, June 20, 2017, p. 2306:

Honourable senators, I was going to take this under advisement, but I am now ready to rule. The standard rule in proceedings in this chamber is that you need unanimous consent for certain matters. I made the mistake of not hearing Senator Duffy. I do not think there was ever any question that Senator Duffy said "no." The thing is that I was unable to hear him, so I made the mistake of proceeding.

So I would ask the leave of the chamber to reverse the decision to have dealt with this matter, so it goes back on the Order Paper.

Speaker's Statement: Debate After the Defeat of a Motion to Adjourn Debate

Journals of the Senate, September 26, 2017, p. 2406:

There was a ruling of former Speaker Kinsella in 2009 that dealt with the effect of defeating a motion to adjourn debate. He quoted from the parliamentary authority Bourinot's *Parliamentary Procedure and Practice*, fourth edition, which essentially said that if a member moves an adjournment motion and the house negatives that motion, that member has exhausted his or her right to speak to the main motion.

Of course, we are in the Senate of Canada and here we have some latitude to bypass that particular rule, if the senator wishes to ask for leave from the house to speak to the main motion No. 242. However, it will require unanimous consent.

Speaker's Ruling – Question of Privilege: Letter Concerning the Proceedings of the Senate on a Bill

Journals of the Senate, November 1, 2017, pp. 2608-2610:

Honourable senators, I am prepared to rule on the question of privilege raised by Senator Plett on October 24, 2017. Senator Plett argued that an open letter dealing with Bill C-210, sent by Senator Lankin to Mr. Scheer, the Leader of the Opposition in the other place, encouraged the Leader to interfere with the proceedings of the Senate. He stated that this has the effect of undermining our chamber's independence and impeding the ability of senators to carry out their functions independently.

In his remarks, Senator Plett noted that Senator Lankin's letter calls upon the Leader of the Opposition to instruct the Senate Conservative caucus to move forward on a vote. This, he claims, constitutes a grave and serious breach of privilege, violating the "freedom from obstruction and interference in the performance of our parliamentary functions."

Senator Lankin argued that her open letter did not constitute a serious breach of privilege, since it does not keep senators from dealing with the bill as they wish. She cited a number of previous rulings, which established thresholds for what may constitute grave obstruction or interference.

Some senators, including Senators Housakos and Wells, noted the importance of the independence of the houses and their members in our parliamentary system. They argued that the letter was unacceptable as it appealed to the Leader of the Opposition in the other place to use his influence to cajole the senators in his caucus to vote a certain way. Others, including Senators Mitchell and Cools, viewed the letter differently, noting its polite and respectful tone, and seeing it simply as an appeal to a leader in the other place to talk to senators. They saw no obstruction, intimidation or threat in the letter. I thank all senators who participated in the debate on the question of privilege.

The Speaker's role at this stage is not to decide whether a breach of privilege has in fact occurred. That decision belongs to the Senate. My role at this initial stage is limited to determining whether a prima facie question of privilege has been established, taking into account all four criteria listed in rule 13-2(1).

The first criterion is that the question "be raised at the earliest opportunity." Senator Plett indicated that he was only made aware of Senator Lankin's letter after the sitting of the Senate on Thursday, October 19. He raised the matter at the very next sitting of the Senate. I am therefore satisfied that the first criterion has been met.

The second and third criteria can be, and often have been, considered together in rulings. They are that the matter "directly concerns the privileges of the Senate, any of its committees or any Senator" and that it "be raised to correct a grave and serious breach."

Parliamentary privilege relates to the privileges, immunities and powers enjoyed by the Senate and each of its members without which they could not discharge their legislative and deliberative functions. In addition, as noted at page 228 of *Senate Procedure in Practice*:

> If senators are to carry out their parliamentary duties properly, it is only logical that … they be protected from interference in the performance of their duties. For example, any attempt to prevent senators from entering Parliament or to intimidate them in carrying out their duties would constitute a breach of privilege.

I have reviewed past rulings on the language used in certain communications to help inform my decision. In a ruling on May 8, 2003, dealing with the content of a formal message from the other place, Speaker Hays noted that, while the language used may seem harsh or stern, it does not necessarily constitute a breach of privilege. Similarly, I refer to a decision given by Speaker Molgat on November 7, 1995, on a question of privilege regarding complaints that a newspaper article cast adverse reflections upon this chamber. He quoted citation 69 in the sixth edition of Beauchesne to state that:

something can be inflammatory, can be disagreeable, can even be offensive, but it may not be a question of privilege unless the comment actually impinges upon the ability of Members of Parliament to do their job properly.

Finally, I refer to a decision from February 12, 2008, dealing with a message from the House of Commons. The message accused the Senate majority of not giving appropriate priority to consideration of Bill C-2, An Act to amend the Criminal Code and to make consequential amendments to other Acts, and called on the Senate to pass the bill by March 1, 2008. When an objection to the language of the message was raised, Speaker Kinsella ruled that the message was in order.

From this, I take it that, absent some form of threat, a message from one house to another cannot be treated as a point of order or breach of privilege.

How can it be any different if an open letter asks the Leader of the Opposition in the other place to encourage a vote to take place in the Senate?

While I understand that some senators might be troubled by Senator Lankin's letter, there is nothing that would impede senators from continuing their work on Bill C-210. The bill is still on the Orders of the Day and is called each sitting day for debate according to our usual practices. Senators remain free to deal with the bill as they see fit — the independence of the Senate and senators is not affected by this letter.

The question raised by Senator Plett is not a grave and serious breach of privilege, either of the Senate or of its members. Therefore, the second and third criteria have not been met.

Rule 13-2(1) is clear that a question of privilege must meet all the criteria it sets out to be given priority. As a result, my ruling is that there is no prima facie case of privilege.

Speaker's Statement: Proceedings of the Previous Sitting (Previous Question)

Journals of the Senate, January 31, 2018, pp. 2910-2911:

Honourable senators,

I have reviewed the record from yesterday's sitting and would like to make the following comments.

Let me begin by recognizing that there was some confusion yesterday in proceedings on motion 271. In brief, Senator Lankin moved her motion, seconded by Senator Peticlerc. After hearing Senator Lankin say that she did not intend to speak to the motion, I recognized Senator Peticlerc, who is seated immediately beside Senator Lankin and was the first senator whom I saw. Senator Peticlerc then moved the previous question, seconded by Senator Lankin. The purpose of moving the previous question is usually to curtail debate and, if adopted, put the question on the main motion. The previous question is a debatable motion, but cannot be amended.

When Senator Plett stood, I thought that he wished to speak to Senator Lankin's motion rather than the previous question. He could not, however, do this, since by then the Senate was dealing with the previous question, which will determine the fate of Senator Lankin's motion.

Since there was no debate on Senator Peticlerc's actual motion, the question was then put, and a standing vote requested and deferred until 5:30 p.m. today.

Given the very rare use of the previous question, it is understandable that confusion arose. To help address this situation, it might be helpful if Senator Plett were able to speak at this time to explain his position, as if he were speaking to the motion on the previous question, but understanding that this intervention does not affect the vote later today. This would allow the Senate to understand his views when it does make its decision on the previous question.

Therefore, I will now recognize Senator Plett.

Speaker's Ruling – Request for Emergency Debate: Actions by the Government of British Columbia concerning the Trans Mountain pipeline expansion

Journals of the Senate, February 6, 2018, p. 2947:

> In reaching a determination on the request for an emergency debate the Speaker must make reference to the criteria in rules 8-2(1) and 8-3(2). Senators are apprised of, and recognize, the critical importance of this issue. Although the request specifically addresses actions by the British Columbia government, actions by the federal government or a federal department could indeed be involved. It may not be perfectly clear how the request meets the specific requirement of rule 8-3(2)(b), which is that "the Senate is unlikely to have another opportunity to debate the matter within a reasonable period of time."
>
> However, as Speaker, the Rules give me some latitude with respect to determining what constitutes an emergency, a responsibility I take seriously. I recognize that this is a grey zone. Of course, having a debate would not preclude an inquiry, as suggested by Senator Woo, or an invitation to the Minister to answer questions, as proposed by Senator Mercer, but, given the particular circumstances of this case, I am prepared to allow the emergency debate to proceed.
>
> Honourable senators, the emergency debate will take place at the earlier of 8 p.m. or the end of the Orders of the Day. At that time, Senator Tkachuk will move that the Senate do now adjourn — this is the procedure that is normally used in these circumstances — and we will debate the emergency matter for up to four hours. Each senator has only 15 minutes to speak, and no motion, except that a senator be now heard, can be moved during the debate.
>
> What happens after the emergency debate will depend on when the debate actually started and the time it concludes, but items on the Notice Paper will not be called today.

Speaker's Ruling – Point of Order: Relevance of Debate

Journals of the Senate, February 13, 2018, p. 2992:

> The substance of the motion of which notice was given earlier today is not being discussed now. There is also no time allocation motion before us. If the Government Representative wants to talk about Bill C-45 in terms of what he thinks is an appropriate time frame, that is quite in order. If there were notice of a motion for time allocation, it would not be in order to speak to it until it has been moved. I continue to say that should Senator Harder stray into a debate on the motion for which notice was given earlier today, it will be out of order, but at the moment he can continue.

Speaker's Statement: Use of Exhibits and Props

Journals of the Senate, February 15, 2018, p. 3013:

> Honourable senators, before calling for Orders of the Day, I would like to take this opportunity to remind senators that parliamentary practice does not allow the use of exhibits and props. On November 6, 2012, the Speaker made this point when quoting from page 612 of the second edition of *House of Commons Procedure and Practice*, which states that "Speakers have consistently ruled out of order displays or demonstrations of any kind used by Members to illustrate their remarks or emphasize their positions. Similarly, props of any kind, used as a way of making a silent comment on issues, have always been found unacceptable in the Chamber." I encourage all colleagues to respect this prohibition.

Speaker's Ruling – Question of Privilege: Communication of Information to the Media

Journals of the Senate, March 1, 2018, pp. 3066-3067:

Honourable senators, I am prepared to rule on the question of privilege raised by the Honourable Senator McPhedran on February 13, 2018. The senator argued that a communication to the media of information contained in confidential correspondence from the Subcommittee on Agenda and Procedure of the Standing Committee on Internal Economy, Budgets and Administration constituted a breach of her parliamentary privileges. In particular, she suggested that this breach affected her ability to perform her parliamentary functions without obstruction or interference.

Senator McPhedran explained that the information communicated to the media related to a letter from the subcommittee asking for additional information about a request for a service contract she had submitted. The correspondence from the subcommittee was marked "confidential". Senator McPhedran was of the view that the communication to the media included material contained in that letter and that its contents should not have been shared. The senator suggested that her privilege was breached, since this release of information had the effect of obstructing her aim of providing what she has referred to as a "safe and confidential setting to survivors of harassment within the Senate environment".

Senator Campbell, the chair of the subcommittee, argued that the information provided to the media followed requests for comment regarding Senator McPhedran's publicly expressed intentions to pay for these types of services from her office budget. He explained that the information shared was not confidential; it was a simple explanation of policy. He indicated that the label "confidential" was "administrative in nature", and that it was meant to "ensure that it would be dealt with privately within her office". Senator Campbell stated that the label "was not an indication that the letter contained any confidential in camera proceedings". It was his view that Senator McPhedran's privileges had not been breached. The subcommittee was simply being transparent regarding Senate rules and decisions concerning expenditures.

Other senators who intervened in the debate focused on the essence of the question of privilege and noted the seriousness and importance of the complaint. I thank all colleagues for their contributions.

I have taken the facts surrounding this question of privilege into consideration in evaluating the complaint in terms of the four criteria listed in rule 13-2(1). A question of privilege must meet all four criteria to advance to the next stage.

It is clear that the first criterion — that the matter be raised at the earliest opportunity — was indeed met.

The second criterion is whether the matter "directly concerns the privileges of the Senate, any of its committees or any Senator". As noted in *Senate Procedure in Practice* at page 224, "The term 'privilege,' in this context, does not refer to a special benefit, advantage or arrangement given to Parliament or its members. Rather, parliamentary privilege is 'an immunity from the ordinary law which is recognized … as a right of the Houses and their members.'" The purpose of privilege is to enable Parliament and its members to fulfill their legislative and deliberative functions, without undue interference. Not all activities undertaken by senators in the course of their work, no matter how valuable or commendable, are always covered by privilege.

In this case, and taking into account the information that was already publicly known, it does not seem that the material sent to the media directly concerned privilege. The second criterion of rule 13-2(1) has, therefore, not been met.

This is not to say that the communication does not raise concerns. Senators should expect that sensitive matters will be treated in confidence, at the very least until a final resolution is reached. Publicly revealing information about exchanges on the use of resources harms the bonds of respect and trust that must exist both between senators, and between senators and the administration that supports our work.

I also wish to raise a note of caution here. The Senate has been through a difficult period these past few years. Lessons were learned regarding the importance of conducting our business in a transparent and accountable manner, including being responsive to requests for information from the media and the public. We cannot, however, allow our eagerness to respond to such requests to override our obligation to respect our administrative processes. I am confident, however, that we can find an appropriate balance so that the interests of both the public and senators are well served.

Before concluding, let me also take a moment to address the issue of confidentiality. The term "confidential" is one that must be understood by senators and everyone working at the Senate, and it may not always be clear how certain confidential documents should be handled. This is a matter of which the Internal Economy Committee is already seized, and I am sure that the results of their work will be useful to the Senate as a whole.

Honourable senators, a question of privilege must meet all the criteria of rule 13-2(1) to be dealt with under the special procedures in Chapter 13 of the Rules. Since this question of privilege has not met the second criterion, there is no need to explore the other criteria, and the ruling must be here that there is no prima facie question of privilege.

Speaker's Ruling – Question of Privilege: Motion Concerning a Senator's Website

Journals of the Senate, March 22, 2018, pp. 3103-3104:

Honourable senators, I am prepared to rule on the question of privilege raised by Senator Beyak on February 26, concerning Motion 302, which was moved by Senator Pate. If adopted, this motion would direct the Senate administration to temporarily cease to support Senator Beyak's website. Many senators took part in the debate on the matter, and I thank all colleagues for their contributions.

During the debate, the terms "point of order" and "question of privilege" were sometimes used interchangeably. There are, however, important differences between the two. A question of privilege arises when there is an alleged breach of the powers, rights or immunities of the Senate, a committee or a senator — what we refer to as parliamentary privilege. A point of order, on the other hand, relates strictly to procedural issues — the internal proceedings of the Senate or a committee — and arises when there may have been a departure from the *Rules of the Senate*, established procedure or customary practice.

Although senators enjoy the protection of privilege to enable them to carry out their parliamentary functions, they are nonetheless subject to the Rules, procedures and practices, which are expressions of the Senate's own parliamentary privileges, both to manage its internal affairs and to control its proceedings. As part of the exercise of this right, the Senate has established specific procedures that govern how to deal with questions of privilege, such as the one raised by Senator Beyak. As Speaker, my role at this stage is solely to evaluate an alleged breach in terms of those procedural requirements, and to determine whether there is a prima facie question of privilege. I do not deal with the substance of a complaint, which would be for the Senate itself to deal with after a ruling if a matter goes to the next stage.

Rule 13-2(1) requires that four criteria be met for a question of privilege to be accorded priority. All four criteria must be met, and it is always helpful if senators frame their remarks around these four criteria when debating a question of privilege. Doing so can help the Speaker in evaluating the issue.

The first criterion is that the issue must "be raised at the earliest opportunity". When a question of privilege deals with a notice, which is the case here, rule 4-11(2)(a) must also be considered. This rule requires that the question of privilege be raised "only at the time the order is first called for consideration". Notice of Motion 302 was given on February 14. It was called for consideration at the next sitting, on February 15, and moved for adoption. Senator Beyak's question of privilege should, therefore, have been raised on that day, and not on February 26.

The second criterion is that the issue must "be a matter that directly concerns the privileges of the Senate, any of its committees or any Senator". Before actually dealing with this criterion, let me be clear; I am not determining whether a senator's website is protected by privilege or not. I am, instead, simply considering what the effects would be, in the current case, if one were to accept that a web site is protected.

The second criterion mentions the privileges of the entire Senate, of its committees and of individual senators. This can sometimes create situations in which consideration must be given to how the privileges of the institution and those of individuals relate to each other. Privilege allows each senator to contribute fully and freely to the work of the Senate. However, as noted in a ruling of February 24, 2016, to which Senator Pratte made reference:

> Our privileges as individuals cannot trump those of the Senate itself. As stated in Erskine May, at page 203 of the 24th edition, "Fundamentally … it is only as a means to the effective discharge of the collective functions of the House that the individual privileges are enjoyed by Members".

A similar point was made in a ruling of May 23, 2013, which noted "… that the privileges and rights exercised by the Senate itself take precedence over those of individual senators", and that the Senate can regulate its internal affairs.

The rights or benefits of individual senators may therefore be restricted by decisions of the Senate. As in the case of Motion 302, this means that the Senate has a preeminent right to decide how it will manage its internal affairs, including the use of resources by honourable senators.

This analysis also helps us when considering the third criterion, which requires that a question of privilege "be raised to correct a grave and serious breach". In a situation where there is, potentially, a divergence between the Senate's rights and those of an individual senator, the former must be given preeminence. To quote the ruling of February 24, 2016, "… privileges exist to serve the institution itself. The Senate's decisions cannot breach the Senate's privileges."

The fourth criterion states that a question of privilege must "be raised to seek a genuine remedy that the Senate has the power to provide and for which no other parliamentary process is reasonably available". In the case of Motion 302, there are alternate processes available. These include debate, amendments, referral to committee, and, eventually, defeat or adoption of the motion. If the Senate were either to adopt or reject the motion, this decision would be an expression of its right to manage its internal affairs and to decide how its resources can be used.

Before concluding, honourable senators, let me recognize that issues relating to privilege can be complicated. I therefore invite all colleagues to review the seventh report of the Standing Committee on Rules, Procedures and the Rights of Parliament, tabled in the Senate on June 2, 2015, which provided a comprehensive overview of the state of privilege in Canada.

Based on this analysis of the four criteria, the requirements of rule 13-2(1) have not been met. I must, therefore, rule that there is no prima facie question of privilege. I do, however, encourage colleagues to take part in the debate on Motion 302. As many senators expressed concerns regarding the motion, it is obviously a matter of great interest to the Senate. I thank all honourable senators for their attention and their interest in this important matter.

Speaker's Statement: Debate After the Defeat of a Motion to Adjourn Debate

Journals of the Senate, April 26, 2018, p. 3253:

Honourable senators will know that, on April 18, 2018, Senator Patterson moved the adjournment of debate on the seventh report of the Standing Senate Committee Fisheries and Oceans, and that motion was defeated. In a ruling from then Speaker Kinsella in 2009, citing Bourinot, it was decided that, should a member move an adjournment that the house subsequently negatives, that member no longer has a right to speak. Senator Patterson is asking that, notwithstanding this ruling, he be allowed to speak.

Speaker's Ruling – Point of Order: Relevance of Debate

Journals of the Senate, October 2, 2018, p. 3829:

Senator Plett is actually speaking to the subamendment of Senator Tkachuk. As senators know, there is a fair amount of leeway given to senators when speaking to amendments and subamendments as they relate to the main motion. So we will give Senator Plett a little leeway and see where he goes with it.

Speaker's Ruling – Question of Privilege: Events Relating to a Parliamentary Association's Meeting

Journals of the Senate, November 8, 2018, pp. 4022-4023:

Honourable senators, I am now prepared to rule on the question of privilege raised by Senator Patterson on Thursday, November 1. His question of privilege related to events that took place at the Annual General Meeting of the Canadian NATO Parliamentary Association, and concerns that it was not conducted in accordance with the Constitution of the Association.

A number of senators contributed to the debate, and I thank them for their interventions. The careful arguments that were presented are a testament to the importance senators place on parliamentary diplomacy, and in particular the work of our parliamentary associations.

As honourable senators know, a question of privilege arises when there is an alleged breach of the powers, rights or immunities of the Senate, a committee or a senator — what we refer to as parliamentary privilege. Rule 13-2(1) sets out four criteria, all of which must be met in order for a question of privilege to be accorded priority. As noted in previous rulings, it is not necessary to review the four criteria in a set order, since a question of privilege will only be founded when all four are met.

The first of these criteria is that the question must "be raised at the earliest opportunity". In this case, the events in question took place on the evening of Tuesday, October 30. While Senator Patterson had attended this meeting, the events that form the substance of his question of privilege occurred after he left, believing the meeting to be adjourned. He indicated that he did not learn that the meeting had continued and a new chair had been elected until late the following morning. Senator Cordy questioned whether this was indeed raised at the earliest opportunity, indicating that she had seen media reports of the incident when she returned home following the event that evening. Senator Pratte, for his part, suggested that whether a matter is raised at the earliest opportunity should not be a matter of minutes or hours.

The inclusion of the requirement that a matter be raised at the earliest opportunity is an example of the seriousness and importance of matters of privilege. As noted in a ruling of December 10, 2013, Senate "precedents establish that even a delay of a few days can result in a question of privilege failing to meet this criterion. Attempting to exhaust alternative remedies before giving notice of a question of privilege does not exempt it from the need to meet the first criterion." Senator Patterson, however, indicated that he only learned of the incident at the end of the morning of Wednesday. That appears to have been after the deadline for giving notice, in which case rule 13-4 specifically allows the senator some flexibility, including raising the issue at the next sitting, as Senator Patterson did. Therefore, I find that the question of privilege has satisfied the criterion of rule 13-2(1)(a).

I will now turn to the fourth criterion, that a question of privilege must, "be raised to seek a genuine remedy that the Senate has the power to provide and for which no other parliamentary process is reasonably available." The concerns that have been raised surround questions of whether the meeting was called, held and adjourned in accordance with the Constitution of the Canadian NATO Parliamentary Association. This situation in some ways parallels a case addressed in a ruling of October 30, 2012, dealing with the adjournment of a committee meeting. The ruling stated that, "[i]n this case, the action of the committee chair in adjourning the meeting without verifying if there was other business is really one of order, and, as such, there is another reasonable parliamentary process available. The matter could be raised as a point of order in committee, where it can be dealt with more effectively." While recognizing the fundamental differences between a parliamentary committee and an association, this ruling does provide useful guidance as to how the matter at issue could be addressed, suggesting that the procedural mechanisms available at the next meeting of the Association are more appropriate.

Furthermore, Senator Plett noted that there were different committees and associations meeting to address this matter. Specifically, the Joint Inter-parliamentary Council and our own Committee on Internal Economy, Budgets and Administration are two bodies that can undertake this work. Thus, it is clear that there are other more appropriate avenues for this matter to be addressed. Consequently, Senator Patterson's question of privilege does not satisfy the criteria of rule 13-2(1)(d). As a question of privilege must meet all four criteria of rule 13-2(1), it is unnecessary for me to address the other two.

In closing his question of privilege, Senator Patterson sought any advice that I "might choose to give that would comment on the importance of maintaining dignity and respect for each other in undertaking our parliamentary duties and representing this great democracy in interfaces with other countries."

As Speaker, I place high value on our roles as senators with respect to parliamentary diplomacy. In a world where lines between domestic and international policy continue to blur, groups like the Canadian NATO Parliamentary Association are important avenues of diplomacy that help to maintain an open dialogue between Canada and our international counterparts. We must be mindful of how we conduct ourselves, remembering that we are being watched not just by Canadians, but by our friends around the globe. In doing so, we must set a good example. I would encourage all senators to work with our colleagues in the other place to see this matter resolved in an orderly manner.

Speaker's Ruling – Point of Order: Receivability of an Amendment

Journals of the Senate, April 4, 2019, pp. 4498-4500:

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.

Speaker's Statement: Effect of Withdrawal of Motion on Point of Order

Journals of the Senate, April 4, 2019, p. 4506:

Speaker's Statement: Effect of Withdrawal of Motion on Point of Order Honourable senators, the withdrawal of this motion renders the point of order on motion 470 moot.

Speaker's Statement: Further Arguments on Question of Privilege

Journals of the Senate, April 10, 2019, p. 4529:

Honourable senators, yesterday evening we considered a question of privilege raised by Senator Plett. I have since received a request from him to allow further consideration of the matter. Although not common, this is not unprecedented, and I will, somewhat exceptionally, allow this in the current case.

Therefore, at the start of Orders of the Day tomorrow, I will hear further new arguments on the question of privilege. But honourable senators, let me be clear that I understand the extensive arguments raised yesterday quite well, and do not want to hear them repeated. So I wish to hear new information only, and I would ask senators to please be brief in their interventions.

Speaker's Ruling – Point of Order: Message from the House of Commons

Journals of the Senate, April 11, 2019, p. 4540:

Honourable senators will know that when a message is received from the other place, it is the responsibility of the Speaker to read that message. At this stage, it is merely read into the record to be published in the *Journals of the Senate*. There is nothing on the Order Paper with respect to it for further consideration.

I take the point with respect to the fact that it is highly unusual. However, it is not unprecedented. A similar message was received in this chamber from the other place back in 2008 with respect to another piece of legislation.

That does not detract from the fact, again, that this is very unusual. However, the proper procedure from here forward is that if senators want to comment on this or speak to it, they must commence either a motion or an inquiry with respect to this particular matter, after the proper notice.

Speaker's Ruling – Question of Privilege: Leak of a Confidential Agreement

Journals of the Senate, May 2, 2019, pp. 4665-4666:

Honourable senators, on April 9, 2019, Senator Plett raised a question of privilege concerning the leak of a confidential agreement that was the result of private negotiations among a number of senators in leadership positions. Several senators intervened in the debate on the matter at that time. Two days later, at Senator Plett's request, there was further consideration of the question of privilege. These two occasions provided ample opportunity for senators to express their understanding about what had happened and to share their concerns about the course of events.

Two related issues can be discerned in this question of privilege: the release of the agreement to senators outside those present during the negotiations, and the release of the agreement to the media. The release to the media meant that the agreement quickly became available to the general public.

In listening to interventions on the question of privilege, it soon became apparent that certain matters related to the agreement — in particular how it would be communicated, if at all, and to whom — had not been understood in the same way by all senators present at the discussions. Senator Woo confirmed that he had shared the agreement with his colleagues in the Independent Senators Group, but stated that he did so in good faith. Senator Plett, on the other hand, had left the discussions with the understanding that the agreement was "strictly confidential and [was] not to be shared outside of the most immediate advisers of each leader".

Honourable senators know that private discussions about matters of concern to the Senate are invaluable to the proper functioning of this place. These exchanges may involve the Government, representatives of the various caucuses, or individual senators. Ours is a very human institution, and these informal consultations help create shared understandings as to the expected course of Senate business. They also provide clarity that may otherwise be lacking.

Inevitably, however, such human relations sometimes give rise to misunderstandings. That seems to have been the case in the current situation. I would therefore encourage senators to express as fully as possible the conditions of the agreements they reach. Quite often this is best done in writing. When — as will sometimes happen — there is a misunderstanding, we must then focus on maintaining positive relationships, while trying to understand what happened and to resolve any problems in a collegial and productive way.

To turn to the specifics of the case at hand, the four criteria of rule 13-2(1) guide the Speaker when dealing with a question of privilege. All the criteria must be met for the matter to proceed to the next step. There is little doubt that this question of privilege was raised at the earliest opportunity, thereby meeting the first criterion.

The same conclusion does not, however, hold when we turn to the second criterion. This requires that the question of privilege "be a matter that directly concerns the privileges of the Senate, any of its committees or any Senator". Privilege does not cover all activities in which senators engage. As explained by the Speaker of the other place on April 11, "the authority of the Speaker is limited to the internal affairs of the House, its own proceedings". It does not cover issues such as caucus matters, and neither would it cover agreements among parliamentarians operating outside the ambit of parliamentary proceedings. I would also note the statement, at page 74 of the 14th edition of *Odgers' Australian Senate Practice*, that privilege does not cover "the content of a document which has come into existence independently of proceedings in Parliament". Such limits are in line with the point, made in the 2015 report of the Rules Committee on privilege, that stated:

> In today's age of Twitter and social media it is also worth reiterating accepted Canadian law that communications made outside of parliamentary proceedings, for example tweets or blog posts, are not protected by parliamentary privilege.

Given the requirement that all the criteria of rule 13-2(1) must be met, a prima facie question of privilege cannot be established in this case. I do, however, trust that colleagues will seek to address the evident misunderstanding that gave rise to this unfortunate situation. It may also be timely for all senators to reflect on the need for prudence when using the powerful tools that social media place at our disposal, and which may have accelerated the course of events leading to the question of privilege. While these tools help us highlight the important work of the Senate, we should not ignore their potential pitfalls.

Speaker's Statement: Participation in Debate

Journals of the Senate, May 2, 2019, p. 4676:

Senator Plett, you have the right to speak and then Senator Ringuette can ask for leave to speak after you.

Speaker's Ruling – Point of Order: Unparliamentary Language

Journals of the Senate, May 7, 2019, p. 4690:

Senator Lankin raises a good point with respect to taxing comments. The word "duplicitous", in and of itself, is not a taxing word; however, if it is applied to individuals, particularly members of this chamber, it is skating very close to the line. So I ask that words like that not be used in debate.

Speaker's Ruling – Point of Order: Relevance of Debate

Journals of the Senate, May 9, 2019, p. 4718:

Generally, in debate, we allow a fair amount of leeway when it comes to the topic. You raise a good point, Senator Moncion, in that we generally try to stay to the substance of the topic we are debating. That being said, there is a fair amount of leeway.

Speaker's Ruling – Point of Order: Relevance of Debate

Journals of the Senate, May 9, 2019, p. 4719:

Honourable senators, Senator Dean has entered debate on the amendment. As I said earlier, we give a fair amount of leeway until we start bumping into unparliamentary language. I will allow him to continue, but the debate is on the amendment to motion no. 470.

Speaker's Statement: Language Used in Social Media

Journals of the Senate, May 16, 2019, p. 4769:

I would like to thank all senators for their input into this very important and serious matter. Following Senator Patterson's comments, I will consider the matter resolved and dealt with.

However, I remind honourable senators that in a previous ruling I did mention the use of social media. I caution that when you are using social media, please take your time before you send out tweets. If it is something you think will be offensive and you are not really sure whether or not it is something that is appropriate, I suggest you do not send, because it reflects poorly, not just on the people who are doing it, but on the whole chamber.

I believe Senator Gagné put it far more eloquently than I can and I believe her words about decorum should be kept in mind when we are using social media.

Speaker's Ruling – Point of Order: Agreements Reached Outside of Parliamentary Proceedings

Journals of the Senate, May 27, 2019, p. 4807:

Honourable senators will recall that in a recent ruling on a question of privilege pertaining to agreements, I ruled that agreements reached outside of parliamentary proceedings are not covered by privilege. However, at the time I also stated that it is very important to the proper, efficient and effective running of the Senate that agreements that are entered into between parties or between senators should be taken very seriously. On this matter, I would suggest strongly to the parties involved that the matter be taken up in the committee for further consideration and, hopefully, resolution.

Speaker's Ruling – Point of Order: Unparliamentary Language

Journals of the Senate, May 27, 2019, p. 4809:

Senator Moncion raises a point that I have noted in the past. When senators are addressing a subject, they should deal with the issues. To criticize a person's stand on an issue is fine, but to go behind that and start talking about the motivation or motives of an individual is really not parliamentary, and is something that should be avoided.

Any discussion on debate is, of course, fine — this is a debating chamber — but I would ask senators not to go beyond debating the topic or the legislation at hand and to avoid attributing motives for why people take a particular stand.

Speaker's Ruling – Point of Order: Unparliamentary Language

Journals of the Senate, May 27, 2019, p. 4809:

Honourable senators, I do not want to have the debate inflamed over this. Obviously, there is a line that can be crossed when you attribute attitudes or motives to a group or to individuals.

Senator Plett has made certain statements that no doubt are skating close to that line. However, I haven't heard anything yet that I think crossed that line.

I thank senators for bringing this to my attention, allowing me to emphasize that we want debate in the chamber to be on issues, not on individuals or groups.

Speaker's Ruling – Point of Order: Receivability of an Amendment

Journals of the Senate, May 30, 2019, pp. 4897-4898:

Honourable senators, I am now ready to rule on the point of order raised by Senator Ringuette on Wednesday, May 15, 2019.

The point of order concerned an amendment to motion 474. Motion 474 by Senator Pratte sought to establish a Special Committee on Prosecutorial Independence. Senator Plett then moved an amendment to have this study instead conducted by the Standing Senate Committee on Legal and Constitutional Affairs.

Senator Ringuette argued that Senator Plett's amendment is not admissible as it is beyond the scope of the motion. She suggested that the purpose, or the pith and substance, of Senator Pratte's motion is the creation of a special committee. By removing the idea of a special committee, she argued that the amendment is therefore contrary to the motion.

Other senators disagreed. In particular, Senator Martin argued that the purpose of motion 474 is not to create a special committee, but to conduct a study of prosecutorial independence – the special committee is only the vehicle by which this study would take place. Senator Plett's amendment, therefore, simply proposes a different vehicle, while maintaining the core purpose of the study.

The argument really comes down to whether the purpose of the motion is the creation of a special committee, or the study of prosecutorial independence. Either would seem to be reasonable conclusions to draw.

In a ruling on February 24, 2009, the Speaker noted that, "In situations where the analysis is ambiguous, several Senate Speakers have expressed a preference for presuming a matter to be in order, unless and until the contrary position is established. This bias in favour of allowing debate, except where a matter is clearly out of order, is fundamental to maintaining the Senate's role as a chamber of discussion and reflection."

In the present case, I do not believe that the motion in amendment has been clearly established as being out of order. As such, the Senate should be allowed to consider the question and determine for itself whether the alternative proposed by the amendment is desirable.

I therefore find that the amendment is in order, and debate can continue.

Speaker's Ruling – Point of Order: Unparliamentary Language and Social Media

Journals of the Senate, June 13, 2019, pp. 5014-5015:

Honourable senators, I am ready to rule on the point of order that Senator Plett raised on June 6, 2019, concerning comments made on Twitter by another senator. Many colleagues took part in consideration of the point of order, indicating how seriously all of us take the issue of decorum and language, both in the chamber and outside it.

This is, of course, not the first time such issues have been raised. On a number of occasions in recent weeks senators have expressed concerns about the use of unparliamentary language. As recently as May 16, I had occasion to caution all colleagues:

> when you are using social media, please take your time before you send out tweets. If it is something you think will be offensive and you are not really sure whether or not it is something that is appropriate, I suggest you do not send, because it reflects poorly, not just on the people who are doing it, but on the whole chamber.

We have the enormous privilege of being members of the Upper House of the Parliament of Canada. With this enormous privilege comes enormous responsibility. Together, we all work for the good of our country. We can certainly disagree with each other. Indeed the exchange of conflicting ideas is vital to the health of our parliamentary system of government. We should, however, always approach one another with civility and respect, valuing the range of experiences and diverging views that we bring to Parliament. All of us are responsible for ensuring the proper functioning of this institution, and we must avoid undermining it, or undermining each other.

While the Speaker's role in relation to the *Ethics and Conflict of Interest Code* for Senators is quite circumscribed, we should remember that our own Code requires that "[a] Senator's conduct shall uphold the highest standards of dignity inherent to the position of Senator". Under the Code, adopted by the Senate as a whole, senators are to "refrain from acting in a way that could reflect adversely on the position of senator or the institution of the Senate". These principles should guide us in our behaviour, both in the Senate and outside it.

I, therefore, ask senators to focus on the substance of the issues we are addressing, and to avoid criticizing individuals or groups. By all means question and challenge policies and positions, but this should be done without undermining and attacking others who advance a particular point of view. This applies in the Senate, in committee, and outside proceedings. Historically, very few Speaker's rulings have had to address issues of unparliamentary language. This is a testament to our long history of respectful debate. Our behaviour as parliamentarians should serve as a model to be emulated – by those who work with us, and those in our communities whom we represent.

In terms of the specific point of order, the definition in Appendix I of the Rules states that a point of order is:

> A complaint or question raised by a Senator who believes that the rules, practices or procedures of the Senate have been incorrectly applied or overlooked during the proceedings, either in the chamber or in committee.

The concern raised by Senator Plett does not relate to proceedings, and so does not constitute a point of order. This is generally supported by the analysis of the ruling of May 2, 2019, dealing with a question of privilege, which noted that the Speaker's authority is limited to our proceedings.

I do, however, thank Senator Plett for raising his concern. It has given me the opportunity to emphasize the importance of civility and respect in all our dealings, both with each other and with others, irrespective of whether they are in the context of parliamentary proceedings or not.

Speaker's Ruling – Question of Privilege: Access to a Senator's Emails

Journals of the Senate, June 20, 2019, pp. 5128-5130:

Honourable senators, I am prepared to rule on the question of privilege raised by Senator Marshall on June 17, 2019. The matter was the object of further consideration on June 19, 2019.

The question of privilege concerned the alleged release of certain emails from Senator Marshall's Senate account following a request for information by the Senate Ethics Officer. If access was provided, this occurred without Senator Marshall's consent, and without her being formally advised. Senator Marshall indicated that she had been cooperating with the Office of the Senate Ethics Officer as part of an inquiry, but learned through informal communications that her emails had been accessed. She found this fact deeply concerning, and emphasized that senators must be aware of this risk.

When the Senate considered this point on June 19, both Senators Housakos and Downe were disturbed by the fact that a senator's emails can be accessed without any type of warning or chance to cooperate. At the very least, they indicated, colleagues must be aware of this fact when considering how they use this tool. Senator Marwah also urged senators to reflect on this event, and, if appropriate, to work to amend the governance instruments that may have led to this situation.

Senator Andreychuk, the chair of the Standing Committee on Ethics and Conflict of Interest for Senators, also intervened on June 19. She provided an explanation of the operation of the *Ethics and Conflict of Interest Code for Senators* and its interaction with the *Senate Administrative Rules* in this case. The Senate Ethics Officer is under an obligation to conduct an inquiry promptly and in confidence. This helps to protect all those involved. Senators and all other persons involved in an inquiry are obliged to cooperate with the Senate Ethics Officer, and are also bound to respect confidentiality. Senator McPhedran then noted the importance of such confidentiality provisions to ensure a fair and unimpeded investigation.

Honourable senators will know that the *Ethics and Conflict of Interest Code for Senators* gives the Senate Ethics Officer broad powers to seek information needed to conduct confidential inquiries. In accordance with the provisions of the Code, the Senate Ethics Officer only receives access to emails in the context of an inquiry. Confidentiality is necessary to maintain the integrity of the process and to protect those involved in the inquiry.

This case suggests that all senators may not be sufficiently aware of the ethics regime created by the Senate. The broad nature of the Senate Ethics Officer's powers to access information without warning is an issue upon which senators may want to reflect. We have an obligation to better understand the regime that we have established and how it operates. The Standing Committee on Ethics and Conflict of Interest for Senators will no doubt take this matter into consideration when recommending future changes to the Code. This regime is, however, the framework within which we currently operate.

Under rule 2-1(2) the Speaker's authority in relation to the Code is limited to matters incorporated into the Rules. So, while I must be cautious, I do feel that I can emphasize that the obligations of both cooperation and confidentiality flow from decisions made by the Senate itself. They are, therefore, the result of the Senate exercising its control over internal affairs.

As noted in the ruling of March 22, 2018, the rights of individual senators are "subject to the Rules, procedures and practices [of the Senate], which are expressions of the Senate's own parliamentary privileges, both to manage its internal affairs and to control its proceedings". I should also remind colleagues that parliamentary privilege does not protect all electronic communications by a senator. Each communication must be assessed to determine if it is directly linked to a parliamentary proceeding. In this case, it is not currently possible to determine whether access was actually given to emails that might be subject to privilege.

Rule 13-2(1) sets out four criteria that a question of privilege must meet. The fourth criterion is that a matter "be raised to seek a genuine remedy that the Senate has the power to provide and for which no other parliamentary process is reasonably available". When a request for access to emails is received from the Senate Ethics Officer, it is, under the *Senate Administrative Rules*, referred to the Subcommittee on Agenda and Procedure of the Standing Committee on Internal Economy, Budgets and Administration, which will then deal with releasing the information. It therefore seems that there is another reasonable parliamentary avenue through which concerns about these events can be raised and additional details sought, that is by raising the issue with the Internal Economy Committee and its steering committee. I do, of course, note the obligation of all senators, including those on the Internal Economy Committee, to respect the blanket confidentiality of inquiries under the Code.

As such, the requirements for a case of privilege have not, at this time, been met, and a case of privilege cannot be established. Let me be clear, given the unusual combination of circumstances in this situation, if it does later become clear that privileged information was improperly released, Senator Marshall would not be prevented from raising the issue as a new question of privilege.

Before concluding, there are a number of related issues that I must address. In raising her concerns, Senator Marshall has brought to light how the interaction of various core governance and ethics instruments may lead to access to information that colleagues might normally expect to be private. We should reflect on whether this is desirable, and what, if any, adjustments to our governance and ethics regime may be appropriate.

This said, however, I must note that I am deeply troubled about how these events came to Senator Marshall's attention. She told the Senate that she learned of them "through the grapevine". The Code imposes a strict obligation of blanket confidentiality, which was obviously not respected. I must also note again for senators that any matters considered in camera must respect the obligations of confidentiality that flow from this process. Senators, their staff and employees of the administration must take these obligations seriously. They reflect decisions of the Senate and should always guide us in our actions.

Finally, without evidence to the contrary, we should never call into question the integrity and diligence of those who assist us with our work. This restraint is particularly important in the case of the Senate Ethics Officer. It is unhelpful to criticize him for fulfilling his duties under the Code, which we as senators have adopted to govern his work. If, as a Senate, we have concerns with the operation of the Code, which we ourselves have established, then these issues should be openly debated and resolved here, in the Senate Chamber.

43rd Parliament, 1st Session (December 5, 2019 - August 18, 2020)

Speaker's Statement: Further Arguments on Question of Privilege

Journals of the Senate, February 25, 2020, p. 359:

Honourable senators, on February 6th Senator Sinclair raised a point of order concerning the possible application of the *sub judice* convention to a motion moved by Senator Boisvenu. I have since received a request from Senator Boisvenu to allow further consideration of the matter. Although not common, this is not unprecedented, and I will, somewhat exceptionally, allow this in the current case.

Therefore, at the start of Orders of the Day tomorrow, I will hear further new arguments on the point of order. But honourable senators, let me stress that I wish to hear new information only, and I would ask senators to please be brief in their interventions.

Speaker's Ruling – Point of Order: Receivability of a Motion

Journals of the Senate, March 10, 2020, pp. 395-396:

I am prepared to rule on the point of order raised on February 18 by Senator Housakos, who questioned the receivability of motion 12, under Other Business, moved by Senator Woo. The motion proposes extensive changes to the *Rules of the Senate*, particularly in relation to the leaders and facilitators, but also relating to other points such as critics of bills. The concern was that the changes would be so extensive that they would undermine basic principles underpinning the constitutional architecture of our parliamentary system of government — in particular the role of the opposition — and would not respect provisions of the *Parliament of Canada Act*.

In considering this issue, we must remember that, as noted at page 219 of *Senate Procedure in Practice,* "in keeping with parliamentary tradition and custom, the Speaker does not rule on points of order about constitutional matters, points of law or hypothetical questions of procedure". Instead, points of order, like questions of privilege, address concrete issues that have arisen. A point of order is the mechanism for honourable senators to question whether proceedings are respecting our Rules and normal practices. We must also consider that one of the basic privileges of a parliamentary body — necessary for it to perform its duties — is the regulation of internal affairs, which includes establishing the processes and rules that govern proceedings. While changes to the Rules usually originate or go through the Standing Committee on Rules, Procedures and the Rights of Parliament, they can also be proposed by motion in the Senate, as recognized by rule 5-6(1)(a), which establishes that such a motion requires two days' notice.

As was noted during debate on the point of order, the *Rules of the Senate* have continually evolved since Confederation. The first Rules only included passing reference to the government — in provisions concerning expenses relating to costs for private bills — and there was no mention of the opposition. More than a century later, the 1969 Rules contained only three references to the Leader of the Government and one reference to the Leader of the Opposition. The situation has obviously evolved significantly since then — notably in 1991, when Government Business was given priority and other measures, such as the processes for time allocation for such business, were introduced. This brief overview indicates the extent that our Rules have evolved over the years to meet the Senate's changing needs, and reminds us that features that we consider fundamental have not always been so prominent in the written texts.

As I understand it, if Senator Woo's motion were adopted, the Rules would continue to recognize the positions of Government Leader and Opposition Leader. The same would be true for the deputy leaders and the whips. The definitions of these positions would remain unchanged. The occupants of these positions would therefore continue to receive any resources and rights afforded to them by policy or legal instruments outside the Rules. Other senators in leadership positions would acquire certain powers, such as to defer votes. In addition, the differences between the Government and Opposition Leaders and the other leaders and facilitators — in relation to speaking times, for example — would be reduced.

These are significant changes, and honourable senators will no doubt wish to consider them carefully before making a decision. This is appropriate when we are dealing with the Rules, which determine how our business is conducted. The need for careful reflection when considering such changes does not, however, mean that the Senate cannot make them if it so wishes. The Rules have changed significantly over the years, and the changes proposed in the motion would continue this. As such, the motion is in order, and debate can continue.

Speaker's Statement: Further Arguments on Question of Privilege

Journals of the Senate, May 15, 2020, p. 473:

Honourable senators, on May 1, Senator Plett raised a question of privilege concerning a meeting of the Committee of Selection that had taken place earlier that day. I have since received a request from Senator Dalphond to allow further consideration of the matter. Although not common, this is not unprecedented. While normally, I would expect senators to be prepared to argue a question of privilege or a point of order at the time they are raised, two factors cannot be ignored.

First, the question of privilege was, in accordance with our rules, raised without notice pursuant to rule 13-4. Second, the current public health circumstances prevent a significant number of our colleagues from attending our sittings. In light of these circumstances, I will, exceptionally, allow further arguments in the current case.

Therefore, at the start of Orders of the Day on the day the Senate next sits, I will hear further new arguments on the question of privilege. But honourable senators, let me stress that I wish to hear new information only, and I would ask senators to please be brief in their interventions.

Speaker's Ruling – Request for Emergency Debate: Rise in Acts of Racism Against Afro-Canadians, Indigenous Canadians and Asian Canadians

Journals of the Senate, June 18, 2020, p. 513:

In reaching a determination on the request for an emergency debate, the Speaker must make reference to the criteria in rules 8-2(1) and 8-3(2). Senators are apprised of, and recognize, the critical importance of the issues raised in the request. The request addresses the rise in acts of racism against Afro-Canadians, Indigenous Canadians and Asian Canadians, and specifically draws attention to the rapid changes since the start of the COVID-19 pandemic. This is obviously a field involving federal action. It may not be perfectly clear how the request meets the specific requirement of rule 8-3(2)(b), which is that "the Senate is unlikely to have another opportunity to debate the matter within a reasonable period of time."

However, as Speaker, the Rules give me some latitude with respect to determining what constitutes an emergency, a responsibility I take seriously. I recognize that this is a grey zone. Of course, having a debate would not preclude an inquiry, a Committee of the Whole or a special committee, which are options that have been raised. Given the particular circumstances of this case, I am prepared to allow the emergency debate to proceed.

Honourable senators, the emergency debate will take place at the earlier of 8 p.m. or the end of the Orders of the Day. At that time, Senator Moodie will move that the Senate do now adjourn — this is the procedure that is normally used in these circumstances — and we will debate the emergency matter for up to four hours. Each senator has only 15 minutes to speak, and no motion, except that a senator be now heard, can be moved during the debate.

What happens after the emergency debate will depend on when the debate actually started and the time it concludes, but no items on the Notice Paper will be called today.

Speaker's Ruling – Question of Privilege: Right of Senators to Participate in Proceedings

Journals of the Senate, June 18, 2020, p. 515:

I am prepared to rule on Senator Wallin's question of privilege from June 16, 2020, which raised concerns about the right of senators to participate in proceedings of the Senate during the current pandemic.

This question of privilege was raised under rule 13-4. Chapter 13 of the Rules contains precise requirements for raising questions of privilege in order for them to be considered under the special processes of that chapter. In general, except for a matter to be raised on a Friday, written notice must be provided at least three hours before the Senate sits. Rule 13-4 is an exception to this notice requirement, and it exists to allow senators to raise questions of privilege if they become aware of a concern either after the time for giving written notice or during the sitting itself. The issues identified by Senator Wallin related to the fact that the Senate sat on June 16 and dealt with its business. This had been known since May 29, 2020, and there was no explanation to explain why recourse was made to the exceptional provisions of rule 13-4.

Rule 13-2(2) deals with cases where a question of privilege is neither raised at the first opportunity, nor covered by rule 13-4. Rule 13-2(2) states that in such situations:

> … a Senator may still raise the matter on a substantive motion following notice, but the matter cannot be proceeded with under the terms of this chapter.

Our Rules do not, therefore, allow Senator Wallin's question of privilege to be considered under the procedures of Chapter 13 of the Rules, although Senator Wallin remains free to raise the matter as a substantive motion after the required notice.

43rd Parliament, 2nd Session (September 23, 2020 - August 15, 2021)

Speaker's Ruling – Question of Privilege: Right of Senators to Participate in Debate and to Vote

Journals of the Senate, October 29, 2020, pp. 108-109:

Honourable senators, I am prepared to rule on the question of privilege raised yesterday by Senator Dalphond concerning motion 37, which proposes a sessional order concerning certain aspects of committee business. Paragraph eight of the motion, which would affect the duration of committee memberships in some situations, was the focus of particular attention. The concern reflects the unfortunate situation of the COVID-19 pandemic, which means that some senators are unable to participate in debate and vote on a motion that may have significant effects on them. Similar issues were raised in a very comprehensive manner in Senator Wallin's question of privilege, which was addressed in a ruling of June 16, 2020.

The question of privilege was raised without notice under rule 13-4, in light of the specific provision of rule 4-11(2)(a), which deals with a question of privilege relating to a matter on notice. The rule states that if an item is on notice a question of privilege may only be raised "at the time the order is first called for consideration".

As senators know, there are four criteria that a question of privilege must meet to be dealt with under the processes of Chapter 13 of the Rules. First, the issue must be raised at the earliest opportunity. In this case, the matter was raised several hours after the motion was first called for consideration. Rule 4-11(2)(a) suggests that the most appropriate time to raise the issue may have been when the notice was first called. This provision is, however, very rarely raised, so there may be understandable ambiguity about its application.

The second and third criteria require that a question of privilege must "directly concern the privileges of the Senate, any of its committees or any Senator", and must be raised "to correct a grave and serious breach". In considering these points, we must always take account of the fact that privilege exists to allow us to fulfil our duties as members of the Senate. This point has been made in various rulings, including those of May 23, 2013; February 24, 2016; and March 22, 2018. In the first of these rulings, the Speaker noted "… that the privileges and rights exercised by the Senate itself take precedence over those of individual senators". The rights and privileges of a senator can therefore be restricted by the Senate. Perhaps the most fundamental right of the Senate is control over its internal affairs, including the Rules and the management of Senate business. The Senate adopted its Rules, and the Senate can amend them, suspend certain provisions or temporarily alter their effect, which is what, in essence, the motion at issue proposes to do. On the particular issue on the unfortunate absence of colleagues, we must be clear that, when quorum is present, the Senate can exercise its powers. The decision as to when it will actually do this is in the hands of honourable senators.

The final criterion is that there must be no alternate parliamentary process reasonably available to pursuing a question of privilege. An amendment to motion 37 had been proposed shortly before the question of privilege was raised, and nothing would prevent another amendment. Colleagues can also continue debate, with the goal of persuading each other of their position. Eventually, the Senate can decide to adopt or reject the motion, and that decision would be an expression of its right to manage its internal affairs.

As already noted, a question of privilege must meet all four criteria of rule 13-2(1). Since that is not the case in this situation, the ruling is that the prima facie merits of the matter have not been established. Debate can therefore continue.

Speaker's Ruling – Point of Order: Use of Exhibits and Props

Journals of the Senate, November 5, 2020, p. 148:

Honourable Senators, if something happens in the chamber and it is not brought to my attention through a point of order, that does not mean that it's going to be allowed or it should be allowed. I can only address points of order.

Senator Martin has rightly pointed out that — for example, vote 16 on Senator McPhedran's mask in and of itself is not necessarily a prop, but vote 16 on her mask does illustrate her position and certainly her remarks with respect to the bill that she is supporting. In that sense, it is a prop.

In other words, I would kindly ask Senator McPhedran to remove it. If you do not have another one, we can supply one.

Speaker's Ruling – Point of Order: Receivability of an Amendment

Journals of the Senate, February 16, 2021, pp. 352-353:

Honourable senators, I am ready to rule on the point of order raised by Senator Gold on February 11, 2021, concerning Senator McPhedran's amendment to Bill C-7, An Act to amend the Criminal Code (medical assistance in dying). The concern was that the amendment does not respect the basic objective of the bill and is fundamentally destructive of its principle. After hearing arguments on the point of order, the Speaker pro tempore took the matter under advisement. As provided for in the order of February 8, governing proceedings on Bill C-7, debate then continued pending a ruling.

Rule 10-4 states that "The principle of a bill is usually debated on second reading." Second reading is thus a critical stage in the legislative process, since it is at this point that the Senate decides whether it is in favour of the principle of the bill, that is to say the bill's basic intent and objectives. By adopting a bill at second reading the Senate agrees with its basic principle and objectives, and subsequent changes must respect that decision. Amendments cannot be destructive of the bill's basic purpose, although the Senate does retain its right to reject a bill in whole at subsequent stages.

Related to this limitation are the ideas of scope and relevancy. While the three concepts are often raised together, they are distinct. A ruling of December 9, 2009 noted that:

> "It may generally be helpful to view the principle as the intention underlying the 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."

Page 141 of *Senate Procedure in Practice* notes that:

> "Amendments must, therefore, be in some way related to the bill …, and cannot introduce elements or factors alien to the proposed legislation or destructive to its original goals. In addition, amendments must respect the objectives of the bill."

While these types of issues usually arise in relation to proceedings in committee, this analytical framework also applies to proceedings in the Senate, as was noted in a ruling of April 4, 2019.

Applying these ideas to the point of order, it seems that the basic objective or intention of Bill C-7 is to recognize and take account of a judicial determination that there exists a constitutional right to medical assistance in dying for persons whose death is not reasonably foreseeable. The bill thus proposes to expand access to medical assistance in dying, with a system of safeguards and eligibility criteria, so that this right is effectively available to such individuals. As outlined during the point of order, the amendment would undo this fundamental purpose of the bill. If the amendment were adopted, the bill would no longer address the decision of the court, and the law would continue to limit medical assistance in dying to those whose death is reasonably foreseeable. This effectively reverses the principle of the bill.

Since the amendment goes against the basic principle of the bill and does not reflect the decision made by the Senate at second reading, it is out of order, and debate on it cannot therefore continue.

Speaker's Ruling – Point of Order: Orders of Reference

Journals of the Senate, June 3, 2021, p. 636:

Honourable senators, these were useful interventions. I do not believe that I need to take this under advisement. Both Senator Housakos and Senator Tannas have agreed with Senator McCallum, that the ultimate authority is the Senate itself. After matters have been brought to the Senate's attention, it can debate and decide whether or not, as a whole, it wishes to give instructions to a committee.

So your point is well taken, Senator McCallum, and I don't believe I need to take it under advisement.

Speaker's Ruling – Point of Order: Voting Process

Journals of the Senate, June 3, 2021, p. 642:

I accept the point of order, because we had moved through all the yeas within the chamber, over video conference and those whose name had not been called. Therefore, Senator Massicotte, if you really want to vote on this, you will have to ask leave to register your vote in favour.

Speaker's Ruling – Point of Order: Motion to Adjourn the Senate

Journals of the Senate, June 3, 2021, p. 643:

Honourable senators, the applicable rule is 5-13(2), which reads as follows:

> A motion to adjourn the Senate may only be moved by a Senator who is recognized to speak in a debate, and may not be moved on a point of order.

A senator, therefore, cannot move the adjournment of the Senate unless already engaged in debate on an item that has been called.

Speaker's Ruling – Point of Order: Written Notice of a Question of Privilege

Journals of the Senate, June 17, 2021, pp. 770-771:

Honourable senators,

You will recall that in early May, Senator Plett raised a point of order concerning a written notice of a question of privilege from Senator Dalphond. The written notice was sent to the Clerk of the Senate on April 26, 2021, and was distributed to all senators, as required by the Rules, on April 27, 2021. The notice was subsequently withdrawn by Senator Dalphond, and the issue never actually came before the Senate.

Senator Plett raised his point of order on May 6, 2021. The Leader of the Opposition was troubled by the content of the written notice and by the fact that it seemed to impugn his motives. He also suggested that the notice misled the Senate and made reference to confidential information arising from negotiations between senators. Senator Dalphond in turn spoke to the issue on May 25, 2021, arguing that there had been no violation of the Rules or of customary procedures and practices.

Honourable senators, the fact that the notice was withdrawn means that, other than the references made to it during debate, its content is not reflected in our parliamentary documents — that is to say in the *Journals of the Senate*, our official record, and the *Debates of the Senate*, the edited transcript of our proceedings. A notice was given, but was then withdrawn before any parliamentary action. As Speaker, I feel restricted in how much it would be appropriate for me to deal with such an ephemeral document that never came before this house, and which colleagues never had the chance to debate and consider. I would, in particular, remind you that notices are not normally the subject of points of order unless and until they are moved for adoption or otherwise formally brought before the Senate.

This said, honourable senators, the concerns raised by Senator Plett are understandable. He was the object of serious accusations. One can understand that he felt that his integrity had come under attack, and did not have an opportunity to respond to those accusations other than by raising a point of order. This is an opportunity for me to once again remind colleagues of the importance of restraint and prudence in our actions. We deal with issues that can give rise to strong feelings, and we must do everything we can to prevent those passions from having deleterious effects upon our work on behalf of all Canadians. I encourage all honourable senators to remember that colleagues are seeking the best for their fellow citizens. We should avoid being unduly harsh in our comments about each other, even when we have deep disagreements, and we should never impugn the motives of our colleagues. Such actions have no place in our Senate debates. Avoiding such behaviour will help us all work with one another.

Since the written notice never actually came before the Senate, it would be inappropriate to deal with this matter further. This said, I trust that colleagues will reflect upon my remarks here, and govern themselves accordingly.

Speaker's Ruling – Point of Order: Vote on a Motion

Journals of the Senate, June 29, 2021, pp. 832-833:

Honourable senators, I am ready to rule on the point of order raised during yesterday's sitting with respect to the question being put on motion 79.

Colleagues will recall that, after Senator Housakos had exercised his right of final reply, I started to read the question on the motion. When I asked if there was leave to dispense with reading the entire motion, there was a senator who said "no". This created some confusion. In order to ensure clarity, we restarted the process, and this time there was leave to dispense. I then put the question on the main motion, and, as has been the case throughout our hybrid sittings, I asked senators who were opposed to the motion to say "no".

It soon became evident, however, that some honourable senators were not entirely clear as to where we were in the voting process. On the video recording of the sitting, a senator can be heard to say "We're having a vote", even when, to some, it seemed that the Senate had passed that point in the voting process. Senators Moncion and Lankin explained that, because of their internet connections, there is sometimes a lag in what they hear, and they had not appreciated the stage the Senate had reached in the voting process.

Honourable senators, in all our proceedings — and especially during our hybrid sittings — good will and cooperation are necessary to facilitate the conduct of business. In this case, there clearly was confusion about dispensing with reading the question. While this was compounded by the technical challenges some honourable colleagues faced, this was not the only cause, since some senators in the Senate Chamber also expressed a level of misunderstanding as to what had occurred. We ought to take our colleagues at their word when they say that, for various reasons, they did not realize how far the process had advanced.

Senators, as members of this house, must have a clear understanding as to what we are voting on. We must be very cautious about making significant decisions when some senators clearly, and for perhaps understandable reasons, had not realized how the process was proceeding and the stage that had been reached. When we sit in person, such misunderstandings become apparent much more quickly, and we can deal with them as they arise. Such is not always the case when we sit virtually.

Honourable senators, let me be clear that this ruling, as in all my rulings, is not influenced by comments about an appeal. This ruling is based on the particular circumstances of the situation we faced yesterday and is solely driven by a desire to be as fair as possible to all senators, in light of the misunderstandings. While all senators are welcome to engage in debate on a point of order, they should limit their comments to arguments on the merits.

This being said, in this particular set of circumstances, I am forced to come to the conclusion that we should consider the process of putting the question on motion 79 to be incomplete. All other proceedings on the motion have concluded. In light of these unusual circumstances, we will now deal with the motion, following through with the voting process in an orderly manner.

Before we continue in this way, I again thank honourable colleagues for their cooperation and understanding.

44th Parliament, 1st Session (November 22, 2021 – May 12, 2023)

Speaker's Ruling – Point of Order: Abstentions

Journals of the Senate, February 10, 2022, p. 256:

Honourable senators, on December 14, 2021, after the first recorded vote this session, Senator Martin asked for clarification about the practice of senators explaining their reasons for abstaining only after they have voted. I had previously addressed this issue on March 17, 2021, when I noted "that the time for explaining why you abstain is during debate on the matter."

The practice of providing an explanation of abstentions reflects requirements dating back to a period when senators needed permission to abstain, after providing an acceptable explanation. Since 1982, senators have been able to abstain without permission. While our Rules therefore no longer mention explanations of abstentions, they have sometimes occurred, representing something of a residual element of our practice.

Honourable senators, in practice, of course, one would expect that the number of abstentions on any particular vote should be quite limited in most cases, and this indeed reflects historical patterns. One of the most important roles of a senator is to vote, thereby fulfilling our fundamental responsibility to make sometimes difficult decisions that will affect all Canadians.

As all senators know, abstaining is not a vote. However, in recent years the number of senators abstaining has grown considerably. This is a development on which all colleagues should reflect carefully. We have also seen increasing numbers of attempts to explain abstentions after the vote. In some cases, these have actually seemed to be speeches that would be more appropriately given before the vote. Let me remind you that, even when our Rules required explanations for abstentions, they were brief.

The Senate has generally been accommodating to colleagues on this point. Now that the issue has been raised a second time, however, it would be appropriate to note that such explanations should be limited to the rarest of circumstances. They might, for example, be appropriate if, after the bells are ringing for a vote, a senator realizes that he or she may have a possible conflict of interest, or if a colleague had not been able to follow the debate, and wanted to clarify that the abstention reflected a wish to avoid voting on an issue with insufficient information. If allowed, such explanations must be extremely brief. They are not a substitute for participating in debate, and they must never be viewed as a substitute for a vote.

I would like to thank Senator Martin for raising this important issue again.

Speaker's Ruling – Point of Order: Question Period

Journals of the Senate, June 9, 2022, pp. 660-661:

Honourable senators, on Thursday, June 2, Senator Plett rose on a point of order concerning various aspects of Question Period. I wish to thank him for having raised his concerns and seeking clarification. I have myself noted various concerns on this point.

The first issue raised pertained to the practice of asking questions to committee chairs. Rule 4-8(1)(c) states that questions can be asked of "a committee chair, on a matter relating to the activities of the committee". While there is considerable flexibility in questions, those asked of chairs must in some way relate to the committee's "activities". We can seek guidance in a ruling of November 13, 1980, which noted that committee activities include "the specific things that are done by the committee, such as the holding of meetings, the election of a chairman, the calling of witnesses, the hiring of staff, advertising, and any other matter relating to the manner in which the committee conducts its proceedings." This was reiterated in a ruling of March 20, 2007, where the Speaker added that "[g]eneral issues about planning and upcoming work are [also] included in the broad category of committee activities."

On this matter, I would also remind honourable senators that questions cannot be asked of chairs of subcommittees. As explained in a ruling of September 29, 2010, this is "because the subcommittee reports to this house through the chair of the committee." Any question pertaining to a subcommittee should therefore be directed to the chair of the committee in question.

The second issue raised pertained to the length of questions and answers. On this point, I would like to remind the Senate that rule 4-8(2) states that there shall be "no debate during Question Period, and only brief comments or explanatory remarks shall be allowed." As explained on May 10, 2006:

The rationale for prohibiting debate during Question Period and for creating Delayed Answers is due, in part, to the limited time given to Question Period. The thirty minutes allotted for questions and answers is to promote the immediate exchange of information about the policies of the [g]overnment or the work of a committee.

In the interest of fairness, senators should thus keep their questions and answers brief. This will allow responses to be brief and will allow as many colleagues as possible to participate.

Senators have also taken to sometimes asking two, three, or even four questions at once. This practice circumvents the whole purpose of having a list of senators to participate in Question Period and leads to long and complex answers. I encourage colleagues to ask brief, focused and clear questions, and for answers to be similarly concise.

Before concluding, I would also repeat previous cautions about supplementary questions. These should relate to the main question. They are meant as an opportunity to request clarification, not to ask a completely different, unrelated question. If a senator wishes to ask a different question, their name should go back on the list for a new question.

Question Period in the Senate has traditionally been characterized by the respectful and useful exchange of information. I would encourage all senators to reflect on this and to continue to conduct themselves in a manner that serves all colleagues and the institution.

Speaker's Ruling – Point of Order: Question Period

Journals of the Senate, June 16, 2022, p. 744:

Honourable senators, after Question Period on Thursday, June 9, 2022, Senator Miville-Dechêne rose on a point of order concerning a possible breach of confidentiality of an in camera meeting that took place earlier that week. I wish to thank the honourable senator for raising this matter, as well as all senators who contributed to the debate on the point of order.

Colleagues, the discussion pertained to items that may have been under discussion in committee. We do not have access to in camera proceedings and do not know what was said or done in the committee. Different facts were placed before us. In my opinion, this would be best discussed by the committee. As stated in paragraph (a) of Appendix IV of the *Rules of the Senate*, "[i]f a leak of a confidential committee report or other document or proceeding occurs, the committee concerned should first examine the circumstances surrounding it." The committee can then take the appropriate follow-up measures.

I wish to remind all honourable senators that the deliberations and any proceedings related to in camera meetings are confidential, and your cooperation in being careful on this point is greatly appreciated.

Speaker's Ruling – Question of Privilege: Witness Intimidation

Journals of the Senate, October 20, 2022, pp. 949-952:

Honourable senators, on October 4, 2022, Senator Tannas raised a question of privilege about a series of events surrounding the appearance of a witness at a meeting of the Standing Senate Committee on Transport and Communications on September 28. He argued that these events constituted an attempt to intimidate the witness. I am prepared to rule on this serious issue.

Senator Tannas' written notice indicated that the question of privilege related to a concern that "[t]he timing and content of an article in the Globe and Mail on September 27, 2022, … may constitute intimidation of a witness." According to the article, a Liberal member of the House of Commons alleged that a witness had failed to disclose funding from YouTube. Senator Tannas argued this may constitute intimidation. His oral notice reflected the content of the written notice. Both notices therefore respected the requirement that they "indicat[e] the substance of the alleged breach" and "identify the subject matter that shall be raised as a question of privilege," which are from rules 13-3(1) and 13-3(4), respectively.

Many senators participated in consideration of the question of privilege. We were informed that the appearance of the witness before the Senate committee was announced on September 23, 2022. The article in the *Globe and Mail* of September 27 mentioned a request put to the Commissioner of Lobbying by a member of the other place. We were advised that the request may have been linked, at least in part, to an appearance by the same witness before a committee of the other place earlier in the year.

A number of senators also raised a range of other issues generally relating to this situation. These included, in particular, concerns that events in a committee of the other place had so intimidated witnesses that some individuals might be unwilling to appear before the Senate committee. I wish to thank all honourable senators for their thoughtful reflections on the important issues that were discussed during consideration of the question of privilege.

Before dealing with the substance of the issue, let me remind senators that a question of privilege is raised when there is "[a]n allegation that the privileges of the Senate or its members have been infringed." Privilege deals with "[t]he rights, powers and immunities enjoyed by each house collectively, and by members of each house individually, without which they could not discharge their functions, and which exceed those possessed by other bodies and individuals." Privilege exists so that parliamentary bodies can conduct their critical work in our democratic system with the necessary degree of autonomy and independence. I encourage honourable colleagues to review the 2015 and 2019 reports by our Standing Committee on Rules, Procedures and the Rights of Parliament, which deal with the place of privilege in a modern Canada.

At this stage, my role as Speaker is not to decide whether a breach of privilege has in fact occurred. That decision belongs to the Senate. My role is limited to determining if a concern raised, in relation to privilege, has prima facie merits. That is to say whether, at first impression, there is strong enough concern that a breach has occurred that the Senate should deal with the matter under the special procedures of Chapter 13 of the Rules. In doing this, I am guided by the four criteria set out in rule 13-2(1). All these criteria must be met for the issue to proceed to the next step, which is debate in the Senate on a motion to study the matter or to take other action.

In this case we can begin by considering the nature of the concern raised, a point related to the second and third criteria of rule 13-2(1). The second criterion requires that the question of privilege be directly related to the privileges of the Senate, a committee of the Senate, or a senator. The third criterion requires that a question of privilege be raised to correct a grave and serious breach.

Let me begin by emphasizing that the two houses of Parliament are autonomous self-governing institutions. During debate on the question of privilege, numerous references were made to proceedings in a committee of the other place. Concerns were expressed about how witnesses were treated and the effects this may have had. The Senate has no role in reviewing how the other place chooses to conduct its business. Senators can, and typically do, exhibit respectful behaviour towards witnesses. I also note the importance of being assiduous in continuing to do so. Anything touching on what may have happened in the House of Commons or one of its committees, or as a follow-up to events there, is, however, not for us to consider.

In past cases about possible obstruction of witnesses, the actual or potential actions that may have negatively affected the individuals involved were clearly identified. In a 1999 case involving a witness who appeared before our Agriculture and Forestry Committee, the witness considered that a suspension by his employer was directly related to his appearance. On this basis, a prima facie case of privilege was established. However, during its investigation, the Rules Committee of the Senate found no clear link between the suspension and the appearance.

In a 2013 case involving the RCMP, it was established that a witness who had been invited to appear before our National Security and Defence Committee, and who had accepted, was prevented from appearing because of the actions of officials of the force. A prima facie case of privilege was therefore established. In its report, the Senate's Rules Committee noted that, while the National Security and Defence Committee had not been able to hear from a particular witness, its work had not been unduly impeded, since it did hear from the witness' association. Our Rules Committee also stated that the RCMP had indicated that the matter had been rectified for future requests from Parliament.

Finally, reference was made in debate to a 1992 case in the other place, where a witness before a subcommittee of the Standing Committee on Justice and the Solicitor General was threatened with legal action by the CBC because of her testimony. While the Speaker found a prima facie case of privilege, subsequent review determined that there was not sufficient evidence to justify a finding of contempt.

However, in the case before us, no clear indication has been provided as to how the witness before the Senate committee was affected or threatened in relation to that appearance. Indeed, the witness received correspondence from the Office of the Commissioner of Lobbying suggesting that, in relation to at least some of the issues involved, he had respected legal requirements. We therefore seem to be dealing with the fact that a member of the other place requested that the commissioner review certain facts relating to the witness. At least in part, this may have been based on information received during a meeting of a House of Commons committee. These facts were published in a newspaper article, which also included an opportunity for the witness to respond.

There are three significant points to be made here. First, the *Lobbying Act* makes clear that parliamentarians can provide information to the Commissioner of Lobbying relating to a possible investigation. Second, to the extent parliamentary proceedings were involved, they related to a proceeding of the House of Commons, not the Senate. Finally, this situation relates to information appearing in the media. We thus need to take into consideration the balance between the freedom of Parliament and freedom of the press, which is also a fundamental feature of our constitutional system. The autonomy of the media ought not to be questioned in Parliament except with clear and direct evidence that such a grave and troubling step cannot be avoided. As already noted, nothing in the debate on the question of privilege indicated that the Senate need consider such a step at this time.

Taking all these factors into account, it cannot be concluded that the Senate's privileges are involved. Nor can it be concluded that any concern is of such seriousness as to require us to consider interfering with the interaction between parliamentary autonomy and that of the media. As such, the second and third criteria of rule 13-2(1), which were outlined earlier, have not been established. We do not therefore need to review the remaining criteria, and the ruling is that a prima facie case of privilege has not been established.

Speaker's Statement: Parchment Error (Bill C-18)

Journals of the Senate, January 31, 2023, pp. 1185-1187:

Honourable senators, I would like to read a statement that was made by the Speaker of the House of Commons yesterday:

> The Chair wishes to inform the House of an administrative error that occurred with regard to Bill C-18, An Act respecting online communications platforms that make news content available to persons in Canada.
>
> Members may recall that the Standing Committee on Canadian Heritage made a series of amendments to the bill, which were presented to the House in the committee's fourth report on December 9, 2022. The committee also ordered that the bill, as amended, be reprinted for the use of the House at report stage.
>
> The House concurred in the bill, as amended, at report stage on December 13, 2022, and adopted the bill at third reading the following day.

Following passage at third reading, as per the usual practice, House officials prepared a parchment version of the bill, which was transmitted to the Senate. Due to an administrative error in the committee's report, which was also reflected in the version of the bill that was reprinted for the use of the House at report stage, the report and the bill both included a subamendment, adding a new clause 27(1.1) to the bill, which had been negatived by the committee and should not have appeared in the bill.

Given the tight timelines between the presentation of the report and consideration of the bill at third reading, the error went unnoticed before the bill was passed. Nonetheless, the decision taken by the committee was clear, as recorded in the minutes of the meeting. The Chair has no reason to believe that members were misinformed when they adopted the bill.

This error was nothing more than administrative in nature. The proceedings which took place in this House and the decisions made by the House with respect to Bill C-18 remain entirely valid. The records of the House relating to this bill are complete and accurate. However, the documents relating to Bill C-18 that were sent to the Senate included an error and were not an accurate reflection of the House's intentions.

Similar situations have been addressed by my predecessors, such as in a ruling on April 12, 2017, found at page 10486 of *Debates*. Guided by this precedent and others, similar steps have been taken to address the current case.

Once the error was detected, House officials immediately communicated with their counterparts in the Senate to inform them of the situation. The Chair then instructed House officials to take all the necessary steps to correct the error in both the committee's report and the bill itself, and to ensure that the other place has a corrected copy of Bill C-18. A revised version of the bill will be transmitted to the Senate as per the usual administrative process.

Furthermore, the Chair has asked that a rectified "as passed by the House of Commons" version of the bill be printed and that the fourth report of the committee be corrected accordingly.

In light of this situation, the Senate will be in a position to make its own determination as to how it will proceed with Bill C-18.

I thank all members for their attention.

Honourable senators, as the Speaker of the other place noted in his statement, we have had to deal with such errors before.

The defective version of Bill C-18 was given first reading in December. Debate at second reading has not yet started. We cannot now bring the corrected version of the bill before the Senate until proceedings on the previous version have been declared null and void. That would essentially clear the way for the corrected bill.

As explained at page 131 of *Senate Procedure in Practice*, in cases where a bill has not yet received second reading, a motion to declare proceedings null and void requires either one day's notice, or it can be moved immediately if there is leave.

Since the Senate has only just been advised of this situation, I would invite honourable senators to reflect on the best approach in dealing with this unfortunate matter.

Speaker's Ruling – Point of Order: Receivability of a Motion

Journals of the Senate, April 25, 2023, pp. 1420-1421:

Honourable senators, I am ready to rule on Senator Plett's point of order. Let me start by thanking all of you for your input on this important matter. Since this notice was given last Thursday, I have been reviewing a range of issues relating to our time allocation process, and my ruling is the result of my own reflection and your arguments.

I believe that there are, in essence, two issues involved in the point of order: first, the procedural requirement to indicate a lack of agreement; and, second, the fundamental issue of whether Senator Gold, as Government Representative, can initiate this process at all.

On the first point — the matter of agreement and consultations — rule 7-2(1) states that, "At any time during a sitting, the Leader or the Deputy Leader of the Government may state that the representatives of the recognized parties have failed to agree to allocate time to conclude an adjourned debate …" on an item of Government Business.

In terms of any requirements for consultations or agreement, the wording of rule 7-2(1) is quite specific. The test is whether there has been a failure to agree to allocate time. A ruling of September 20, 2000, dealt with this concern. Speaker Molgat noted that the senator making the statement must be taken at their word. The Speaker went on to say: "All I have before me is a motion stating that they have reached no agreement at this point, the rule has been followed and the terms have been set out." This was sufficient for debate on the time allocation motion to go ahead. The same analysis applies in the current case.

Having dealt with this initial issue, I will turn to the second concern in the point of order, which is the basic issue of whether Senator Gold can even initiate — or has a role in — the processes under Chapter 7 of the Rules.

As made clear in a ruling of May 19, 2016, regarding government positions in the Senate, Senator Gold, as Government Representative, is indeed Government Leader. The Government Representative routinely exercises the rights and responsibilities of that position.

Appendix I of the Rules defines the Government Leader as "The Senator who acts as the head of the Senators belonging to the Government party." The very definition of the Government Leader thus makes clear that the senator occupying that position has a role that is analogous to, if not equivalent of, that of a party leader.

Appendix I recognizes that the definitions it contains are inherently flexible and depend on context, specifically stating that the definitions are to be interpreted in light of circumstances. The procedures for time allocation, which were introduced into the Rules in 1991, exist to allow the government the option of requesting, when it thinks appropriate, that the Senate agree to set limits to the duration of debate on an item of Government Business.

In light of the basic objective of the time allocation process, and the definitions in the Rules, it is appropriate that Senator Gold can play the role envisioned in Chapter 7 for the Government Leader.

It is also important to underscore that the government is not able to unilaterally impose time allocation on the Senate. Time allocation is proposed by the government, and the Senate itself must agree, or not, to the motion. Allowing the motion to go forward can, therefore, be understood as broadening the range of options open to the Senate. The government would have to explain and defend its proposal, which senators can then accept or reject. If senators reject the government's proposal, debate continues according to normal practices.

In summary, honourable senators, the intent of Chapter 7 favours allowing debate on Senator Gold's proposal to continue, which would widen the range of choices available to the Senate, and fits within the definitions contained in our Rules. The ruling is, therefore, that the motion is in order and debate can continue.

Speaker's Ruling – Point of Order: Language and Actions During Proceedings

Journals of the Senate, May 2, 2023, pp. 1471-1472:

Honourable senators, I am prepared to rule on the point of order raised by Senator Downe after Question Period on March 30, as well as a subsequent point of order raised by Senator Housakos on April 25.

In terms of the point of order of March 30, the remarks made during Question Period, which gave rise to the concerns, alleged that a member of the other place, holding a key position in public office, had misled Canadians. Then a very strong term, best avoided in parliamentary business, was used. Following a request from a senator, several other senators offered input on this matter on April 19.

Rule 6-13(1) deals with the language used in debate. It states that "[a]ll personal, sharp or taxing speeches are unparliamentary and are out of order." As indicated at page 85 of *Senate Procedure in Practice*:

> There is no definitive list of words or expressions that are deemed unparliamentary. Determination of what constitutes unparliamentary language is left primarily to the judgment of the Speaker and the sense of the Senate. The circumstances and tone of the debate in question play important roles in this determination.

This is, of course, not the first time such issues have been raised. I note, in particular, a similar point of order raised on December 3, 2020, concerning remarks made during debate on a motion to authorize a committee to study a government contract.

I once again urge honourable senators to be mindful of the need for caution when participating in proceedings. In particular, parliamentary practice holds that "[d]isrespectful reflections on Parliament as a whole, or on the House [of Commons] and the Senate individually are not permitted." This is at page 620 of the third edition of *House of Commons Procedure and Practice*, which then goes on to emphasize that "Members of the House and the Senate are also protected by this rule." In speaking of our colleagues, whether in the Senate or the other place, we should therefore be guided by the need to show respect and to avoid intemperate personalized attacks, including impugning motives.

Senator Housakos' related point of order of April 25, dealt with remarks and actions that took place between senators following an exchange in the Senate. He argued that a particular senator had been "maligned and injured" and made reference to rule 2-9(2), which states that "[s]enators who consider themselves to have been offended or injured in the Senate Chamber … may appeal to the Senate for redress." On the other hand, some colleagues claimed that the language and actions at issue were not excessive and not without precedent in the Senate.

Honourable senators, with the privilege of sitting in this house comes responsibility. We all work together for the good of our country. We can certainly disagree, and can even disagree strongly. Indeed, the exchange of conflicting ideas is vital to the health of our parliamentary system. We should, however, always act with civility and respect towards our fellow parliamentarians, and all persons we deal with or mention. All of us are responsible for ensuring the proper functioning of this institution, and we must avoid undermining it or each other.

Language and actions are powerful. Parliament should provide an example of productive and respectful debate, of a type that we do not always see elsewhere in society. We have a role to be leaders and must choose our words wisely. More practically, I am concerned about how such issues could harm the culture of the Senate and risk having deleterious effects on our work.

In light of all this, I am sure that honourable senators will understand the concerns that have been raised. Senators could have shown their strong views in ways that were less inflammatory. I strongly urge moderation and restraint by senators so that we can best fulfil our work on behalf of all Canadians. Collaboration from all colleagues is essential; the Senate must remain a forum for respectful debate while also retaining its characteristic as a body where each of us assumes responsibility for maintaining order and decorum.

In these specific cases, I must find that the events of which Senators Downe and Housakos complained did go beyond the limits of proper parliamentary behaviour. I ask colleagues to be mindful of these factors in the future. Specific actions relating to these cases would, however, require a decision from the Senate, in keeping with our collective responsibility for how our Senate functions.

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