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OFFICIAL REPORT
(HANSARD)

Tuesday, May 28, 2013

The Honourable NOËL A. KINSELLA
Speaker

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(Daily index of proceedings appears at back of this issue).

*Debates Services:* D'Arcy McPherson, National Press Building, Room 906, Tel. 613-995-5756
*Publications Centre:* David Reeves, National Press Building, Room 926, Tel. 613-947-0609

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# THE SENATE

**Tuesday, May 28, 2013**

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

Prayers.

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, before we begin I would like to draw your attention to the presence in the gallery of a delegation from the Hellenic Republic, led by His Excellency Vangelis Meimarakis, Speaker of the Hellenic Parliament, who is accompanied by his gracious wife and daughter and the distinguished Ambassador of the Hellenic Republic to Canada.

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

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

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# SENATORS' STATEMENTS

## QUESTION OF PRIVILEGE

### NOTICE

**Hon. Mac Harb:** Honourable senators, earlier today, pursuant to rule 13-4(1), I gave written notice that I would raise a question of privilege later this day. I now give oral notice that I will raise a question of privilege regarding outside interference in Senate internal affairs and the resulting damage to the reputation and integrity of the Senate.

I am ready to move a motion to send this matter to a committee in accordance with rule 13-7(1) if His Honour decides there is a prima facie question of privilege that warrants study.

## DALHOUSIE UNIVERSITY

### BLACK BUSINESS INITIATIVE SCHOLARSHIP

**Hon. Donald H. Oliver:** Honourable senators, I rise today to share some exciting news. One month ago the Black Business Initiative, called BBI, partnered with Dalhousie University to launch a new $10,000 renewable scholarship for Black students of the Corporate Residency MBA at the Rowe School of Business in Halifax.

This is a rigorous, innovative and unique 22-month professional development in business course. Permit me to explain why this is so significant. This initiative promotes and enhances the upward mobility of post-secondary students and those who can become our country's future business leaders. The BBI is a province-wide business development initiative committed to fostering the growth of businesses owned by the Nova Scotia Black community. It places priority on educating Black business owners in the operation of their business, from marketing to budgeting to securing funding. It does outstanding work. Its partnership with Dalhousie's Rowe School of Business is a natural fit.

Scholarship applicants must be residents of the province for at least 24 months and display academic excellence, strong citizenship and character and a desire to make a meaningful contribution to the community.

Michael Wyse, CEO of the BBI and a graduate of the Dalhousie University MBA program, said:

> We are looking for innovative, motivated, and talented Black Nova Scotians that have the drive to excel in this program. The BBI is very pleased to provide support to Black Nova Scotians wishing to continue their education in this prestigious graduate program.

Honourable senators, this new scholarship dedicated to our brightest African Nova Scotian youth leaders reiterates Dalhousie University's commitment to diversity and equality, and indeed Dalhousie was once again named one of Canada's best diversity employers this year.

Peggy Cunningham, Dean of the Faculty of Management, hopes this new partnership with the BBI will create special opportunities for Black Nova Scotians. She hopes it will also demonstrate Dalhousie's overall commitment to IDEAS, which stands for innovation, diversity, ethics, action and sustainability.

This is not the first time Dalhousie has created scholarships aimed at increasing diversity and helping Black youth pursue their higher education and overcome systemic barriers and financial difficulties. There are other scholarships for Black students at Dalhousie University. I think of, for instance, the $15,000 Black and First Nations Graduate Entrance Scholarships; the Dr. Calvin W. Ruck Scholarship in social work, in honour of our former Senate colleague; the Jeff D. & Martha Edwards Scholarship for Black Canadian & Bermudian Students; and, I am proud to mention, the Senator Donald Oliver bursary for Black Atlantic Canadians.

Honourable senators, Allan Shaw, adviser to the Corporate Residency MBA program, believes that this new BBI-funded scholarship will help to ensure that more Black Nova Scotians can prepare themselves for leadership roles in the community. Indeed, the new scholarship fulfills the BBI's mandate to enhance the educational future of Nova Scotia youth, support the future leaders of tomorrow and ensure community and business development.

It is a great initiative, and I commend the BBI and Dalhousie University for their ongoing commitment to the Black community.

## THE LATE NEIL REYNOLDS
## THE LATE PETER WORTHINGTON

**Hon. Joseph A. Day:** Honourable senators, in the past fortnight Canada has lost two of its greatest print media pioneers: Neil Reynolds and Peter Worthington.

Born in Kingston in 1940, Neil Reynolds began his career in media at a young age as a newspaper delivery boy, delivering the *Kingston Whig-Standard* to people in the Kingston area. This path would see him become editor-in-chief of that very newspaper, along with several other major Canadian newspapers.

As a resident of Saint John, New Brunswick, I particularly remember his stint as editor, and later as editor/publisher of the *Telegraph-Journal* and the *Brunswick News* in the late 20th century. Here he turned that publication on its head and can be credited with helping it become the highly respected publication it is today.

Neil Reynolds was a true gentleman. He did not shy away from stirring the pot in his writings. He was a fierce libertarian and had a strong belief in personal freedoms, including freedom of speech and, by extension, freedom of the press. For a brief time in the 1980s, he stepped away from reporting in journalism to become the first full-time national leader of the Libertarian Party. He was unsuccessful, thank goodness, and returned to journalism.

• (1410)

Neil died Sunday, May 19, at his Ottawa home after a battle with cancer. He was 72 years old.

Peter Worthington was cut from a similar cloth. The son of an army general, born in an army camp in Winnipeg's Fort Osborne Barracks in 1927, his toughness and hard-headedness were almost preordained.

Fearless by nature, he would escape his adolescence by running away and attempting to join the Merchant Navy at the age of 15, but was quickly turned away due to his age. By 17 years of age, his mother was prepared to sign the consent forms to allow him to join the Navy in 1944. By 18 he would become the youngest and, in his own words, the least competent sub-lieutenant in the Royal Canadian Naval Volunteer Reserve. A few years later he served in the Korean War.

Mr. Worthington would go on to become a respected and tenacious journalist and help create the Sun Media chain from scratch.

Peter Worthington, too, had a brief political career running as an independent in the Toronto riding of Broadview-Greenwood in 1982. He, as well, was unsuccessful in that campaign and returned to journalism.

It was as a result of his involvement in the Korean War through which I had the honour of meeting Mr. Worthington during a pilgrimage to Korea in 2003 in recognition of the Korean War's fiftieth anniversary.

I had the honour of attending Mr. Worthington's funeral with hundreds of his acquaintances, friends and families. He passed away on May 12 at the age of 86.

To the families of Peter Worthington and Neil Reynolds, we offer our sincere condolences and our thanks for sharing with us two such capable men of independent spirit. Both of these men were talented, skilled journalists who were not afraid to try different things. They brought a dignity to the newspaper business that is hard to match, and those pursuing a career in journalism would be smart to do the best they can to emulate those fine gentlemen.

## THE LATE PETER WORTHINGTON

**Hon. Yonah Martin:** Honourable senators, during the special Year of the Korean War Veteran we commemorate the sixtieth anniversary of the signing of the armistice and honour all those who served in Korea.

[*Translation*]

Today I rise to pay tribute to a hero, Lieutenant Peter John Vickers Worthington, who died on May 13, 2013. He cofounded and was a columnist for the *Toronto Sun*. He was a veteran of World War II and the Korean War and a proud member of the Princess Patricia's Canadian Light Infantry.

[*English*]

Peter was a veteran journalist who always had a great story to tell about one of his many adventures. His love of adventure began at a very early age, inspired largely by his father, a veteran of two Central American wars and of World War I, whose colourful and adventure-filled life began as a 10-year-old orphan.

[*Translation*]

When Peter was a child, he envied his father's adventure-filled life so much that he left home at 15 to join the army. At 18, he became the youngest sub-lieutenant in the Royal Canadian Naval Volunteer Reserve.

[*English*]

In 1950, Peter served in Korea as a platoon commander, then as battalion intelligence officer in the Princess Patricia's Canadian Light Infantry. When the war came to an end, Peter was ready for his next adventure. He studied journalism at Carleton University and upon graduation was hired by the *Toronto Telegram* as a reporter.

Shortly after, the Soviet Union invaded Hungary and the Suez war erupted. When the United Nations Emergency Force was authorized to go to Gaza, Peter asked to be sent to report the story first-hand. He was so determined to do this that he even offered to take a vacation and pay for his own way there. Such was Peter's absolute dedication to every mission.

Peter was 77 years old when he dropped out of the Afghan sky in a C-130 Hercules transport in 2004, becoming by far the oldest Canadian journalist to embed himself with the troops in South Asia. Suffice it to say, Peter witnessed and reported on more fighting than almost any other Canadian reporter of his generation. In his final *Toronto Sun* column, published the day after his death, he wrote:

> ... I covered every major war, crisis or revolution in the world. I was reluctant to take holidays for fear of missing a foreign crisis.

[*Translation*]

Peter was a kind-hearted, courageous and passionate man who will be mourned by his wife Yvonne, his family, his journalist friends and his fellow Korean War veterans.

[*English*]

Bill Black, President of KVA Unit 7 in Ottawa who attended Peter's funeral with our colleague Senator Day on May 22, sent the following:

> It was a most memorable event. If I did not know the person whose life was being celebrated I would surely [have] thought he was of royalty. In a way I suppose he was because of the interestingly full life, spent in putting himself quite often in dangerous situations. Also, he was renowned for helping the underdog, including providing assistance to many veterans over many years.
>
> If you look at all the things he accomplished over a period of his seventy years of adult life I would venture to say he crammed two lifetimes into those seventy years....
>
> With such pomp and grandeur [there was] an aura of being in the presence of someone who was much more than an ordinary Canadian.

I also wish to acknowledge the tireless effort of another veteran, Vince Courtenay, who was asked by the family to coordinate all the military details for the funeral.

[*Translation*]

Peter Worthington was and will remain a true hero who inspired all those who had the privilege of knowing him.

[*English*]

May he rest in peace.

## GLOBAL CENTRE FOR PLURALISM

**Hon. Mobina S.B. Jaffer:** Honourable senators, last Thursday Senator Segal and I heard former United Nations Secretary-General and Nobel Peace Prize laureate Kofi Annan deliver the Global Centre for Pluralism's second annual pluralism lecture at the Delegation of Ismaili Imamat in Ottawa.

The Global Centre for Pluralism is a place for dialogue about the foundations and benefits of inclusive citizenship. Its mission is to advance respect for diversity as a new global ethic and to inspire leadership for pluralism through knowledge exchange. The idea for the centre originated in the 1990s when His Highness the Aga Khan asked Canadian leaders to explain the success of Canada's approach to diversity. In 2006, His Highness the Aga Khan and the Government of Canada formed a partnership to launch the Global Centre for Pluralism, a private not-for-profit institution founded in Canada with a global mission to serve the world.

In his remarks last Thursday, His Highness the Aga Khan said:

> ... pluralism requires constant dialogue, a readiness to compromise, and an understanding that pluralism is not an end in itself, but a continuous process.
>
> The Global Centre for Pluralism... was inspired in part by Canada's experience as a highly diverse society. We want the Centre to be a place where we can all learn from one another about the challenges of diversity — and where we can share the lessons of successful pluralism.
>
> And on evenings like this, we also help realize the Centre's potential as a destination for dialogue, a place where we can exchange ideas with true champions of global pluralism, like Kofi Annan.

During his lecture, Kofi Annan argued:

> ... whatever our background, what unites us is far greater than what divides us.... We have to learn from each other, making our different traditions and cultures a source of harmony and strength, not discord and weakness.

Kofi Annan also reflected on the need to recognize the complexity and unique nature of each society.

> "The mix of policies and institutions required to manage relations between indigenous communities and a majority of long-established incomers is not the same as that required to integrate and protect 'new' minorities who have only recently arrived." Solutions must be tailored for the unique situation of every single society. "This is where the role of the Centre will be invaluable."

Honourable senators, the Global Centre for Pluralism's work in fostering leadership for pluralism stands as a remarkable testament to our own unique and imperfect society. As His Highness the Aga Khan pointed out in his remarks, that story, and the relationship between Canada's indigenous peoples, English and French citizens, and new Canadians continues to evolve because pluralism is not an end in itself, but a continuous process. By continuing to learn and grow into a more accepting, caring and compassionate society, we model for societies worldwide that diversity and peace are forces for the common good.

I hope honourable senators will join me in recognizing and thanking the Global Centre for Pluralism and the His Highness the Aga Khan for their valuable contributions as facilitators of pluralism leadership in Canada and around the world.

• (1420)

## IRAN

### POLITICAL PRISONER NASRIN SOTOUDEH

**Hon. A. Raynell Andreychuk:** Honourable senators, I rise today to draw your attention to the plight of an Iranian political prisoner. Nasrin Sotoudeh is one of some 2,600 prisoners of conscience who are currently denied their freedom in the Islamic Republic of Iran.

Over the coming months and years, I will be following and raising Ms. Sotoudeh's case as part the Iranian Political Prisoner Global Advocacy Project. This is an initiative of the Inter-Parliamentary Group for Human Rights in Iran, co-founded by Canadian Member of Parliament Irwin Cotler and U.S. Senator Mark Kirk. The objective is to pair parliamentarians around the world with Iranian political prisoners in order to mobilize awareness and action on their behalf.

Nasrin Sotoudeh is a 50-year-old married mother of two young children. As a lawyer, she has dedicated her life to defending the rights of women and mothers, opposition activists and politicians, abused children and children sentenced to death.

In September 2010, she was arrested and charged with "spreading propaganda" and "conspiring to harm state security." She spent time in solitary confinement in the infamous Evin Prison. In January 2011, she was sentenced to 11 years in prison and barred from practising law and leaving Iran for 20 years. An appeals court later reduced her sentence to six years in prison and a 10-year ban from practising law.

Ms. Sotoudeh's family has also been subject to harassment and travel bans. She has protested twice by going on a hunger strike, apparently prompting a rapid decline in her eyesight. She has been denied leave for treatment. Responding to repeated denials of visits by her daughter, she is reported to have written to her children:

> I know you require water, food, housing, a family, parents, love, and visits with your mother. However, just as much, you need freedom, social security, the rule of law, and justice.

Few words capture the fundamental nature of human rights as clearly as those comments. Ms. Sotoudeh's commitment to upholding these values is both humbling and a source of inspiration.

I encourage all honourable senators to continue to speak out on behalf of Iranian political prisoners, such as Nasrin Sotoudeh — prisoners who have sacrificed their freedom in defence of that of their fellow citizens and on behalf of all humanity.

I thank honourable senators for supporting this initiative.

## HALIFAX MOOSEHEADS

### CONGRATULATIONS TO 2013 MEMORIAL CUP WINNERS

**Hon. Jane Cordy:** Honourable senators, I rise today to congratulate the Halifax Mooseheads Major Junior Hockey League team for their Memorial Cup victory on Sunday night against the Portland Winterhawks.

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

**Senator Cordy:** The Memorial Cup Championship capped off a stellar season for the Mooseheads, setting franchise records for the most wins, the fewest losses and the most goals scored in a season. Their strong play during the season carried over to the playoffs where they lost just once in 17 games to win the President's Cup as the champions of the Quebec Major Junior Hockey League, also known as "The Q."

This made them the Quebec league representatives in the Memorial Cup Championship. The Mooseheads brought the Memorial Cup to Halifax for the first time ever. By the way, the Memorial Cup has been won by the Quebec league teams for the past three seasons: the Saint John Sea Dogs in 2011, Shawinigan Cataractes in 2012 and the Mooseheads in 2013.

The score was 3-0 for the Mooseheads after the first period of the championship game, but was 3-2 after the second, leading to an exciting third period of hockey. With one minute and 16 seconds left to play, the score was 5-4. The Winterhawks had an empty net, and six attackers buzzing around the Halifax net. As great players do in key moments, Nathan MacKinnon scored his third goal of the game into the empty net with 22 seconds left on the clock to clinch the game and the Memorial Cup.

Nathan MacKinnon from Cole Harbour, Nova Scotia, also home of Sidney Crosby, had a hat trick and two assists in the game, and was the MVP of the tournament.

The Mooseheads are an exceptional team, with stars like Nathan MacKinnon, Jonathan Drouin and Marty Frk — a line that would have to go down as one of the best forward lines in junior hockey history. The 17-year-old goalie, Zachary Fucale, played like a veteran.

Congratulations to all the Mooseheads players who have won the hearts of Nova Scotians. Congratulations to the owner, Bobby Smith; the general manager, Cam Russell — also from

Cole Harbour, Nova Scotia; the coach, Dominique Ducharme; and all the Mooseheads organization that worked together to build a winning team.

Today Nova Scotians will be celebrating Mooseheads Day at the grand parade in Halifax. Thank you, Mooseheads, for a remarkable season of hockey, and congratulations on your Memorial Cup win.

### NEW BRUNSWICK FESTIVAL OF TALL SHIPS ON THE MIRAMICHI

**Hon. Paul E. McIntyre:** Honourable senators, I rise today to speak about the New Brunswick Festival of Tall Ships on the Miramichi.

A tall ship generally refers to a large-rig sailing vessel, depending on the number of spars and the carvings of sails; however, a tall ship can also refer to a sloop, barquentine, ketch, brig, schooner or brigantine. From Friday, May 31, to June 2, 2013, eight tall ships will be journeying up the Miramichi River.

The City of Miramichi is the largest city in northeastern New Brunswick and is positioned along the Miramichi River, internationally renowned for its salmon fishing. The City of Miramichi is the hub of attraction for visitors and residents throughout the summer months. Featured summer festivals include, among others, Canada's Irish Festival and the Miramichi Folksong Festival.

This summer, the New Brunswick Festival of Tall Ships will be the city's most anticipated event for people of all age groups. Eight ships, all with a unique history and purpose, will be sailing up the Miramichi River for this forthcoming event.

Leading the small fleet will be the HMCS *Summerside* of the Royal Canadian Navy, a maritime coastal defence craft.

The *Peacemaker* was initially constructed in southern Brazil with various hardwoods. The ship's new reconstructive system was made possible with the purchase of the ship by a religious group, the Twelve Tribes. The *Peacemaker* sailed for the first time in 2007 and its home port is located in Brunswick, Georgia.

The 85-foot-long *Roter Sand*, whose home port is Rimouski, Quebec, is a sailing ship created for teaching purposes. It is used primarily for training sailors. For instance, the ship was used for research and teaching games in the Wadden Sea, North Sea and along the Elbe.

Other ships include the *Pride of Baltimore II, the Lynx, Unicorn, Sorca, Hindu* and *Liana's Ransom*. The *Liana's Ransom* will host daily sailings for this event, providing a once-in-a-lifetime opportunity for interested attendees to venture along the Miramichi River. Scheduled events will take place from Friday to Sunday. Additionally, the eight highlighted ships will be open for public viewing on June 1 and 2.

It is hoped that this special event will attract visitors, tourists and residents of all ages to the East Coast port this summer.

## ROUTINE PROCEEDINGS

### STUDY ON LOBSTER FISHERY IN ATLANTIC CANADA AND QUEBEC

#### TENTH REPORT OF FISHERIES AND OCEANS COMMITTEE TABLED

**Hon. Fabian Manning:** Honourable senators, I have the honour to table, in both official languages, the tenth report of the Standing Senate Committee on Fisheries and Oceans entitled: *The Lobster Fishery: Staying on Course*.

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

• (1430)

### FISHERIES AND OCEANS

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

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

> That the Standing Senate Committee on Fisheries and Oceans be authorized to meet at 5:00 p.m. on Tuesday, June 4, 2013, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

### AGRICULTURE AND AGRICULTURAL TRADE

#### IMPORTANCE TO ECONOMY AND RURAL PROSPERITY—NOTICE OF INQUIRY

**Hon. JoAnne L. Buth:** Honourable senators, I give notice that, two days hence:

> I will call the attention of the Senate to the importance of agriculture and agricultural trade to the Canadian economy and rural prosperity.

## BLINDNESS AND VISION LOSS

NOTICE OF INQUIRY

**Hon. Asha Seth:** Honourable senators, I give notice that, two days hence:

> I will call the attention of the Senate to the increasing rates of blindness and vision loss in Canada and the strategies to prevent further vision loss.

[*Translation*]

## OFFICIAL LANGUAGES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF CBC/RADIO-CANADA'S OBLIGATIONS UNDER THE OFFICIAL LANGUAGES ACT AND THE BROADCASTING ACT

Leave having been given to revert to Notices of Motions:

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

> That, notwithstanding the order of the Senate adopted on Wednesday, September 26, 2012, the date for the final report of the Standing Senate Committee on Official Languages in relation to its study on CBC/Radio-Canada's obligations under the *Official Languages Act* and some aspects of the *Broadcasting Act* be extended from June 30, 2013, to December 31, 2013.

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[*English*]

# QUESTION PERIOD

## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

PUBLIC MEETING OF COMMITTEE

**Hon. George J. Furey:** Honourable senators, my question is for the Chair of Internal Economy. I would like to begin by welcoming back Senator Tkachuk. I wish him all the best with his health because our health is the most important thing we have, and I hope all is well.

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

**Senator Furey:** Senator Tkachuk, last week Senator Cowan and I raised the issue of the need for public hearings for the review of Senator Duffy's report to Internal Economy. Senator LeBreton stated over the weekend that she would support open hearings if it were the decision of Internal Economy. Senator Cowan has written as well to Internal Economy asking for public hearings in light of the controversy swirling around the report related to Senator Duffy.

My question to you, Senator Tkachuk, is: Are you prepared now to state that these hearings will indeed be held in an open and transparent fashion, accessible to the public and to the media?

**Hon. David Tkachuk:** Honourable senators, the steering committee has decided, and will recommend to the Internal Economy Committee, that the meeting of Internal Economy that will be held this afternoon will be an open meeting and a public meeting.

COMPOSITION OF STEERING COMMITTEE

**Hon. George J. Furey:** Honourable senators, I have a further question, which is to the Leader of the Government in the Senate.

Last week, Senator LeBreton, I asked you about the appropriateness of Senator Tkachuk staying on as chair for this particular review — not necessarily for chair for all reviews but in particular for the review for Senator Duffy. This arose as a result of comments that Senator Tkachuk had made in the media with respect to consultations he had about the report with the PMO and with Mr. Nigel Wright. You indicated that you needed some time to review that report or review the media reports and to talk to Senator Tkachuk. I am wondering if you have had that time and if you can report to the chamber now.

**Hon. Marjory LeBreton (Leader of the Government):** Thank you, Senator Furey. Yes, I did read the full interview, and as I have said myself many times over the weekend, and on many of the media shows that I was on, obviously we live and work in a political environment. We all discuss many things with each other. There is nothing unusual about this. I have satisfied myself that all discussions, as we try to assure our colleagues that we had a process in place — and I will not bore you with the process. It goes back to the letter that Senator Cowan and I signed, and the audits and all of the rest.

I would indicate to you, Senator Furey, as I said in answer to your question early on about whether I would support these hearings being made in public, I have always said and was very clear that the Senate Internal Economy Committee is a committee of the Senate and I would fully support the decisions of the committee. Of course, as Senator Tkachuk just responded in his answer to you, the steering committee of which you are a member — it is rather interesting you would ask the question since you are a member of the committee that made the decision to go public. Having said that, I again remind you that the committee is seized with this very important issue. I have full faith in all members of the committee on both sides.

I will make the point while I am on my feet that it was only when we obtained the majority in this place that we opened up the process and publicized all senators' expenses. If it had not been for that, even though it is a little bit difficult for the Senate to handle these issues at the moment, I am glad we did because it will result in tighter rules.

To prove the point that what we did was the right thing, I am going to quote one of your former colleagues, the Honourable Senator Thelma Chalifoux. When asked by APTN over the weekend, and I will read from the article:

> In an interview with APTN news, former Senator Thelma Chalifoux was asked if she saw people using loopholes for personal benefit during her time in the red chamber. Here's her response:
>
> "Oh yes, but it was all under the table and it wasn't publicized."

I am glad that we are part of the party that opened up the books.

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

**Senator Furey:** Senator LeBreton, in response to your issue about being on steering, sometimes it is important to get things on the public record.

You said the consultations that were held around this are usual. Can you explain to the chamber what is usual about $90,000 changing hands between a chief of staff and a senator who is under a forensic investigation for expenses? What is usual about that?

**Senator LeBreton:** Actually, I was talking about conversations. Your question directly to me was about conversations. What I said was that conversations are not unusual, and of course they are not.

## PRIME MINISTER'S OFFICE

### PAYMENT OF FUNDS—TWENTY-SECOND REPORT OF INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION COMMITTEE

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, my first question is for my friend the Leader of the Government in the Senate.

Last Wednesday, May 21, I asked you about the role played by Benjamin Perrin, Special Adviser, Legal Affairs and Policy, in the Prime Minister's Office, in concluding the arrangements between Mr. Wright and Senator Duffy. You said in reply that you did not know Mr. Perrin or what his role was in the Prime Minister's Office. I then asked you if you would find out what role Mr. Perrin played in making those arrangements. Have you been able to do so?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I think I was actually referring to your confusion about what his role was, Senator Cowan. Since that point in time, I understand Mr. Perrin has made a statement that he played no role in this.

**Senator Cowan:** That is not exactly what he said and it is not exactly what I said. You know of the alleged involvement of Mr. Perrin in these arrangements. It involved the operation of a committee of this Senate where you are the majority leader. You lead the government in this place. You are responsible for this chamber in the Government of Canada. That is your responsibility. You are the minister responsible for this chamber. I would have thought that you would have at least the slightest curiosity in view of all of this controversy. You might have taken it upon yourself to find out the role that Mr. Perrin played in making these arrangements. That is the question I asked. You quite properly did not know either Mr. Perrin or his role or any role last week. Have you been able to find out? Have you taken the trouble to find out?

• (1440)

**Senator LeBreton:** Senator Cowan, I am amazed at your lack of knowledge about the role of my responsibility to this chamber. My responsibility is to answer for the government in this chamber. I have pointed out that I answer for the government in the chamber. I am not responsible for the operation of the Senate Chamber. The Senate is a house of Parliament just like the House of Commons. We have an Internal Economy Committee. The committee runs itself in a collaborative, cooperative way, and, as the Leader of the Government in the Senate, although I know it is vastly misunderstood by the public, I am shocked that it is misunderstood by you. The fact of the matter is that I answer for the government in the Senate. I do not run the Senate.

**Senator Cowan:** I take it that the answer is that you have made no inquiries and you know no more about any role that he might have played than you did last week. Is that correct?

**Senator LeBreton:** I informed myself of what Mr. Perrin publicly stated in a written statement and that is the extent to which I did.

## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

### FORENSIC AUDIT PROCESS—COMMITTEE'S TWENTY-SECOND REPORT

**Hon. James S. Cowan (Leader of the Opposition):** I would like to ask some questions of Senator Tkachuk, Chair of the Committee on Internal Economy. Again, welcome back, Senator Tkachuk, and I hope your health continues to improve. Between February 8, 2013 and May 9, 2013, did either you or Senator Stewart Olsen have any contact with any employee of Deloitte with respect to the audits of any of Senators Brazeau, Duffy or Harb?

**Hon. David Tkachuk:** Honourable senators, I am glad I am back, if for no other reason than while I was away it seemed I almost lost my job. The next time I get sick I am going to be back here even if it means coming back on a stretcher.

Between February 8 and May 18, I cannot say unequivocally that we met with them, but, when we did meet with the auditors, we always met with them as members of the steering committee. I cannot tell you the exact dates.

**Senator Cowan:** To follow up, you had no conversations with anyone who was an employee of Deloitte except in the company of Senator Stewart Olsen and Senator Furey, who are the other members of the steering committee. Is that correct?

**Senator Tkachuk:** I believe that is correct. We might have met with them earlier, before a meeting, but I do not believe that we met with them for any purpose to do with the audit itself except with Senator Furey and — the three of us.

**Hon. George J. Furey:** I have a supplementary question. Senator Tkachuk, maybe your memory is failing you a little. I think, on one occasion, you, in fact, did meet with the auditors without myself and Senator Stewart Olsen present. You reported back to us subsequently, but I think you did, in fact, have one meeting without us.

**Senator Tkachuk:** I would have met with them in my position as chair, and I did report back to the steering committee about the meeting. That is all I have to say.

**Senator Cowan:** What was the nature of the discussion you had at that time?

**Senator Tkachuk:** If you are asking me, on a particular day, to tell you the discussion, I would have to refer back to my notes. I am sorry that I cannot give you that information.

**Senator Cowan:** Senator Tkachuk, with the greatest respect, you are going to have to answer those questions at some time, in some form. Maybe the fairest thing for me to do is to ask the questions today. For any questions you cannot answer, if you would undertake to go back and refresh your memory and report back here, I would be delighted if you would do that.

**Senator Tkachuk:** I would be more than happy to take that as notice and reply back.

**Senator Cowan:** My next question is a similar question but is for between February 8, 2013 and May 9, 2013. The significance of those dates is that February 8 is the time when I think the committee referred those issues to Deloitte and retained Deloitte, and May 9 was the date that you tabled the reports here in the Senate.

Between February 8, 2013 and May 9, 2013, did you or Senator Stewart Olsen have contact with any of Senators Brazeau, Duffy or Harb with respect to the forensic audit process?

**Senator Tkachuk:** I had no conversation with Senator Brazeau or Senator Harb about the audit process, and I did have a conversation with Senator Duffy, which was reported in the audit committee report.

**Senator Cowan:** Between November 20, 2012 and May 9, 2013, did you or Senator Stewart Olsen have any contact with Nigel Wright or any other officials of the Prime Minister's Office with respect to any of Senators Brazeau, Duffy or Harb and the ongoing forensic audit process?

**Senator Tkachuk:** I had general conversation during that time — maybe twice — and it was just a general conversation about the process itself. It was about the fact that we had a political situation on our hands, and there was really nothing more than that. It was not complicated in any way.

**Senator Cowan:** That was with respect to the audits of the three senators or with respect to the audit of one senator?

**Senator Tkachuk:** It was about the whole process itself and the difficulty that the Senate is in.

**Senator Cowan:** I take it these meetings were with Mr. Wright. Am I correct?

**Senator Tkachuk:** They were phone conversations. There were not any meetings.

**Senator Cowan:** There were no face-to-face meetings between you and Mr. Wright or anyone else in the Prime Minister's Office?

**Senator Tkachuk:** Well, during this time? Senator, could you be more precise than that? I am a politician, and I do meet with members of the PMO from time to time.

**Senator Cowan:** Let me read you the question again: Between November 20, 2012 and May 9, 2013, did you or Senator Stewart Olsen have any contact with Nigel Wright or any other officials of the Prime Minister's Office with respect to any of Senators Brazeau, Duffy or Harb or the ongoing forensic audit process?

**Senator Tkachuk:** I will take notice of that and I will report back.

**Senator Cowan:** Thank you. If there was any correspondence, either letters or email, would you undertake to table that in the Senate?

**Senator Tkachuk:** No.

**Senator Cowan:** In your interview that was reported in *Maclean's* magazine last week, you said that you had received — the word was — "advice" from Nigel Wright. What advice did you receive from Nigel Wright or other officials in the Prime Minister's Office with respect to the content of the reports of the Internal Economy Committee of the Senate on Senators Brazeau, Duffy and/or Harb?

**Senator Tkachuk:** The advice that I asked for was in general terms. I received no advice that told me what had to be said in the report, and we take full responsibility. The steering committee first completed the report. Then, it was returned to Internal Economy. Internal Economy then dealt with the report, and reported it to the Senate for debate.

**Senator Cowan:** Is it your opinion — and I am asking for your personal opinion here — that the primary and secondary residence declarations signed by each of those senators, and by many of the rest of us, are, to use the words in the report, amply clear, as is the purpose and intent of the guidelines to reimburse living expenses, and that the language is unambiguous?

**Senator Tkachuk:** I think that there are three reports tabled in the chamber, and you can read them yourself, Senator Cowan.

**Senator Cowan:** I have read them, and I noticed a great difference between the three of them. You tabled three reports, with respect to three senators, on the ninth of May. The issue, in the case of each of the three senators, was their entitlement or lack of entitlement to claim living expenses with respect to primary residence or secondary residence in the nation's capital. That was the core issue that was dealt with in the audits and on which your committee was reporting.

All three reports were signed by you, as chair of the committee. Why was it that in two of the reports, with respect to senators Harb and Brazeau, you said that the committee considered that the wording of the form — we were talking about the primary and secondary residence declaration — was "amply clear." Those are the words in the report. It continued, "... as is the purpose and intent of the guidelines... to reimburse living expenses." Your committee's opinion was that the language is "unambiguous." If that is your opinion, why did it appear in two reports and not the third report?

• (1450)

**Senator Tkachuk:** All three reports have been tabled in the Senate, and I would like to deal with that. You have raised issues in this place about the committee report of Senator Duffy and the fact that it was a whitewash report. Everyone on this side knows and everyone on your side knows that committees rarely ever, at least in the 20 years that I have been here, adopt a report that we first tabled until after long conversations about what should be in the report. Senators write the report; nobody else writes the report.

With Senator Duffy's report, we had a first draft, which was prepared by the clerk after general discussion. We dealt with that draft and made changes to it. Some of the changes were agreed to by Senator Furey and some were not.

We then presented the report to Internal Economy. An amendment was made, delivered and passed, as most reports are. This was normal procedure with members of the opposition always in the room when amendments were made. There was no way that changes to this report were made in a way that would cause any discomfort to any members serving on any committee in this place. That report was tabled and passed by Internal Economy, and it is now here for debate. It was not whitewashed. It followed a democratic process from start to finish, as the whole process did from start to finish.

**Senator Furey:** Senator Tkachuk, I do not disagree that in the normal course reports often go through iterations. The problem with what you have just stated is that the report came in on May 7. There were a few typographicals and minor changes made that the full committee agreed to. Twenty-four hours later, you used your majority in steering to delete all negative references to Senator Duffy, including his travel pattern and amount of time spent in P.E.I. versus his primary residence, which the report at that time said was Ottawa and not P.E.I. Twenty-four hours after that, Mr. Robert Fife from CTV reported that $90,000 from the Chief of Staff of the Prime Minister exchanged hands with Senator Duffy to pay off money that he should not have collected in the first place in the view of the committee. That is what makes it unusual. That is what takes it out of the realm of the usual.

**Senator Tkachuk:** It would only be unusual, Senator Furey, if we knew anything of that, but we did not know anything of that. When we dealt with that report, we had no knowledge of what had happened. We only became aware of that information when it was made public on the Friday after the report was tabled in this place.

I want to deal with that committee report. The rules describe what committees do. Just so honourable members opposite know, the rules say that it is the opinion of the committee, not those of individual members, that is required by the house; and failing unanimity, the conclusions agreed to by the majority are the conclusions of the committee. This is what it says in the guide for chairs. If the report is a substantive one, the staff will normally write the first draft of the report in accordance with the committee's directives. When the first draft is complete, the analysts and the clerk usually meet again with the chair to consider any preliminary revisions, and so on.

That is what happened in this committee. Nothing else happened. There was no whitewash. It was in recognition of the fact that Senator Duffy had paid his money back. We had already received the cash and deposited it to the account of the Receiver General. That is why the amendments were made.

**Senator Furey:** Senator Tkachuk, you are talking about normal circumstances when reading from the rules. If you were on this side of the chamber and one day a report was looked at, the next day it was eviscerated and the day after you heard about $90,000 changing hands, surely you would think there was something going on, would you not?

**Senator Tkachuk:** I can only repeat that we have dealt with it in steering in a proper manner, and we dealt with it in Internal Economy in a proper manner. There was debate. The amendment was passed. It was delivered to the Senate. There was nothing more to it than that, Senator Furey.

**Senator Cowan:** Let me go back to where I was a few moments ago. As chair of the committee, you signed and tabled three reports. The issue before the committee in each of those cases was exactly the same.

You shake your head but we are dealing with a primary and secondary residence declaration, and we are talking about some guidelines which support that. In two of the committee reports that you signed, you said on behalf of the committee that the primary and secondary residence declaration form was "amply clear." Those are not my words; those are your words or the committee's words, which you presented to this chamber. You said that the language was "unambiguous." Now, with the same form, the same guidelines and the same language, how can you report to the Senate that it is amply clear and unambiguous with respect to two senators and not draw the same conclusion with the third senator?

**Senator Tkachuk:** Senator Cowan, if I had received a cheque from Senator Brazeau and Senator Harb, their reports might have been a lot different as well.

**Senator Cowan:** Senator Tkachuk, how can the fact of Senator Duffy's repayment, whether with his money or anybody else's money, which is for another day, affect your opinion and the

committee's opinion as to the clarity or lack of clarity or the unambiguity or ambiguity of the language? The two are completely unrelated. What is the connection? What am I missing?

**Senator Tkachuk:** You have a narrative, Senator Cowan, and you insist on that narrative. The narrative is wrong. Senator Duffy said he may have been mistaken, and he delivered a cheque. That is exactly what you and Senator LeBreton asked us to do: Collect the money with interest — all monies to be paid with interest, which is exactly what we did. He delivered a cheque to us in March and paid it. The report reflected that, Senator Cowan.

**Senator Cowan:** I might look at a document and say it is clear, and you might look and say it is unclear. However, if we are looking at the same document, how can we say that it is clear in two cases and unclear in the third case? How would the fact of repayment, which is completely irrelevant to whether the language of the form is clear and unambiguous, possibly affect that, Senator Tkachuk?

**Senator Tkachuk:** You know, Senator Cowan, the committee adopted the report. The report sits in this chamber for debate. We can have a long debate about this matter when we get to it. I am simply trying to reflect what my narrative is, which is that Senator Duffy had repaid the money. Senator Duffy said that he may have been mistaken, and therefore the report reflects that.

**Senator Cowan:** Is that relevant to whether the language in the form is clear? What is the connection?

**Senator Tkachuk:** I have given you my answer, Senator Cowan. You have a right to ask the question you have asked, but you have repeated it three or four times. Do not badger me about this; just ask me a question and I will try to give you an answer. I have given you the answer on this one and I am not going to change that answer.

**Senator Cowan:** So that I am clear, Senator Duffy paid the money back and said that in his opinion he did not consider he had done anything wrong. That made the language clearer and the form unambiguous in that, or the other way around, that because that had been paid —

• (1500)

**An Hon. Senator:** Oh, oh!

**Senator Cowan:** Senator LeBreton, I am not asking you the questions; I am asking him the questions. Thank you. I am not asking you the questions. You will get your turn.

**Senator LeBreton:** But you are getting your words confused.

**The Hon. the Speaker:** Order.

**Senator Cowan:** Explain to me —

**The Hon. the Speaker:** Order, please.

Honourable senators, this is Question Period. The honourable senator asking the question of either to the Leader of the Government in the Senate or the chair of the committee has the floor.

**Senator Cowan:** The question is: How can the fact of repayment have anything to do with whether the language and the form are clear or unclear?

**Senator Tkachuk:** I will restate that the report speaks for itself. It is on the floor of the Senate and we are going to have a debate about that report and we are going to deal with it as the Senate.

## THE SENATE

### STATUS OF SENATOR MICHAEL DUFFY

**Hon. Lillian Eva Dyck:** My question is for the Leader of the Government in the Senate and it is going to take a slightly different tactic. Senator Duffy claimed that the forms were unclear, that he was not sure how to answer the form and that therefore he may have been mistaken. Now, I ask you, since he has been removed from your caucus and he is presumably sitting here as an independent, if he cannot figure out that form, how is he going to work as a senator when we have to look at bills which are way more complicated than that form? Is he competent to sit here as a senator? Does your government think he is competent?

**Hon. Marjory LeBreton (Leader of the Government):** Thank you, Senator Dyck. Senator Duffy, as you know, a couple of weeks ago removed himself from our caucus and is sitting as an independent. As was reported by the chair of Internal Economy after steering committee, of which the deputy chair was there, this morning, he indicated that the meeting is to be held later today. I am not even sure of the time — I believe it is after the Senate rises. I believe since these are public meetings and I understand Senator Duffy plans to be at the meeting — we do not know. This is what I hear, but that is what they are speculating because he had also indicated himself that he wanted this to be open to be public. So, if in fact Senator Duffy does exercise his right to appear, these are questions that you can put to him directly at the committee.

## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

### FORENSIC AUDIT PROCESS—COMMITTEE'S TWENTY-SECOND REPORT

**Hon. James S. Cowan (Leader of the Opposition):** My question is for Senator Tkachuk. On February 8, 2013 you, as chair of the Internal Economy Committee, issued a press release which included the following sentence:

> As well, the Chair and Deputy Chair (Senator Furey) of the committee are seeking legal advice on the question of Senator Duffy's residency.

Who is to provide that legal advice and when is it due to be received?

**Hon. David Tkachuk:** We have asked the Senate staff for that legal advice and we have yet to receive it.

**Senator Cowan:** When do you expect to receive it?

**The Hon. the Speaker:** Honourable senators, the time reserved for oral questions has been exhausted.

[*Translation*]

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I have the honour to table the answer to the oral questions asked by the Honourable Senator Dallaire, the Honourable Senator Cordy and the Honourable Senator Munson on March 20, 2013, concerning the Canada Border Services Agency.

## PUBLIC SAFETY

### CANADA BORDER SERVICES AGENCY— TELEVISION PROGRAM

*(Response to questions raised by Hon. Roméo Antonius Dallaire, Hon. Jane Cordy, and Hon. Jim Munson on March 20, 2013)*

The Canada Border Services Agency (CBSA) is participating in a documentary television series called "Border Security: Canada's Front Line" that follows the day-to-day work of CBSA officers. This production educated Canadians about the important work that CBSA officers undertake 24/7 across Canada including at the land border, airports, mail centres and during inland enforcement.

The participating officers are doing their jobs, and the production takes place at no extra costs to CBSA's front line operations. For season one of the production, the CBSA incurred an internal cost of less than $60,000 primarily for salary dollars for the required administrative support, including onsite oversight within one region. Season two will be twice the number of episodes and involve more than one region. As such, the CBSA has estimated internal costs to be approximately $160,000 for the required administrative oversight, including safeguards to ensure the privacy of individuals is protected at all times. Further, there is no exchange of moneys between the CBSA and the production company, Force Four Productions Ltd., or Shaw Media.

The CBSA and the production company are aware of their obligations with regard to Canada's *Privacy Act* and related legislation. Participation in the documentary series is strictly voluntary. The privacy of individuals is protected at all times.

The majority of episodes deal with front line CBSA officers stopping criminals from entering Canada. The government expects the CBSA to enforce Canada's laws and ensure the safety and security of law-abiding Canadians.

[*English*]

# ORDERS OF THE DAY

## SPEAKER'S RULING

### TWENTY-SECOND REPORT OF STANDING COMMITTEE ON INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

**The Hon. the Speaker:** On May 21, the Honourable Senator Cowan, the Leader of the Opposition, raised a question of privilege. His allegation was that privilege had been violated by the events leading to the presentation of the twenty-second report of the Standing Committee on Internal Economy, Budgets and Administration on May 9. Based on subsequent information from the media and other sources, Senator Cowan argued that the report was incomplete and biased. The effect, he argued, was to undermine the credibility of the Senate and public confidence in the institution. Senator Cowan argued that it was essential that action be taken to deal with this situation by thoroughly investigating all aspects of the allegations.

[*Translation*]

Senator Carignan, the Deputy Leader of the Government, responded by urging senators to focus on established facts, not allegations. He noted that other processes are available to deal with the concerns that are circulating. This includes recourse to the *Conflict of Interest Code for Senators*. Later Senator Nolin took up this idea by noting that another alternative was to refer the report back to the Internal Economy Committee. Senator Andreychuk drew our attention to the parliamentary authorities, which note that a disagreement as to fact does not constitute a question of privilege.

[*English*]

Senator Fraser, however, shared the concerns of the Opposition Leader. She underscored the importance of parliamentary bodies remaining free from obstruction, interference and intimidation. She argued that the allegations raise serious concern about inappropriate interference with a committee that plays a central role in the operation of the Senate.

Let me begin by making reference to a statement made more than thirty years ago, by the then-Speaker of the House of Commons, the Right Honourable Jeanne Sauvé. On

March 18, 1982, after a serious breakdown in the business of the other place, she stated:

> What ensued from our failure to bring our rules up to date earned us shrugs and even sneers from our fellow citizens. We may even have strengthened an unfortunately widespread tendency to be sceptical of the actions of Parliament...

She went on to state that "The authority of the Chair is no greater than the House wants it to be." The Speaker is the servant of the house, assisting it in conducting its business in an orderly manner that balances, as far as possible, many divergent interests.

[*Translation*]

In the Senate, given the limited authority of the chair, this is even more evident. Honourable senators are themselves responsible for how business is conducted, and retain final control of proceedings through the right to appeal decisions of the Speaker.

[*English*]

I raise this situation from many years ago because of the current circumstances, characterized by many as a crisis, in which the Senate now finds itself. There has been a swirl of accusations, many of them disturbing, and this has affected how the public perceives this body. The Senate is an important part of our parliamentary system, which has served our country well for more than 145 years. Honourable senators work for the public good in positions of trust, and must act responsibly. It is for honourable senators to take control of the situation and restore trust that may have been damaged.

When the Auditor General of Canada first identified concerns about inadequate documentation for some reimbursable claims, the Senate took this seriously. Through the Internal Economy Committee we worked to review travel expenses. This eventually led to the audit of certain senators' expenses. To date the Senate has received three reports on specific cases. Other proposals to enhance expenditure controls have been made.

[*Translation*]

Senator Cowan has outlined his understanding of how events relating to the twenty-second report unfolded. Because of these concerns, the Senate decided to refer the report back to the Internal Economy Committee for further consideration on the same day the question of privilege was raised.

• (1510)

[*English*]

Honourable senators, I do not underestimate the serious challenge of this situation for the Senate. For the good of the institution, and for the good of Parliament, the Internal Economy Committee needs to consider carefully how it will undertake a thorough and careful review of all aspects of the situation. The *Rules of the Senate* and parliamentary practice afford this committee the authority it needs to hear witnesses and to send for papers. The committee knows that honourable senators, and Canadians, will watch its work with great attention.

It is in this context that we must consider the question of privilege raised by the honourable Leader of the Opposition. At this preliminary stage, the Speaker provides the Senate with an analysis of whether a prima facie case of privilege has been established. The four criteria of rule 13-3(1), all of which must be met, guide this analysis.

[*Translation*]

Given the arguments during consideration of the question of privilege and subsequent events, it is most helpful to start with the fourth criterion — that no alternate parliamentary process is reasonably available to deal with the matter. Senator Carignan noted that some aspects of the situation can be dealt with under the *Conflict of Interest Code for Senators*. Of immediate relevance, the very fact that the report in question was sent back to the committee shows that an alternate process was available. The Senate has implemented it, thereby pre-empting to some degree this decision, as is its undoubted right.

[*English*]

The committee is now responsible for reviewing the expenses and a range of related issues. It would be best to wait for the results of that work to see if clarity can be brought to this grave situation, rather than starting a second, parallel process. That would risk further confusion.

The Speaker must be satisfied that all four criteria are met in order to find that a prima facie case of privilege exists. The fact that this question of privilege does not meet one criterion means that, under the Rules, it cannot succeed. Given this, there is no need to directly address the other criteria.

Debate in the Senate and other actions point to the seriousness of the events. After the Internal Economy Committee presents an updated report, senators will be able to assess it to see if the concerns have been addressed properly and effectively.

[*Translation*]

The ruling is that there is no prima facie case of privilege. The Senate already is taking action on the concerns that gave rise to Senator Cowan's question of privilege. Senators must now have the chance to work to resolve this problem.

[*English*]

## ROYAL CANADIAN MOUNTED POLICE ACT

### BILL TO AMEND—THIRD READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Lang, seconded by the Honourable Senator Martin, for the third reading of Bill C-42, An Act to amend the Royal Canadian Mounted Police Act and to make related and consequential amendments to other Acts.

**Hon. Joseph A. Day:** Honourable senators, I thought I might say a few words in relation to this particular bill to give my impressions as a member of the Standing Senate Committee on

National Security and Defence, which has handled this matter. In conjunction with this bill, we have been handling a study with respect to harassment. Sometimes the subjects get confused, because we are all very concerned about the RCMP and the various lawsuits that we are seeing. There was another one just last week from one of the uniformed members of the RCMP working with the Musical Ride.

There are some concerns, honourable senators, that need to be dealt with. Bill C-42 is the enhancing the Royal Canadian Mounted Police accountability act. The stated aim of the bill is to restore public confidence in the RCMP — confidence that has been shaken after a series of controversies over the last several years.

I am proud of the work that the members of the Royal Canadian Mounted Police — commonly known as the Mounties — do, and I can think of no better ambassadors for Canada to represent our nation than the fine men and women in the Red Serge and the Stetson hats. This is an image that is immediately equated with Canada the world over, and for this we must all be grateful, honourable senators. I have no doubt that the vast majority of Mounties serve with noble intentions. They commit to their duties with pride and honour throughout their careers. Most RCMP officers and retired members I know are deeply troubled by what they see in the headlines, more so than the average Canadian, even.

These truths, however, do not belie the fact that there are pressing issues within the RCMP that need to be addressed immediately in order to assure Canadians that the RCMP is and will remain the fine policing force that we have come to know and rely upon. Given the events of the last several weeks, I need not remind honourable senators what the actions of a few can do to an institution's reputation.

Having listened to witness testimony, I am of the view that this bill is a first step in addressing these issues. For this reason, I am generally in favour of the objectives of the bill.

However, our role as legislators, particularly in this chamber, requires us to ensure that the legislation goes beyond a first step, and that any bill we return to the other place is legislation that takes as many as possible of the required steps toward addressing shortcomings. This bill, in my view, fails to do that.

If we pass this legislation as it is before us today, I do not believe we will have done the best we could do for the wonderful institution of the Royal Canadian Mounted Police. We can expect to have other bills before us in the not-too-distant future — bills that will seek to accomplish that which we should be accomplishing with this legislation.

The new Part VI of the act as proposed in this bill deals with the creation of the civilian review and complaints commission for the Royal Canadian Mounted Police.

There are basically three aspects to this legislation that honourable senators should be aware of: There is the internal process of a member complaining about the actions or activities of another member; there are the provisions with respect to improving the role of the commissioner and giving the commissioner more power to manage; and there are provisions in this bill to deal with outside complaints — people complaining that an RCMP officer acted excessively.

The civilian review and complaints commission for the RCMP is an attempt to improve the existing Commission for Public Complaints Against the RCMP. That is a group and an institution that exists within the RCMP structure at this time, and we are creating a new civilian review and complaints commission for the RCMP; that is what is proposed.

The expanded powers include, but are not limited to, calling and subpoenaing witnesses, requesting information from the RCMP commissioner that in the past the civilian review and complaints commission for the RCMP was unable to have access to, and initiating special inquiries.

• (1520)

As is often the case, honourable senators, the devil is in the details. As I have explained, the civilian review and complaints commission, which I will call the CRCC, has broader powers than its predecessor the CPC, yet its mandate does not go as far as that suggested by two separate independent inquiries looking into the RCMP: David Brown in 2004 and Justice Dennis O'Connor in 2007.

While the bill gives the CRCC the power to conduct a review on its own initiative or at the request of the minister, the language of the bill states that such an inquiry can only be conducted to review specified activities. When one looks through the bill to find out what "specified activities" means, there is no definition. The bill does not indicate the scope of these specified activities, which leaves it open to severe limitations on the mandate of this new body.

In a similar vein, the CRCC's decision is not binding, and ultimately it lies with the Commissioner of the RCMP to accept its decision or not. It is imperative that the commissioner give extensive, well-thought-out reasons for rejecting a decision made by the CRCC. The CRCC is a commission, and there is also the Commissioner of the RCMP. When one reads through the bill, one must be careful not to confuse the commissioner with the work that the commission is doing. The commissioner can reject the commission's report.

As honourable senators will see, this bill increases the power of the RCMP commissioner in many respects. I do not feel that the new manifestation of the public complaints commission, as it is written in this bill, has kept pace with those expanded powers of the commissioner so as to be a capable partner in RCMP governance.

Comparisons can be made between the CRCC and the Security Intelligence Review Committee. Honourable senators will know about the SIRC, the Security Intelligence Review Committee, which reviews the Canadian Security Intelligence Service, CSIS, and keeps an eye on their activities.

In his report, Justice O'Connor was of the mindset that the CRCC should not be limited with respect to the information it has access to in order to perform its functions. He believes that the

CRCC should have access to information up to the level of cabinet documents, which is the same limitation on SIRC. However, proposed section 45.42 in this bill has included other restrictions as well.

The CRCC, with respect to the RCMP, does not have the same level of oversight and investigative powers that SIRC has with respect to CSIS. That is one of the recommendations made: To be effective, the CRCC must be able to investigate activities when there is a public complaint.

Proposed section 45.42 includes other restrictions on the type of information that can be accessed by the CRCC. Proposed section 45.34(2) also places preconditions on any review undertaken on the initiative of the CRCC. These sections place limits on the ability and functions, limitations that do not exist with respect to SIRC.

I am also concerned about proposed section 45.34(2) with regard to the lack of protection for RCMP members who are being investigated. I speak of Part IV as proposed in the bill, the part that deals with members' conduct and investigation into alleged breaches of conduct.

Section 40.3 states as follows:

> On *ex parte* application, a justice may order a person to produce to a peace officer named in the order a document that is a copy of a document that is in their possession or control when they receive the order, or to prepare and produce a document that contains data that is in their possession or control at that time.

I must first address the matter that all search requests can be done on an *ex parte* application. That is to say, they can go to a justice of the peace without the knowledge of the member who is to be investigated. Those members will not have an opportunity to defend themselves or to explain their position before the order is issued.

Bill C-60, which is currently before the Finance Committee, actually eliminates *ex parte* applications in relation to the Income Tax Act and the Excise Act of 2001, because *ex parte* applications are deemed to be contrary to natural justice. This is contrary to the normal course of letting someone know that he or she is being investigated and providing an opportunity to be heard. Clearly, because of the type of procedure, it is contrary to our basic concept of justice. They are being eliminated in one place but being introduced in another place, the RCMP Act.

Tom Stamatakis, President of the Canadian Police Association, who appeared before us, expressed his concerns over this provision during our committee proceedings. He believes this is an unnecessary step, and I am inclined, honourable senators, to agree with him.

To further muddy the waters, proposed section 40.4(1) states:

> An order made under subsection 40.3(1) may —

I emphasize the word "may."

> — contain any conditions that the justice considers appropriate including conditions to protect a privileged communication between a person who is qualified to give legal advice and their client.

Privileged communication "may" be protected suggests to me that it may not. If it may not be protected, honourable senators, that goes fundamentally against a very long-standing rule that one can have communication with his or her lawyer, and that is private between the individual and the person giving the legal advice.

The protection of communication between the individual and his or her legal counsel is a matter of fundamental natural justice. This bill is written in a way that gives members of the RCMP lesser rights than Canadian citizens, those whom RCMP members risk their lives to protect.

To complicate matters further, proposed section 40.2(2), which deals with the application for a warrant, states, "The application must indicate whether or not the place is a dwelling-house."

This is when they wish to go in and seize materials and documents. There are no restrictions in the act related to searching a dwelling place. All it puts in there is that the application should state that it is a dwelling place, but then they can go on and do everything they do everywhere else, what they do in a warehouse, they could do in a car or a dwelling place. Normally, when it is required to state a dwelling place, then there are special rules with respect to searching a dwelling place: Do not invade the very sanctity of the individual's home and dwelling place.

Section 45.16(10) states, "... the Commissioner may rescind or amend the Commissioner's decision..."

There is a commission, and there is also the Commissioner of the RCMP. I looked to the French version of this in the bill.

**The Hon. the Speaker** *pro tempore*: I regret to inform the honourable senator that his time for speaking has expired.

**Senator Day:** I wonder if honourable senators would agree to allow me more time to finish this particular item.

**An Hon. Senator:** Five minutes.

**Hon. Senators:** Agreed.

• (1530)

**Senator Day:** Honourable senators, the English of this reads:

> The Commissioner may rescind or amend the Commissioner's decision.

That suggests that the commissioner is amending someone else's decision, but in French it states:

[*Translation*]

> Despite section 9, the commissioner can rescind or modify his decision.

[*English*]

In French it says the commissioner can modify his decision; in English it says the commissioner can modify the commissioner's decision. I suggest that that is one area that can be cleaned up. If it is intended that the French is reflected in the English, it is not, as it currently stands.

There is also the matter of proposed section 86 in Part 2 of the bill. I will try to conclude with this, honourable senators. I could point out many other areas that are ambiguous at best, but section 86 deals with persons deemed to be appointed under the Public Service Employment Act.

Honourable senators have to understand that there are uniformed RCMP, non-uniformed RCMP called civilian members, and then employees of the RCMP who are public servants. My honourable friends have probably all received many letters from civilian members of the RCMP. Civilian members are an important part of the RCMP. I have one letter here from a civilian member who worked for the intelligence-led policing part of the RCMP. She states that as intelligence analysts, "our role is a complex criminal investigatory role." They are sworn members the RCMP who have made commitments with respect to their pensions and the length of time that they would work within the RCMP. This bill is attempting to deem them out of existence.

That is the most important aspect of this bill that we can correct here. That is what I am hoping honourable senators will agree to do, namely remove that particular aspect of this bill.

I can point out a number of other amendments that we could propose, but in the interest of getting to the nub of the issue, I will not to propose the amendments that were proposed at committee and were voted down.

I remind honourable senators that there are observations. When we reported the bill, there were observations showing our unease with respect to some of these points in the bill, but we said there are some good points in the bill as well and it is moving in the right direction.

## MOTION IN AMENDMENT

**Hon. Joseph A. Day:** Therefore, honourable senators, I would propose, seconded by Senator Hubley, that Bill C-42, be not now read the third time but that it be amended.

Honourable senators, I can read out the amendment. It is usual that I do so, but it deals with the deeming provision in section 65 in relation to civilian members. I have tried to make provision here for allowing that category of those people who are already there to continue to exist. If the commissioner wishes to settle with them on an individual basis, then that is fine. However, they are not represented by a union because there are no unions in the RCMP. I am suggesting that they should continue to exist until they are appropriately dealt with, either by continuing that category or by letting those who are there continue in grandfathered positions with no more appointed.

Of course, there are many ways that the commissioner could handle that matter. We want to protect those civilian members of the RCMP who have signed on the line, who have dedicated their time and who have relied on the assurances that they would be members of the RCMP in the civilian category.

Honourable senators, I see that my time is up, so I will give the amendments to the clerk and the clerk can read the amendments for me.

**The Hon. the Speaker** *pro tempore***:** It has been moved by the Honourable Senator Day, seconded by the Honourable Senator Hubley, that Bill C-42 be not now read a third time but that it be amended

> (*a*) in clause 12, on page 9, by replacing line 28 with the following:
>
> "7(1)(*e*) of that Act, but the categories determined shall include categories of members who perform duties and functions that are substantially the same as the duties and functions performed by officers and by members other than officers on the coming into force of this section.";
>
> (*b*) in clause 13, on page 9, by replacing line 36 with the following:
>
> "(*a*) determine categories of members, which shall include categories of members who perform duties and functions that are substantially the same as the duties and functions performed by officers and by members other than officers on the coming into force of this section; and"; and
>
> (*c*) in clause 86, on page 118,
>
> (i) by replacing line 25 with the following:
>
> "**definition reads on that date, other than a member who is a member on the day this Act is assented to, who does not**", and
>
> (ii) by replacing line 32 with the following:
>
> "***Canadian Mounted Police Act*, other than a member who is a member on the day this Act is assented to, who does not**".

Is there debate on the motion in amendment, honourable senators?

[*Translation*]

**Hon. Pierre Claude Nolin:** Would Senator Day take any questions?

[*English*]

**The Hon. the Speaker** *pro tempore*: Regretfully, Senator Day's extended time has expired. We are now ready for debate on the amendment.

(On motion of Senator Nolin, debate adjourned.)

## COMMITTEE OF SELECTION

FOURTH REPORT OF COMMITTEE ADOPTED

Leave having been given to revert to Presenting or Tabling of Reports from Standing or Special Committees:

**Hon. Elizabeth (Beth) Marshall,** Chair of the Senate Committee of Selection, presented the following report:

Tuesday, May 28, 2013

The Committee of Selection has the honour to present its

FOURTH REPORT

Your committee recommends a change of membership to the following committees:

**Standing Senate Committee on Banking, Trade and Commerce**

The Honourable Senator Campbell replaces the Honourable Senator Harb as a member of the Standing Senate Committee on Banking, Trade and Commerce.

**Standing Senate Committee on Fisheries and Oceans**

The Honourable Senator Robichaud, P.C., replaces the Honourable Senator Harb as a member of the Standing Senate Committee on Fisheries and Oceans.

**Standing Senate Committee on Human Rights**

The Honourable Senator Munson replaces the Honourable Senator Harb as a member of the Standing Senate Committee on Human Rights.

**Standing Joint Committee on Scrutiny of Regulations**

The Honourable Senator Fraser replaces the Honourable Senator Harb as a member of the Standing Joint Committee on Scrutiny of Regulations.

Respectfully submitted,

ELIZABETH MARSHALL
*Chair*

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

**Senator Marshall:** Honourable senators, with leave of the Senate and notwithstanding rule 5-5(f), I move that the report be adopted now.

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

**Hon. Senators:** Agreed.

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

**Hon. Senators:** Agreed.

(Motion agreed to and report adopted.)

• (1540)

[*Translation*]

## CANADIAN HUMAN RIGHTS ACT
## CRIMINAL CODE

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Dyck, for the second reading of Bill C-279, An Act to amend the Canadian Human Rights Act and the Criminal Code (gender identity).

**Hon. Pierre Claude Nolin:** Honourable senators, it is with a steadfast belief in the vital importance of the rule of law and recognition of the human condition, and also deep respect for the differences it reveals, that I wish to participate in the debate at second reading of Bill C-279.

This parliamentary initiative would amend the Canadian Human Rights Act to include gender identity as a prohibited ground of discrimination. It would also amend the Criminal Code to include gender identity as a distinguishing characteristic protected under section 318, which prohibits hate propaganda, and as an aggravating circumstance to be taken into consideration under section 718.2 at the time of sentencing.

Each time that Parliament is invited to pass legislation to protect individuals from discrimination, the debate becomes so emotional that some parliamentarians, in good faith, predict the worst things.

That happened in 2004, when we had to make the same amendment for sexual orientation. Some went so far as to quote biblical teachings against homosexuality in support of their arguments.

An amendment was proposed and included in order to protect the legitimacy of any religious precept, despite the fact that the freedom of conscience and religion is entrenched in the Canadian Charter of Rights and Freedoms. This debate is no exception and, in spite of everything, clearly demonstrates the quality of our democracy and the values that underpin it.

Let us now look at the principles of the bill before us. Let us examine the notion of discrimination and the various terms used, which, I allow, can make things very confusing. The ordinary meaning of the term discrimination is to treat unequally or negatively one or several individuals. More specifically, it means distinguishing one social group from others on the basis of extrinsic characteristics such as wealth, education, place of residence and so on, or intrinsic characteristics such as sex or ethnic origin, in order to treat that group in a specific and usually negative manner.

Therefore, in everyday language, to discriminate means to make a distinction. However, in legal language, to discriminate means to treat someone negatively upon a prohibited ground.

To discriminate is not merely to make a distinction, because a distinction is not prohibited in itself and does not always amount to discrimination.

Indeed, some individuals may be treated differently from others in a perfectly acceptable fashion. Discrimination does not merely amount to unequal treatment. A difference in treatment may be illegitimate, yet not constitute discrimination. Sanctioning it, when possible, is not a matter of law.

A distinction or a difference in treatment only becomes discrimination when it is prohibited. Discrimination occurs when a difference of unfair treatment is illegitimate and is based on a criterion prohibited under the law as a ground of discrimination. It is the combination of all these elements that creates discrimination in the legal sense of the term.

The use of the expression "*distinction illicite*" in the French version of the Canadian Human Rights Act, which is translated as "prohibited grounds of discrimination" in the English version, shows this attempt to eliminate any confusion.

In order to avoid any confusion and to establish its principle, the proscribed or prohibited nature of the distinction or discrimination is made quite clear in the wording of section 3(1) of the act. I would like to read that part to the chamber. This is the current version of the act, which we are being asked to amend. Part I of this legislation states, under the heading "Proscribed Discrimination; General":

> For all purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability and conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered.

Note that the act uses the word "prohibited" to clearly emphasize this point. Instead of using only the word "discrimination," it adds the descriptor "prohibited" associated with the word "discrimination".

The principle of the legislation hinges on the repression of any unequal treatment based on any of the prohibited grounds.

It is extremely important to specify that the principle of equality is also enshrined in the Canadian Charter of Rights and Freedoms.

I shall quote just one phrase from Section 15 of the Charter, which clearly states:

> Every individual...has the right to the equal protection and equal benefit of the law without discrimination...

I will come back to this point a little later in my presentation.

[*English*]

Let us now examine briefly the notion of gender identity. Clause 2(2) and clause 3 of the proposed legislation are both proposing to define it as follows:

> ... "gender identity" means, in respect of an individual, —
>
> — and the word "individual" is used in the Canadian Human Rights Act and "person" in the Criminal Code —
>
> — the individual's deeply felt internal and individual experience of gender, which may or may not correspond with the sex that the individual was assigned at birth.

• (1550)

For psychologists, gender identity is a person's private sense of and subjective experience of their own gender.This is generally described as one's private sense of being a man or a woman, consisting primarily of the acceptance of membership into a category of people, male or female.

All societies have a set of gender categories that can serve as the basis of the formation of a social identity in relation to other members of society. In most societies, there is a basic division between gender attributes assigned to males and females. In all societies, however, some individuals do not identify with some or all of the aspects of gender that are assigned to their biological sex.The committee will undoubtedly examine thoroughly this aspect of the human condition.

[*Translation*]

Section 2 of the Canadian Human Rights Act already sets out the notion of equality as follows:

> The purpose of this Act is to extend the laws in Canada to give effect, within the purview of matters coming within the legislative authority of Parliament, to the principle that all individuals should have an opportunity equal with other individuals to make for themselves the lives that they are able and wish to have and to have their needs accommodated, consistent with their duties and obligations as members of society, without being hindered in or prevented from doing so by discriminatory practices based on race, national or ethnic origin, colour, religion,

age, sex, sexual orientation, marital status, family status, disability or conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered.

Should we add gender identity to the list of prohibited grounds of discrimination and thus guarantee equality to any individual whose deeply felt internal and individual experience of gender may not correspond with the sex that the individual was assigned at birth, especially if that identity is a source of prejudice and causes a strike against that individual's fundamental human dignity and freedom? For me, the answer is a simple "yes".

I cannot accept the idea that there are any grounds that should deny an individual the opportunity to make the life they wish to have. It is my duty to legislate and render such discrimination a prohibited ground of discrimination. Our charter is the driving force behind that.

[*English*]

It is my duty to render such discrimination a prohibited ground of discrimination.

[*Translation*]

Is this bill necessary? I cannot avoid trying to answer that question because some legislators, especially those in the other place, voted against the bill, determining that it was not needed. Some senators took part in the debate and others, with whom I have had some interesting conversations, agree with that view.

I hope that, in spite of everything, these senators recognize that some Canadians have a gender experience that differs from that of the majority and that these individuals are not given access to equal opportunities, mainly because of this deeply felt internal and individual experience of gender, which may or may not correspond with the sex they were assigned at birth. I am not asking them to agree with this situation but to recognize that it is real and that it exists.

Honourable senators, I am convinced that you understand the point of my argument. With all due respect for the interpreters, I am going to read it in both official languages.

Today in 2013, in our society that endeavours to be free, fair and democratic, if discrimination based on the gender identity of some prevents them from having an opportunity equal to that of other individuals to make for themselves the life that they are able and wish to have, to the extent of being a source of prejudice and causing a strike against the human dignity of those individuals, such discrimination must become prohibited and in so doing guarantee the equality of rights pledged for all by the Canadian Charter of Rights and Freedoms.

[*English*]

Today in 2013, in our society that endeavours to be free, fair and democratic, if discrimination based on the gender identity of some prevents them from having an opportunity equal to that of other individuals to make for themselves the life that they are able and wish to have, to the extent of being a source of prejudice and causing a strike against the human dignity of those individuals, such discrimination must become prohibited and in so doing guarantee the equality of rights pledged for all by the Canadian Charter of Rights and Freedoms.

[*Translation*]

In order to conduct the most reliable study possible of Bill C-279, the committee that will be given the responsibility of thoroughly examining this bill should, first, recognize and document these individuals' particular gender experience; second, learn about the impact that such discrimination would have on them, namely, whether it would be a source of prejudice, put them at a disadvantage, undermine their dignity or infringe on their basic human freedom; and third, determine that this discrimination must be prohibited and added to the list of prohibited grounds already set out in the Canadian Human Rights Act and the Criminal Code.

[*English*]

Having in mind the constitutional principle and supremacy of the rule of law and recognizing and accepting the different human genders, I humbly ask honourable senators to vote in favour of the second reading of Bill C-279. Thank you for considering my plea.

[*Translation*]

Honourable senators, thank you for your close attention.

[*English*]

I will try my best to offer intelligent and coherent answers to any questions.

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, if there are no questions, I move the adjournment of the debate in the name of Senator Nancy Ruth.

(On motion of Senator Carignan, for Senator Nancy Ruth, debate adjourned.)

## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

### TWENTY-FIFTH REPORT OF COMMITTEE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator LeBreton, P.C., seconded by the Honourable Senator Carignan, for the adoption of the twenty-fifth report of the Standing Committee on Internal Economy, Budgets and Administration (Policies and guidelines relating to Senators' travel), presented in the Senate on May 9, 2013.

**Some Hon. Senators:** Question.

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

**Some Hon. Senators:** Yes.

**The Hon. the Speaker** *pro tempore*: It has been moved by the Honourable Senator LeBreton, seconded by the Honourable Senator Carignan, that the twenty-fifth report of the Standing Committee on Internal Economy, Budgets and Administration (Policies and guidelines relating to Senators' travel), presented in the Senate on May 9, 2013, be now adopted.

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

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** No.

**The Hon. the Speaker** *pro tempore*: Contrary minded, say "nay."

**Some Hon. Senators:** Nay.

**The Hon. the Speaker** *pro tempore*: The yeas have it.

*And two honourable senators having risen:*

**The Hon. the Speaker** *pro tempore*: Have the whips determined the time of the vote?

**Senator Marshall:** Thirty minutes.

**An Hon. Senator:** Ten minutes.

**Senator Munson:** No, we have committee. Thirty minutes.

**The Hon. the Speaker** *pro tempore*: Honourable senators, there is agreement between the whips that the bells ring for 30 minutes. The vote will take place at 4:28 p.m.

• (1620)

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

| | |
|---|---|
| Andreychuk | LeBreton |
| Ataullahjan | Maltais |
| Batters | Manning |
| Bellemare | Marshall |
| Beyak | Martin |
| Black | McInnis |
| Boisvenu | McIntyre |
| Braley | Mercer |
| Buth | Meredith |
| Callbeck | Mockler |
| Campbell | Moore |
| Carignan | Munson |
| Champagne | Nancy Ruth |
| Chaput | Ngo |
| Charette-Poulin | Nolin |
| Comeau | Ogilvie |
| Cordy | Oh |
| Cowan | Oliver |
| Dagenais | Plett |
| Dallaire | Poirier |
| Dawson | Raine |
| Demers | Ringuette |
| Downe | Rivard |
| Doyle | Rivest |
| Duffy | Robichaud |
| Dyck | Runciman |
| Eaton | Segal |
| Eggleton | Seidman |
| Enverga | Seth |
| Fortin-Duplessis | Smith (Cobourg) |
| Fraser | Smith (Saurel) |
| Furey | Stewart Olsen |
| Gerstein | Tannas |
| Greene | Tardif |
| Hervieux-Payette | Tkachuk |
| Housakos | Verner |
| Hubley | Wallace |
| Jaffer | Watt |
| Joyal | Wells |
| Lang | White — 80 |

ABSTENTIONS
THE HONOURABLE SENATORS

| | |
|---|---|
| Cools | Harb—2 |

• (1630)

TWENTY-FOURTH REPORT OF COMMITTEE—
MOTION IN AMENDMENT—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Stewart Olsen, seconded by the Honourable Senator Ogilvie, for the adoption of the twenty-fourth report of the Standing Committee on Internal Economy, Budgets and Administration (Examination of Senator Harb's Primary and Secondary Residence Status), presented in the Senate on May 9, 2013;
>
> And on the motion in amendment of the Honourable Senator McCoy, seconded by the Honourable Senator Cools, that the report be not now adopted, but that it be referred back to the Standing Committee on Internal Economy, Budgets and Administration for further consideration and report.

**Hon. Anne C. Cools:** Honourable senators, this motion in amendment is standing in my name, and I wish to adjourn the debate because I am simply not ready to speak.

I move that the item continue to stand in my name.

(On motion of Senator Cools, debate adjourned.)

[*Translation*]

## VIOLENCE AGAINST WOMEN

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Oliver, calling the attention of the Senate to the need to engage in a national conversation to call for the elimination of violence against women, of all ages, in all its forms including physical, sexual, or psychological abuse, and, in particular, on how we, as a national legislative body, can take the lead in educating, preventing, increasing national and global awareness on gender equality and reaffirming that violence against women constitutes a violation of the rights and fundamental freedoms of each individual.

**Hon. Suzanne Fortin-Duplessis:** Honourable senators, I wish to speak today to take part in the debate raised by Senator Oliver calling for the elimination of violence against women.

Many aspects of his speech resonated with me, including the story of Rehtaeh Parsons' tragic suicide. I felt compelled to mention this sad story, which was reported in the media around the world.

I want to take a moment to offer my sincere condolences to the family and friends of young Rehtaeh.

Rehtaeh's death will forever be unacceptable. Today, I would like to join Senator Oliver in stating loud and clear that we will not tolerate violence against women.

Canada is among the best in the world when it comes to quality of life. We believe in tolerance, justice, and helping the less fortunate. We share a set of values, such as pride and belief in equality and diversity and respect for all members of our society. These values define our identity.

Men, women, children and seniors are all respected in Canada. Despite our individual differences, we all share these values that make Canada a welcoming and compassionate country and a great place to live.

• (1640)

We benefit from this quality of life while keeping a close eye on the issues that even a safe and peaceful country like Canada must face. This is because we, Canadians, are seeking a better life not just for ourselves, but also for our children and for future generations.

No one aware of the issues could be unmoved. According to Statistics Canada, in 2011, women were 11 times more likely than men to be victims of sexual assault and three times more likely to be victims of criminal harassment.

According to police data, young women are more at risk of being victims of violence. In fact, 15 per cent to 25 per cent of female students attending university will be victims of sexual assault. This means that more than one out of every five women will see her life changed forever. That is unthinkable.

To address this problem, last year Status of Women Canada called for proposals to mobilize young people to prevent violence against female students on campuses. Last November, I had the opportunity to announce that a project proposed by Montreal's YWCA had been selected.

Over $185,000 was given for the MobiliCampus project, which targets students from three CEGEPs in Montreal. Together, these three institutions are active partners in trying to prevent violence against female students. When I met the people responsible for this project, I also learned that many sexual assaults occurring on campuses take place during the first eight weeks after classes have begun.

Moreover, 25 per cent of female students over 18 years of age are said to be victims of violence in their relationships. Emotional or psychological violence is common in young people's relationships in college and university. It is defined as insulting, verbally abusing, belittling or threatening a person, or even destroying someone's property or isolating someone from his or her friends and family members.

According to a report released in 2002, emotional violence is so prevalent in relationships that young women basically find it normal. It is essential to reverse these patterns and to state loudly and clearly that no form of violence will be tolerated.

To do that, it is crucial that our government support projects such as the Montreal YWCA's. We must join with the institutions and organizations that are active on the ground, and we must rally our knowledge, our knowhow and our resources, sparing no effort as we confront a cycle of violence that is all too often accompanied by the victims' silence.

In this regard, the Government of Canada took several measures to protect, prevent and reduce violence against women and girls. Among other initiatives, it has strengthened criminal legislation to increase certain penalties for violent crimes.

The government also raised the age of consent to sexual relations and enhanced measures enabling those in the legal system to manage the threat posed by high risk sexual and violent offenders more efficiently.

The Government of Canada also supports several community projects and initiatives to deal with new issues, such as the so-called "honour" crimes, and to engage men and boys in the prevention of this type of violence. Our government is also working hard to fight violence against aboriginal women and girls, and it continues to believe that the measures put forward in the areas of education, housing and health will help prevent violence against these women.

Once again, the statistics are shocking: the risk of violence is higher for Aboriginal women, who are three and a half times more likely to be victims of violence than non-Aboriginal women. A disproportionately high number of Aboriginal women are victims of homicide, and Aboriginal women are also three times more likely to be victims of domestic violence than non-Aboriginal women.

The Government of Canada has committed to taking concrete steps to address the issue of missing and murdered Aboriginal women by improving the responses of both law enforcement and the justice system to missing persons cases.

The House of Commons established the Special Committee on Violence Against Indigenous Women, which started work in April. The committee is mandated to hold hearings on the issue of missing and murdered Aboriginal women in Canada and to propose solutions to address the root causes of violence.

A recently released Human Rights Watch report on this scourge indicated that 582 Aboriginal women have gone missing or were murdered in the past few decades, 39 per cent of them since 2000. If we transposed this figure to the general Canadian population, it would mean that 18,000 Canadian women and girls would have gone missing or been murdered since the end of the 1970s. These figures are completely unacceptable. Poverty, unemployment and racism are among the causes of this phenomenon. Once again, we must provide leadership to identify the causes of this violence and implement the necessary resources to eliminate it.

Violence against women remains a problem in Canada and around the world, compromising women's personal safety and affecting their ability to participate in and contribute to society. Canada is working with other countries to implement measures to protect the rights of children and young people, especially girls, who could be victims of violence and exploitation.

As parliamentarians, I believe it is our duty to make men and women around the world more aware of this type of violence and mobilize them against it.

Last March, I attended the 57th session of the Commission on the Status of Women. This commission brought together thousands of representatives of the United Nations, governments, civil society, media and the private sector from all over the world. One of the main objectives of this session was to study the elimination and prevention of all forms of violence against women and girls.

This basic exercise was an opportunity to review progress made, share experiences and best practices, analyse shortcomings and challenges to be addressed, and agree on priority actions to eliminate this scourge forever.

The UN Secretary-General reminded us that the global pandemic of violence against women all too often flourishes in a culture of discrimination and impunity. That is why we must rise up forcefully against all forms of violence and introduce solid legislation and education and prevention services so that women and girls can live without the threat of violence.

Steps have been taken throughout the world, but much remains to be done.

• (1650)

By working together, we can advance this cause, because it is essential to promote equality in every respect for women throughout the world.

On a more personal note, I would like to speak to you about an initiative that I am sponsoring, and that is the creation of a web series called Vixit.

"Vixit" is a Latin word meaning "she has lived." The series is based on girls' real-life stories as told to screenwriters and authors. The purpose of this initiative is to support and promote a better understanding of the specific problems young girls face.

A total of nine short videos will be available online and can be shown in classrooms. The videos showcase young people, their passion and their creativity. They are an excellent tool for raising awareness of violence among young girls and boys.

A total of 18 themes will be explored, including bullying, sexuality, self-respect and respect for others, and social networks. This valuable initiative brings a message of hope, understanding and compassion, and it reminds young people that they are not alone.

I would like to mention in this chamber the extraordinary work that is being done by Réjean Savard, a recipient of the Diamond Jubilee Medal, who is doing a great job of heading up this project.

I would also like to mention the invaluable contribution of the young people who are cheerfully and energetically participating in this project.

In closing, like our colleague Senator Oliver, I urge you to participate in the debate and join this movement to raise awareness of, prevent and condemn violence against women. I would like to express my appreciation and gratitude to all those involved in this fight. Their example encourages us to redouble our efforts and guides our collective effort to combat violence and foster the respect and dignity to which every woman and girl is entitled.

Honourable senators, thank you very much for your attention.

**Hon. Lillian Eva Dyck:** Will the honourable senator accept a question?

**Senator Fortin-Duplessis:** Yes.

**Senator Dyck:** I want to thank Senator Fortin-Duplessis for her gracious comments regarding Aboriginal women. Would she support a national inquiry into the question of the missing and murdered Aboriginal women?

**Senator Fortin-Duplessis:** No, I am not conducting an inquiry.

**Senator Dyck:** I apologize.

[*English*]

I was trying to be nice and practise my French, but clearly it is not good.

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

**Senator Dyck:** I will try once more, slowly; and I probably will not say it correctly.

[*Translation*]

Would the honourable senator support a national inquiry into the question of the missing and murdered Aboriginal women?

**Senator Fortin-Duplessis:** Honourable senators, a House of Commons committee is beginning a study at this time, as I mentioned in my speech. Personally, I do not believe we on this side will be beginning a national inquiry into this issue. However, the government is doing a great deal. It has already invested $25 million to tackle the serious problem of missing and murdered Aboriginal women. That money is being used to improve the responses of both law enforcement and the justice system and to help improve victims' services.

I am confident that the government will do even more. It will investigate this further and introduce measures to stop the abuse and murder of Aboriginal women.

[*English*]

**The Hon. the Speaker:** If no other honourable senator wishes to speak, the inquiry is considered debated.

**Hon. Mobina S. B. Jaffer:** Honourable senators, I was not fast on my feet and I apologize. I wish to speak to the inquiry of the Honourable Senator Oliver.

(On motion of Senator Jaffer, debate adjourned.)

[*Translation*]

## ACCESS TO JUSTICE IN FRENCH

### INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Tardif, calling the attention of the Senate to access to Justice in French in francophone Minority Communities.

**Hon. Marie-P. Charette-Poulin:** Honourable senators, I am honoured to speak to you today about access to justice in French in francophone minority communities.

I would like to extend my sincere thanks to Senator Tardif for raising this issue and very clearly explaining the challenges facing francophones in minority situations in Canada, particularly those in Alberta, the province she represents.

In Canada, we have a fundamental right to be able to access justice in the official language of our choice. That right is non-negotiable and must not only be protected, but must also be promoted for the sake of Canada's unity. That is why the Government of Canada must educate members of linguistic majorities and promote the rights of linguistic minorities. Similarly, all Canadians have an obligation to respect those rights.

However, I would like to quote what the Commissioner of Official Languages, Graham Fraser, pointed out in his last annual report:

> Despite the fact that the Official Languages Act is now into its fifth decade, it is still a challenge for some to recognize linguistic duality as a Canadian value and as a key element in Canada's identity.

Yes, honourable senators, there is still, unfortunately, some resistance from governments as well as individuals to having two official languages, which is essential to our national unity.

In the overview she provided, Senator Tardif noted that the various francophone minority communities in this country do not have equal access to justice. She said that Manitoba and Ontario stand apart because they actually created policies to provide legal services in French, which is rare in this country.

Today, I would like to offer a Franco-Ontarian perspective. In Ontario, there are more than 600,000 people whose first language is French and nearly as many francophiles, which makes the Franco-Ontarian community the largest francophone community outside Quebec.

• (1700)

The experience of Franco-Ontarians with regard to access to justice in French has been quite positive, especially in the past decade. A lot of progress has been made, and things keep moving in the right direction. Of course, there is always room for improvement.

Like Senator Maria Chaput, I find that:

> The simple right to have access to justice in the official language of one's choice should not, in a country like Canada, have to be fought for tooth and nail.

Nonetheless, in Ontario — and in Manitoba, as Senator Chaput indicated — getting access to the justice system in French has never been easy.

The francophone minority in Ontario and that in Manitoba have a lot in common. Both minorities have gone through adversity, made progress and won victories.

Senator Chaput told the story of the dark period Franco-Manitobans went through when the provincial government passed two anti-francophone bills in 1890. She also told the story of George Forest, who, in 1976, refused to pay a ticket that was written in English only. Mr. Forest went all the way to the Supreme Court of Canada, which declared Manitoba's Official Language Act of 1890 unconstitutional.

Some people have played an important role in the Franco-Ontarian fight for language rights. In April 2013, I paid tribute to the French-language daily newspaper *Le Droit*, which was very involved in the fight against the Government of Ontario's Regulation 17 to limit the rights of French-speaking Ontarians. The repeal of that regulation in 1927 gave Franco-Ontarians the right to have French-language elementary schools in the province. For Graham Fraser, this was:

> ...a watershed in the history and pride of French-speaking Ontario.

He is quite right and, judging by all the progress made by French schools in Ontario since that time, it is a great success.

Several decades later, in 1975, a new battle took centre stage in French-speaking Ontario: the battle against unilingual English tickets, mainly in communities that were predominantly francophone.

That year, Ontario's francophone community held huge protests, and several acts of civil disobedience were committed. In July, Lise Pellerin of Sudbury chose to go to jail for five days rather than pay a ticket that was in English only. At about the same time, a number of francophones in Ottawa refused to pay their tickets or renew their driver's licences because the forms were only available in English.

The Legislative Assembly of Ontario became involved. In the spring of 1975, the MPP for Ottawa East, Albert Roy, proposed amendments to the jurisdictional legislation in order to authorize the use of French in the courts in certain regions.

Young francophones became impatient with the lack of real progress on facilitating access to government services in French. They started the movement known as "C'est le temps," which was led by Algonquin College students.

I will read an excerpt from their communiqué:

> ...it is still often impossible for Franco-Ontarians to obtain in their language such essential services as hospital and medical care, justice and welfare services, which they pay for with their taxes just like English-speaking citizens.

It had become impossible for the Government of Ontario to ignore the situation. In 1976, the Attorney General of Ontario, Roy McMurtry, took action. His first step was a significant one: he launched a pilot project to create a bilingual court in Sudbury.

Honourable senators, you will notice that Sudbury and Ottawa play an important part here. These two communities are leaders in the promotion and protection of the linguistic rights of Ontario's francophones.

Following the movement launched in 1976, francophones gained access to French services for criminal proceedings in 1979. Today, an association of francophone lawyers of Ontario plays an important role in ensuring equal access to justice in both official languages, and works with the whole Franco-Ontarian legal community to support ties between its members by publishing information and promoting everyone's involvement.

In 1984, the Government of Ontario adopted its Courts of Justice Act, which gave official language status to both English and French in the province's justice system. Then, in 1986, it passed the French Language Services Act, also known as Bill 8. From 1986 to 1989, I had the honour of sitting on the Ontario French-Language Services Commission, which was responsible for implementing Bill 8.

Since then, Ontario has done a lot to improve government services provided to the province's francophone community, including improving access to justice in French. Many measures were taken in this regard, including the publication in French of the *Revised Statutes of Ontario*, in 1991, and the implementation of the first two phases of the government's initiative entitled *Strategic Plan for the Development of French Language Services in Ontario's Justice Sector*. As part of this process to improve, modernize, and increase access to services in French in the justice sector, the government called on francophone stakeholders. In 2007, the Government of Ontario established the Office of the French Language Services Commissioner.

Now we need to keep up the momentum and continue to move forward. The Government of Ontario has proven that it was and remains willing in that regard, and I am very proud of that.

In 2010, the Government of Ontario created the French Language Services Bench and Bar Advisory Committee, on the recommendation of François Boileau, the French Language Services Commissioner. The committee's mandate was to look at both the language rights knowledge of the judiciary and the apparent shortage of bilingual judges in Ontario.

Last summer, the committee released its report entitled *Access to Justice in French*. The report opens with several positive remarks, and I would like to read an excerpt of a letter addressed to the Attorney General that was included in the report:

> Over the last 35 years, successive governments have expanded the right to French language services in Ontario's court system. Those rights are broad and comprehensive. Much effort and investment has gone into developing and implementing them, and the courts, Ministry of Attorney General, and other participants in the justice system, have exhibited goodwill and a commitment of resources in this regard. The Ministry of Attorney General's *Strategic Plan for the Development of the French Language Services in Ontario's Justice Sector*, is particularly noteworthy.

The committee's report concluded that the French-speaking community continues to come up against obstacles when it comes to accessing justice in French and that many key participants in the justice system are often unaware of these obstacles.

• (1710)

The committee believes, however, that it is possible to make improvements without making significant investments or implementing broad new initiatives. The report clearly states that solutions lie with the Ministry of the Attorney General and other relevant partners, participants and stakeholders, including the Government of Canada, the judiciary and the legal profession.

One of the committee's key findings is that the lack of consistent French-language services across Ontario reduces access to justice in French. The report contains 17 recommendations, which I will quickly summarize.

That the Attorney General recommit to delivering French-language services based on the concept of active offer;

That training in French language rights for judges and justices of the peace be improved;

That legislative and regulatory changes be studied to ensure that all points of contact along the chain of a proceeding are in French;

That procedures be implemented to ensure that clients are informed of their language rights at the earliest opportunity and that French legal services are offered and made available at the same time as English legal services.

Honourable senators, may I have a few extra minutes?

**The Hon. the Speaker:** Agreed?

**Hon. Senators:** Agreed.

**Senator Charette-Poulin:** Thank you, honourable senators.

That every level of court adopt the same definition of a bilingual judge and justice of the peace to ensure that there are sufficient qualified bilingual applicants for appointment as judges; and

That there be greater coordination between the judiciary and the Attorney General regarding the delivery of French or bilingual proceedings.

The French Language Services Commissioner, François Boileau, said that he was satisfied with the provincial government's response to the report and the Attorney General's commitment to implementing the committee's recommendations in order to improve access to justice in French.

The good news does not end there. In November, the Commissioner of Official Languages of Canada and the French Language Services Commissioner of Ontario signed a memorandum of understanding whereby they could work together to better protect Canadians' language rights.

Commissioners Fraser and Boileau say that this memorandum is unprecedented in Canada. The agreement they signed will allow their two offices to share information about investigations and to work together on promotional initiatives and studies on how our respective governments are meeting their language obligations.

Honourable senators, I would like to take a moment to remind you of one of the debates we had in this chamber. It was on the current government's appointment of two unilingual anglophone justices to the Supreme Court of Canada.

Minister of Justice Nicholson justified the decision by trying to make a distinction between merit and bilingualism. That is a red herring. That argument is used every time we try to establish equality between Canada's two official languages.

Being bilingual is currently not a prerequisite for being appointed to the Supreme Court bench. A unilingual justice has to hear cases in English or rely on interpretation, which is risky when we know how important every word is in the court process.

It is clear that if we want to give French-Canadians equal access to justice, then we have to make it mandatory for Supreme Court justices to be bilingual. We have to take into account the nature of language. Senator Tardif quoted former Chief Justice Dickson.

These words bear repeating:

> Language is more than a mere means of communication, it is part and parcel of the identity and culture of the people speaking it. It is the means by which individuals understand themselves and the world around them.

That is why the current government must change its way of thinking and move to ensure that, in the future, all Supreme Court judges are bilingual.

I would like to conclude my remarks on a more positive note. A few months ago, I was pleased to receive a notice from the Association of French Speaking Jurists of Ontario announcing the launch of Jurisource.ca, an online portal of legal and jurilinguistic resources for justice professionals working in Canada's official language minority communities. This is an extremely positive initiative, and I would like to point out that it is funded by the Department of Justice.

The launch of Jurisource.ca, which is described as a virtual library, was greeted with great enthusiasm. Counsel Paul Le Vay, a partner at Stockwoods and president of the association, said:

> Jurisource.ca fills a tremendous need for the legal community. From now on, justice professionals will have a common point of reference to support them in their daily practice.
>
> It is important to put an end to the isolation experienced in linguistic minority communities by providing tools that bring members of the legal community together so that they can join forces and help each other.

Honourable senators, allow me leave you with this recommendation that Official Languages Commissioner Graham Fraser made in his most recent annual report. He said:

> In five years, when Canadians celebrate their country's 150th anniversary, they should be able to celebrate Canada's linguistic duality—and enjoy its presence—across the country.

I sincerely hope that, when we achieve true linguistic duality, we will also be able to celebrate improved access to justice in French and in English for all language communities across the country. Thus, 2017 could mark the beginning of a whole new era for Canadians.

(On motion of Senator Jaffer, debate adjourned.)

[*English*]

## CHARTER OF RIGHTS AND FREEDOMS

### INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Cowan calling the attention of the Senate to the 30th Anniversary of the *Canadian Charter of Rights and Freedoms*, which has done so much to build pride in our country and our national identity.

**Hon. A. Raynell Andreychuk:** Honourable senators, I stood up before and said that I would speak to this matter. I fully intend to do so, but that I have been working on some time-limited matters. Therefore, I would beg indulgence of the chamber to speak to it at a later date.

(On motion of Senator Andreychuk, debate adjourned.)

## QUESTION OF PRIVILEGE

### TWENTY-FOURTH REPORT OF INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION— SPEAKER'S RULING RESERVED

**Hon. Mac Harb:** Honourable senators, His Honour dismissed on May 23 the question of privilege I had raised on May 21 on the basis that "Concerns about the fairness of... the report and its conclusions can be explored during debate...."

• (1720)

I rise today on a new question of privilege that stems from new information. In His Honour's May 23 ruling, he found that, in exercising its right over its process:

> ... the Senate can implement measures intended to safeguard its public reputation...

My question of privilege directly relates to the Senate's public reputation and its privilege to manage its own internal affairs.

It is well recognized that one of the most important aspects of the Senate's privilege is that there is no interference in its internal affairs. O'Brien and Bosc, in Chapter 3 of *House of Commons Procedure and Practice*, under the heading "Rights of the House as a Collectivity," refer to this right as follows:

> The exclusive right of the House of Commons to regulate its own internal affairs refers to its control of its own debates, agenda and proceeding as they relate to its legislative and deliberative functions.

In other words, the Senate needs to be independent. It is equally obvious that the committees need to be independent, especially when making decisions as a quasi-judicial body.

The reports relating to the living expenses of a few senators all come under the responsibility of the same committee and are the result of a process that has been entirely controlled by that committee, Internal Economy. There have been news stories saying that Internal Economy's comments and conclusion relating to at least one of the reports were modified as a result of interference from the Prime Minister's Office. The full details are not yet known. However, what is known is that this is the same committee that adopted the report on mine and my other colleagues' expense claims.

In an interview in *Maclean's* on May 23, 2013, the Chair of Internal Economy was asked the following question concerning the committee report:

> Can you say though that any of the Prime Minister's Office's advice ended up impacting how that report was written?

He answered the following:

> Well, I do not know, I suppose. It's hard for me to say. It's hard for me to say. Only because I asked for advice from many, many people, so it's all in the report.

If that is true, are we supposed to allow individuals who are not part of the process to have a say in the report of a Senate committee? If that is the case, as reported, has there not been a breach of privilege if political officials outside the Senate are, in fact, participating in decisions on internal Senate procedures?

As you know, honourable senators, natural justice is technical terminology for the rules against bias and the right to a fair hearing. More generally, it is the duty to act fairly. The right to a fair hearing requires that individuals should not be penalized by decisions affecting their right or legitimate expectation unless they have been given prior notice of the case, a fair opportunity to answer it and the opportunity to present their own case.

Unfortunately, the independence of this Internal Economy committee has been called into question. That speaks to bias and the process used calls into question the right to a fair hearing. The

Senate Administrative Rules require that Senate procedures be transparent. Here, the transparency and independence of the process leading to the report on allowances have been called into question. If the process appears to have been unfair for the drafting of one report of the committee, how can the public trust the same process that led to other related and similar reports? Natural justice requires not only a fair process, but the public perception of a fair process.

For example, an examination of the report on my living allowances and of other reports of the committee illustrates very clearly that the process dealing with the report on my allowances cannot be considered independent or fair. In the report on my living allowances, the committee wrote:

> Your Committee acknowledges Deloitte's observations regarding the absence of criteria for determining primary residence.

The report then goes on to stay that, despite the observations of the independent auditor, the committee concluded that the primary and secondary residence declaration is amply clear.

However, in one report on living allowances, the committee wrote:

> Your Committee acknowledges Deloitte's finding that criteria for determining primary residence are lacking and this is being addressed by your Committee.

That committee was examining the identical policy in both instances. The independent auditor reported to the committee the same findings in all instances concerning the lack of any clear rules on determining what constitutes a primary residence. Nevertheless, in one report, the committee refers to these findings as "observations regarding the absence of criteria." However, in another report, the independent auditor's comments on the lack of rules is qualified as a "finding that criteria are lacking." I am certain that I am not the only senator perplexed as to how the same comment can, in one report, be an observation and, in another report, can be a finding.

Further, in my report, the committee concluded that the language the primary residence form used was unambiguous and, in another report, the committee concluded that the same language needed to be addressed by the committee because it lacked any clear criteria.

It is a recognized principle of natural justice that like cases be treated equally in order to obtain and maintain the public confidence in the institution of justice. This principle is no different in the parliamentary process. The process of the committee that led to the adoption of one of its reports, which is the same as that which led to the adoption by the committee of another report, has been compromised. The process has been tainted by what appears to be outside interference. It has breached the Senate's privilege and has brought the Senate into disrepute.

It is useful to reiterate the criteria listed in paragraph 1 of Rule 13-3 to determine if a prima facie question of privilege exists. First, I raise this matter at the earliest opportunity, given that the new information on the independence of the process followed by the Committee on Internal Economy has only come to light on May 23.

The second criterion is that the matter must directly concern the privilege of the Senate, any of its committees or any senator. In this case, the matter concerns the integrity of the Senate and its duty to manage its affairs without outside interference.

The third is that the question of privilege is "raised to correct a grave and serious breach" of the privilege of this house. The very integrity of the Senate is being called into question by the Canadian public on the basis that there is outside interference and that it is not respecting its own rules.

For the fourth criterion, subparagraph 1(d) of Rule 13-3 states that 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.

In the case at hand, the Senate discussion of the report and the vote on it does not correct the compromised process and the integrity of the Senate. A process that breaches the Senate's privilege cannot be put right by a vote of the Senate. Without a complete, factual picture of the process and a process that respects the basic tenets of natural justice, a genuine remedy cannot be obtained.

Given the apparent interference in the Senate's internal affairs, concerning the process of the committee's report, I am prepared to move a motion to send this matter to the Standing Committee on Rules, Procedures and the Rights of Parliament for investigation and report, in accordance with rule 13-7(1), if His Honour decides that there is a prima facie question of privilege that warrants study.

[*Translation*]

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I get the feeling I have already heard Senator Harb's arguments about a number of points raised concerning the fairness of the process.

I believe that the ruling given by His Honour the Speaker was quite clear as to its content and that a prima facie question of privilege was not established.

I have the impression that Senator Harb is using a magazine article published last week in an attempt to again exercise the right to raise a question of privilege, because otherwise he would have a problem with timing.

When one is not satisfied with the Speaker's ruling, the only way to challenge it is to raise it in the chamber and question the Speaker's ruling.

As His Honour the Speaker said this afternoon in another ruling on a question of privilege, he is the servant of the house and senators. It is possible to have the decision overturned or to move a motion to that effect, if senators are not satisfied. Senator Harb did not do that when His Honour the Speaker gave his ruling.

• (1730)

He used a magazine article to prop up a renewed bid to exercise his right, in which he basically invoked the same arguments that His Honour the Speaker rejected in the ruling on his case. He also presented a series of other arguments that His Honour the Speaker also rejected this afternoon in his ruling on the question of privilege raised by Senator Cowan.

It seems to me that, in both cases, the decision was clear and covered the process put in place.

If I may sum up the ruling by His Honour the Speaker, I am going to use the same arguments to some extent. The questions raised by Senator Harb can be dealt with by other bodies, particularly as regards the report. The report is still being reviewed by the Senate, and Senator McCoy even proposed an amendment to refer it to the Standing Committee on Internal Economy, Budgets and Administration. All honourable senators have the opportunity to either debate the substance of the report again, or to refer it to that committee. It will be up to the Senate to make that decision. It seems to me that this is reason enough to reject the question of privilege.

As for the issue of interference, when I spoke to the question of privilege raised by Senator Cowan on this part of the involvement of the external office, I said that a behaviour and ethics process is currently taking place. There is an inquiry by the Ethics Commissioner of the House of Commons, and also by the Senate ethics commissioner. In both cases, the ethics commissioners have the power to call witnesses, to compel them to testify and to force the production of documents to conduct an in-depth review of the matter.

First, it seems to me that the issue has already been settled by the rulings on two questions of privilege. In law, we can argue a case that has been dealt with, but I did not expect to do that under parliamentary law. This is basically my point. Second, if His Honour the Speaker feels that his rulings did not deal with the issue specifically enough, there are other avenues such as referring matters to ethics commissioners or even to the Senate, which has yet to make a final decision on the report on Senator Harb.

Therefore, I am asking His Honour the Speaker to reject the question of privilege, and also the matter of deadline. Subsequent events do not revive the argument. If that were the case, we would constantly be raising questions of privilege every time something came up after a ruling.

**Hon. Pierre Claude Nolin:** Honourable senators, I think Senator Carignan covered pretty much all of the arguments.

I want to go back to the amendment to the report of the Board of Internal Economy. I think Senator Harb was here when this item was called. He could well have taken part in the debate on Senator McCoy's amendment and presented all the arguments that he just gave to try to convince us that we should refer the matter to the Board of Internal Economy for a more in-depth review of this issue.

**Senator Harb:** There is still time.



**Senator Nolin:** We all heard the senator. The aggrieved party himself says there is still time to consider a parliamentary procedure other than the question of privilege, for the reasons mentioned by Senator Carignan.

Therefore, I think His Honour the Speaker should reject this question of privilege.

[*English*]

**Hon. Anne C. Cools:** Honourable senators, I would like to join this debate on Senator Harb's question of privilege. I wish to begin by saying yet again that I have found this entire matter deeply disturbing and most unsettling.

Honourable senators, I do not believe for a moment that such distressing business can go on in this place for such a long time without somehow breaching some senator's privileges. I have been in public life long enough and have witnessed many individuals whose distress has been enormous and who, at the end of these processes, develop cancer, heart attacks, stroke, or die. Let us understand that this road has been strewn with a lot of very painful and stressful events. In respect to Senator Tkachuk, I read that interview with *Maclean's*. I must admit that I was worried about him when I was reading it. Senator Tkachuk once told me that his mother and sister had had cancer, and when I heard that he was ill I found myself saying, "Dear God, I hope it is not cancer."

Honourable senators, we should admit that this spectacle has been a huge burden for everyone, for Senator Tkachuk and the entire committee. I would also submit that it has been a huge burden for the individual senators who have been afflicted, and I speak of Senator Wallin, Senator Harb, Senator Brazeau and Senator Duffy. I have to come back to natural justice and the right of these senators to make a proper answer. I would like to introduce one or two novel concepts today. One has to do with the power of some senators over other senators.

Honourable senators, my understanding of the BNA Act and the Constitution of Canada is that no senator has any more power, privileges or immunities than any other senator. No committee conveys any additional powers on the senators who happen to be members of that committee over other senators. I think that we have allowed a very large burden — and I would say a very unfair burden — to be thrown onto this one committee, the Standing Committee on Internal Economy, Budgets and Administration.

I am neither praising nor defending the committee. I am just saying this is how it is. Perhaps I could begin there for a moment and look at the mandate of the committee.

I am reading from our Senate rules:

> 12-7. (1) the Standing Committee on Internal Economy, Budgets and Administration, which shall be authorized:
>
> (a) to consider, on its own initiative, all financial and administrative matters concerning the Senate's internal administration, and

(b) subject to the *Senate Administrative Rules*, to act on all financial and administrative matters concerning the internal administration of the Senate and to interpret and determine the propriety of any use of Senate resources.

Honourable senators, if we were to look for a definition of "administer" and "administration," and if we were turn to the Compact Edition of the Oxford English Dictionary at page 117, we find that the words "administer" and "administration" come from the word meaning to minister to or attend to others, to serve.

• (1740)

My cause of alarm comes from the fact that no power whatsoever is granted to the Standing Committee on Internal Economy, Budgets and Administration to look at senators and to adjudicate individual behaviour. My understanding has always been that judgments and the adjudication of the behaviour, whether probity or other, belong exclusively to the Senate as a whole. That has been my understanding, and I think I speak with great authority.

I have looked through the mandate, the description of the role of the Standing Committee on Internal Economy, Budgets and Administration and can find no power to adjudge people or to adjudge senators. If such judgments are required, they belong to this chamber, this house, as a whole.

Honourable senators, this is well supported by much authority. We know well and often hear the expressions that the Senate is the master of its own proceedings and that it has the right to regulate its internal affairs free from interference. Those expressions are true, but, at all times, these references are about the whole Senate sitting in judgment.

I have heard many times in the past week several senators refer to the Senate as a quasi-judicial body. I would like to inform all honourable senators that the Senate is not a quasi-judicial body. The Senate is a full judicial body with all the powers of adjudication on many fronts that are available to any judicial institution, any superior court. Let us not forget for a moment that the Senate votes, creates judges and courts, and is a full part of the high court of Parliament. However, at the same time, the system of Parliament has always insisted that whenever a senator's behaviour or lack of probity or conduct come into question, or even lurk or show their head, the place to determine those issues is the Senate acting in full judicial capacity, and by bill if necessary.

Honourable senators, my problem is that many here have danced with other senators' careers and reputations. However, it is hard for me to take them seriously. I would take them seriously if they were to come to this house with a proper process and a proper accusation so that the Senate and all honourable senators could respond on a definite basis rather than this constant swirling of suspicion, innuendo and calumny. I have said what I think of that. I need not repeat it. I would like to say, in support of this, and I will defend no wrongdoing, ever, that I have no doubt that the individual senators we have been talking about, whose names we have been bandying around with abandon, have been in serious distress.

I must tell honourable senators that I have served in two party caucuses. I notice that Senator Cowan has taken to describing me as a former Conservative, but the fact is that I served the Liberal Party for donkey's years. I still view myself as a classical British 19th century liberal. I would like to invite senators to study that liberalism. I would say to honourable senators that this is very important and I am a little sensitive about some of these matters. I have served the Liberal Party longer than many in this country. My understanding of the grand liberal tradition is that you respect the rights of the individual and that you treat every human being with a certain dignity. We just do not bandy people's names around, or offend natural justice.

Honourable senators, I would like to put something on the record because there is a lot of tradition and law of Parliament on the whole phenomenon of impugning or accusing parliamentarians. I will go into the part of the BNA Act that deals with these issues. I will begin with a quote from my ever-faithful Alpheus Todd in his 1887 edition of *On Parliamentary Government in England*. Page 573 speaks to the business of passing judgments on judges, and high offices of state, with removal or disqualification. He said:

> And it is the invariable practice of Parliament never to entertain criminative charges against anyone, except upon the ground of some distinct and definite basis. The charges preferred should be submitted to the consideration of the House in writing, whether it be intended to proceed by impeachment, by address for removal from office, or by committee, to enquire into the alleged misconduct, in order to afford full and sufficient opportunity for the person complained of to meet the accusations against him.

We are talking about process in the whole house. I am not suggesting impeachment; I am just saying that there is a long tradition. At all times with these mighty processes, when they swing into motion, one will be made to understand power. However, we have always understood that they proceed with sobriety, with decency and with high adhesion to a set of rules that respect the right of the individual who is impugned.

Honourable senators, I would like to state again that life in party caucuses is a rough business, and it seems to be getting rougher by the day. I am aware that currently the most common expression I hear to describe contemporaneous politics is "blood sport." I have scant use for that sort of injustice. No one here will ever convince me to support injustice or wrongdoing; so count me out. Count me out. I do not go down that road. Thankfully, I have always had enough moral courage and intellectual power to be able to resist and to say no. Saying no is always a lonely place to be, but that is okay; I know that place very well.

In response to one small point, I have heard constant media references to the fact that the House of Commons Ethics Commissioner is looking into the Senator Duffy affair. I do not know what power exists in the House of Commons to allow it to look into the activities of a senator; that is strictly out of order. They are free to look into the activities of members of the House of Commons and their staffs and so on, but not a senator. It is unfortunate that this thing is being repeated in the media.

• (1750)

In coming down the home stretch, I would like to say that to date, nothing of a definite basis has been put before us — nothing. To date, the forensic audits were put before us, but their findings are beyond paltry. I understand that they have found nothing of a forensic nature. Thus, these persistent insinuations bother me greatly.

Honourable senators, I have to tell you that I have met too many people personally who have had relatives lynched. The most recent one was last July, in Virginia, when I was told about a grandmother's brother or cousin being lynched. I have read enough about lynchings to know what "hang them, get them, hurt them" does to people. I appeal again and again to honourable senators and say let us not even sound like that. I think that is below the dignity of the Senate and of every senator.

My heart goes out to anybody who suffers, and that is just my nature; I was raised that way. When I was very young girl, my mother used to take me out into the fields and point out injustice and poverty. She would tell me, "You have a duty to improve these people's lives." That is how I grew up — very British, very colonial, very aristocratic, but with very sound principles of justice and freedom, and a sense of duty.

Since Senator McCoy raised it, I would like to talk about the whole question of vacancies in the Senate and the disqualification of senators. She cited section 33 of the BNA Act, 1867, and I just want to record that these are questions that belong to the whole Senate:

> That, if any Question arises respecting the Qualification of a Senator or a Vacancy in the Senate the same shall be heard and determined by the Senate.

I repeat, heard and determined by the Senate, not the committee.

We hear a lot of these questions about expulsion. It jolts the sensibilities a little because the nature of a very high appointment is to resist impetuousness and unrestrained behaviour.

Honourable senators, in section 31 of the BNA Act, there are five disqualifying sections, and we know them easily: Section (1) is "If for Two consecutive Sessions of the Parliament he fails to give his Attendance"; (2), "If he takes an Oath or makes a Declaration" to a foreign power; (3), "If he is adjudged Bankrupt or Insolvent"; (4) — this is getting important — "If he is attainted of Treason or convicted of Felony or of any infamous Crime" — and felony in the days when this was adopted does not mean the same today. The term disappeared from Canadian use somewhere around the new Criminal code of 1892. A felony has always meant crimes of a nature that violate the notion of allegiance, in other words, bordering on some sort of treason. In short, very serious offences. The (5) provision for disqualification is if "he ceases to be qualified in respect of Property or of Residence." These are the grounds for the Senate to vacate a senator of their place.

Honourable senators, as these debates have continued with the spectacle that they seem to have created, the underlying principles seem to have been forgotten. However, I assure honourable senators that if anyone felt that any one of these senators' behaviour had gone to a point where it borders on criminal activity, I am sure someone would have introduced a measure here for this house to deal with it.

There is a lot of moral cowardice floating around, too, as many people hope that the senators in question would simply disappear or evaporate into the air. However, honourable senators, we should proceed with great sobriety and with great seriousness.

I have been doing a lot of reading on these questions. As we know, I am an intervenor in the Supreme Court reference case.

If honourable senators are ever struck by anything, they will be struck by the character and the intelligence of those individuals we call the Fathers of Confederation, and the great sacrifices that they made on our behalf to create this Senate.

In any event, I suppose I am making a sort of plea for reason, justice, balance, equilibrium and that somehow or other this page can be turned in this place. I think that would be good for the country. I think that would be good for everyone, because based on the evidence that has been put forth here in these reports, there is no indication of *mens rea*.

I hope that this has been helpful to His Honour. Very few of us know anything anymore about these processes, but every time we go into the full house on a question like impeachment — and the word "impeachment" should not mystify anyone. The word means a trial where the upper house goes into judicial mode, and each and every senator or lord would become a judge. This process is still a legal process — it still exists — but it fell into disuse because every single action in the trial has to proceed like a proceeding in Parliament, by motion and vote.

In any event, I think we should endeavour to try to turn the page, if we can, on some of these questions. At the same time, I think we would do the Senate and all of our colleagues a great service if we could be a bit more temperate in our language, particularly in our interviews in the media, and if we could be a bit more balanced at times.

Having said that, honourable senators, I do not envy the job His Honour has to do, and I thank him again as I have many times over the years for his indulgence in a process like this one, where he allows many senators to speak. I thank him for that. We should be looking to move along judiciously and with probity.

**Hon. A. Raynell Andreychuk:** Honourable senators, I simply want to put a clarification on the record. I have not heard Mary Dawson indicate that she is investigating any senator. She has a dual capacity. In her dual capacity, she has not indicated that she is investigating any member of the House of Commons. She has another role — and I am sorry that I do not have the term — but it is for the officers, and she has indicated an investigation there.

It is incumbent on us in this chamber to protect all the jurisdictions of the Ethics Officer for clarity.

I bring that to the attention of Senator Cools and the rest of the senators.

**Senator Cools:** I thank the honourable senator for her clarification. That confirms what I have heard in the media.

**The Hon. the Speaker:** I thank the Honourable Senator Harb for raising the question of privilege, and I thank all honourable senators for their contributions, which are always helpful to the chair. I shall take the matter under advisement and report back to the Senate as soon as possible.

## BUSINESS OF THE SENATE

**The Hon. the Speaker:** Honourable senators, by my clock, we are approaching 1800 hours or 6 p.m. Is it the will of the house that we do not see the clock at six o'clock, or do we come back at eight o'clock?

We do not see the clock.

• (1800)

## NATIONAL SECURITY AND DEFENCE

### COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF SERVICES AND BENEFITS FOR MEMBERS AND VETERANS OF ARMED FORCES AND CURRENT AND FORMER MEMBERS OF THE RCMP

**Hon. Roméo Antonius Dallaire,** pursuant to notice of May 21, 2013, moved:

> That, notwithstanding the orders of the Senate adopted on Wednesday, June 22, 2011, and on Thursday, June 14, 2012, the date for the final report of the Standing Senate Committee on National Security and Defence in relation to its study on the services and benefits provided to members of the Canadian Forces, to veterans, and to members and former members of the Royal Canadian Mounted Police and their families, be extended from June 28, 2013, to June 27, 2014.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

## NATIONAL FINANCE

### COMMITTEE AUTHORIZED TO MEET DURING SITTINGS OF THE SENATE

**Hon. Joseph A. Day,** pursuant to notice of May 23, 2013, moved:

> That, for the purpose of its study of the subject-matter of Bill C-60, An Act to implement certain provisions of the budget tabled in Parliament on March 21, 2013 and other measures, the Standing Senate Committee on National Finance have the power to sit even though the Senate may then be sitting, and the application of rule 12-18(1) being suspended in relation thereto.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

[*Translation*]

## THE SENATE

### NOTICE OF MOTION TO AMEND THE *RULES OF THE SENATE OF CANADA*

**Hon. Claude Carignan (Deputy Leader of the Government)** pursuant to notice of May 23, 2013, moved:

That the *Rules of the Senate* be amended by:

**(1) replacing rule 4-5(b) with the following:**

"Presenting or Tabling Reports from Committees";

**(2) replacing rule 5-5(f) with the following:**

"to adopt a report of a standing committee or the Committee of Selection";

**(3) amending rule 12-2 by adding of the following subsections (4), (5) and (6):**

"Powers of the Committee of Selection

**12-2.** (4) The Committee of Selection is empowered to inquire into and report on any other matter referred to it by the Senate, and also has the power:

(a) to publish from day to day such papers and evidence as may be ordered by it; and

(b) to propose to the Senate from time to time changes in the membership of a committee.

Committee of Selection is neither a standing nor special committee

**12-2.** (5) For greater certainty, the Committee of Selection is neither a standing nor a special committee.

Quorum of Committee of Selection

**12-2.** (6) The quorum of the Committee of Selection shall be six of its members.";

**(4) replacing rule 12-6 with the following:**

"Quorum of standing committees

**12-6.** Except as otherwise provided, the quorum of a standing committee shall be four of its members.

*EXCEPTION*

*Rule 12-27(2): Quorum of Conflict of Interest Committee*"; and

**(5) amending the definition of "Committee" in Appendix I by:**

**(a) adding the following definition:**

"(a) **Committee of Selection:** A Senate committee appointed at the beginning of each session to nominate a Senator to serve as Speaker *pro tempore* and to nominate Senators to serve on the standing committees and the standing joint committees."; and

**(b) changing the alphabetical designation of current points (a) to (e) as points (b) to (f), and changing all cross references in the Rules accordingly.**

(Motion agreed to.)

[*English*]

## MENTAL HEALTH CARE TREATMENT FOR INMATES IN FEDERAL CORRECTIONAL INSTITUTIONS

INQUIRY—DEBATE ADJOURNED

**Hon. Catherine S. Callbeck** rose pursuant to notice of May 7, 2013:

> That she will call the attention of the Senate to the need for improved mental health care treatment for inmates in federal correctional institutions, and the benefits of providing such treatment through alternative service delivery options.

She said: Honourable senators, I rise to speak on this inquiry on improved mental health treatment for inmates. Not very long ago, Senator Runciman introduced a similar inquiry, but it fell off the Order Paper before I had time to speak to it.

Mental health is in the spotlight like never before, with national campaigns like the Bell Let's Talk Day trying to create an open forum to talk about mental health. It is a tough climb, but slowly we are working together to try to break down the stigma that surrounds mental health. However, there is still a deeply entrenched view that mental health issues are a sign of weakness or that they are something embarrassing, something we should not talk about. When someone breaks an arm they can get a cast, if they cut themselves they can receive stitches; and in both cases we rush to their side to help, but when someone is suspected of being depressed or bipolar, we turn our backs on them far too often.

Our correctional institutes are no different. They are designed to incarcerate, not heal. Our prison system is fundamentally failing our mentally ill inmates, inmates who make up almost half of our prison population. Look no further than the appalling mishandling of Ashley Smith and her tragic suicide to see how fundamentally wrong we are handling mental illness in our prison system.

According to the CSC, in 2010-11 9,200 cases were reported of inmates with mental illness. That translates to 45 per cent of the Canadian prison population suffering from some form of mental illness. In the case of female offenders, that number rises to a remarkable 69 per cent. In fact, 50 per cent of the federally sentenced women have a history of self-harm, 85 per cent report a history of physical abuse, and 68 per cent experienced sexual abuse at some point.

From 1997 to 2008, the number of inmates identified at intake as having a mental illness has doubled. It would appear, then, that we are doing a better job of identifying mental illness, but we have failed to translate that to better care once they have entered the prison system, and that is where our focus must be now.

The report of the Correctional Investigator of Canada in 2011-12 does an excellent job of breaking down the current challenges of problems CSC has with dealing with mentally ill inmates. In that report, Howard Sapers, the Correctional Investigator of Canada, states the following:

> As I have reported before, many mentally disordered inmates do not manage well in a prison environment. Some manifest symptoms of their illness through disruptive behaviour, aggression, violence, self-mutilation, suicidal ideation, withdrawal, refusal or inability to follow prison orders or rules. Within corrections, these symptoms of mental illness are often misunderstood as manipulative or malingering behaviour, and are regularly met by a range of inappropriate responses including disciplinary sanctions, transfer to higher security institutions and separation from general population. This state of affairs especially prevalent in the maximum security and multi-level institutions where it is not uncommon for more than half of the offender population to be receiving institutional mental health services and/or presenting some degree of mental health dysfunction.

The segregation highlighted by the Correctional Investigator is particularly troubling. Isolation and extended periods of segregation have a much greater effect on mentally ill patients than on those who do not suffer from mental health issues. It is the last thing someone with mental health problems should be subject to. In his own words, Howard Sapers writes:

> The extremely restricted conditions of confinement that prevail in segregation units can exacerbate symptoms of mental dysfunction. Though I recommended a complete prohibition of prolonged segregation of offenders with acute mental health concerns in my 2009-10 Annual Report, this recommendation has yet to be acted upon by the CSC.
>
> ... Indeed, even some of the most notorious "supermax" facilities in the United States are rethinking their approach to solitary confinement, saving money, lives and sanity in the process.

The UN Human Rights Council came to the same conclusion in a 2011 report on torture and other cruel forms of punishment. Mr. Méndez stated in that report that solitary confinement of persons with known mental disabilities of any duration is found to be "cruel, inhuman or degrading treatment," and, as such, violates international law.

It would seem then that the CSC is faced with a fundamental dilemma. As Mr. Sapers puts it:

> ... penitentiaries are not intended to be hospitals but some inmates are in fact patients. CSC needs to find more creative ways to resolve inherent conflicts between a health and a security-centred perspective on inmate welfare.

How do we do that? How do we get prisoners the treatment they require while still maintaining the level of security required to protect the general public?

There are a number of options. However, I believe the best one for the government to seriously consider is alternative service delivery arrangements, which both Senator Runciman and the Correctional Investigator support. As Senator Runciman stated in his speech, speaking about the St. Lawrence Valley correctional facility:

> If you look at it from the outside, it looks like a prison. If you look at it from the inside, it looks like a hospital. The security mandate is handled by the Ministry of Community Safety and Corrections. The treatment and care mandate is handled by the Royal Ottawa Health Care Group. It is a highly advanced hospital built to maximum-security prison standards.
>
> The St. Lawrence Centre works. No one has ever escaped from it. No one has ever committed suicide while housed there.

The senator also went on to say that this has reduced the rate of recurring offences by 40 per cent.

Honourable senators, this seems like the perfect compromise. It provides the treatment inmates need with the security the public expects. However, I believe two obvious questions arise. The first is, can the CSC hand over prisoners to a third party provider? Does that fall within their mandate? The Correctional Investigator points out that:

> ... while CSC is legally required to ensure the essential health needs of federal offenders are met, it is not legally required to be the provider of those services. It is common practice for inmates with acute physical health care needs — for example, chemotherapy, dialysis, medical emergency — to be treated in outside community hospitals. However, for some reason, there is much more internal resistance in analogous cases of offenders requiring acute, specialized or complex mental health care services or treatment.

It appears the CSC is completely within their mandate to do so.

The second obvious question is, what will this cost? Can we afford to build these facilities, to staff and then run them?

• (1810)

First, the federal government would not necessarily have to build new facilities or contribute to existing ones. For example, as Senator Runciman points out, the Royal Ottawa is looking to create a similar facility to the St. Lawrence Valley Correctional and Treatment Centre for female prisoners and is not asking for capital costs from the government, but simply a commitment to cover the cost of the beds.

Second, reports from both the Royal Ottawa Health Care Group and the Correctional Investigator support the idea that the

> ... cumulative total cost of managing an acutely mentally ill offender in a federal correctional facility, mindful of segregation, security, treatment, use of force, transfers and other operational requirements, would compare well with, or even exceed, the per diem costs incurred in an outside community psychiatric hospital.

As it stands now, there is not a concrete Canadian figure for how much an inmate with mental health issues costs the system. However, we do know that a female prisoner with no issues costs $578 per day. We also know that a patient in a provincial psychiatric hospital ranges from $500 to $1,200 a day. A number of U.S. studies have shown the cost to keep a prisoner with mental health problems is usually 50 to 100 per cent higher than the general population, and I suspect that sort of percentage would be similar here in Canada. Thus, I believe that the Correctional Investigator is correct in stating the cost to house a mentally ill prisoner in a prison would compare well to an outside psychiatric facility.

I would also point out that I am not advocating for every inmate with a mental illness to be treated in such a facility. That would be impractical. However, putting the highest risk/need prisoners in a situation where they will be treated more like a patient and not a prisoner, I believe, is feasible under this arrangement.

Simply pumping more money into the current framework we have in our prison system would not necessarily work. The people working in prisons are not trained to handle patients with mental illness. For example, the St. Lawrence facility, as Senator Runciman pointed out, has a ratio of 80 to 20 of clinical staff to correctional staff. That is the opposite of mental health facilities inside Canadian prisons. Moreover, prisons have a much harder time attracting and maintaining quality staff. A UN human rights paper confirms that staff turnover is much higher in prison mental health wards than psychiatric hospitals. This alternative service delivery option would help attract better trained staff and keep them, which is vital to ensuring quality care for prisoners.

Honourable senators, the mental health issue in our correctional system is at a breaking point. Half of our inmates are suffering. It should not take another young man or woman taking his or her own life to spur action. The alternative service

delivery method ensures the public's safety is not compromised, while at the same time ensuring inmates with mental health issues get the proper treatment from professionals in the mental health field – treatment that has been proven to work and lowers the risk of reoffending.

The inmates in our correctional system have made mistakes; there is no denying that. However, that does not mean we should ignore their most basic needs, and providing them with suitable mental health care is a crucial step in doing so. The vast majority of the prison population will re-enter society at some point and proper mental health services will give them a much better chance of doing so successfully.

**Hon. Jane Cordy:** If there are no questions, may I adjourn the debate in my name?

(On motion of Senator Cordy, debate adjourned.)

## BUSINESS OF THE SENATE

**The Hon. the Speaker:** Honourable senators, before I call on Senator Carignan to move the adjournment motion, I wish to draw to the attention of honourable senators that tomorrow, Wednesday, after the adjournment motion has been adopted, there will be a short ceremony in the chamber for the unveiling of the Diamond Jubilee calendar. It will be a short ceremony of 15 minutes or so. We will ask the reporters to remain to report the event and, as it is not a sitting, invite photographers to be present.

If I could appeal to the chairs of committees that have a meeting tomorrow when the Senate rises to delay the start of those meetings briefly. I think you will be very pleased with the contribution senators have made to a very important artifact that our class of senators will leave for posterity.

(The Senate adjourned until Wednesday, May 29, 2013, at 1:30 p.m.)

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