



# DEBATES OF THE SENATE

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OFFICIAL REPORT  
(HANSARD)

Wednesday, December 9, 2015

The Honourable GEORGE J. FUREY  
Speaker

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## THE SENATE

Wednesday, December 9, 2015

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

Prayers.

### SENATORS' STATEMENTS

#### GENOME CANADA

##### CONGRATULATIONS ON FIFTEENTH ANNIVERSARY

**Hon. Kelvin Kenneth Ogilvie:** Honourable senators, I encourage all of you to join me in celebrating Canada's significant contribution to genomics, the science that examines the genetic code and the functions of genes within the DNA of all living systems.

This evening, a special event at the Château Laurier will mark the fifteenth anniversary of Genome Canada, a unique partnership that continues to drive innovation in this country. I invite you to join us and to learn more about a field of research that has already begun to transform everything from medicine to agriculture to forestry.

The event will also enable you to learn more about Genome Canada's remarkable operating model. The model focuses on collaborating closely with this country's six regional genome centres. Together, these organizations work tirelessly, with a myriad of partners, to harness the transformative power of genomics for the benefit of all Canadians. They do this through investing strategically in large-scale science and leading-edge technologies, and in programs and initiatives that translate discoveries into applications across multiple sectors of social and economic importance to Canada.

By every measure, the operating model continues to produce great results. In recent years, Genome Canada has leveraged approximately \$2 of new investment for every dollar of federal money.

In terms of economic impact, research supported by Genome Canada has helped create or advance more than 100 companies across this country.

In terms of new technologies and applications, the list grows longer every day. Genomics research now helps prevent heart attacks and food-borne illnesses. It helps to clean up contaminated industrial sites, and it helps to improve the fertility and milk production of dairy cows. To put it simply, genomics is increasingly the engine that drives Canada's bio-economy.

I am first and foremost a scientist who has a special appreciation for the long-term and overwhelmingly positive impacts of research and innovation.

This evening's event represents an ideal opportunity for all of my fellow senators to learn more about the significant contributions that genomics research and Genome Canada make to this country's social and economic prosperity.

I encourage you all to join us in celebrating Genome Canada's first 15 years and to catch a glimpse of the exciting promise of genomics research in Canada.

#### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I draw your attention to the presence in the gallery of the newly elected Premier of Newfoundland and Labrador, the Honourable Dwight Ball. He is accompanied by Mr. Colin Holloway, the newly elected Member of the House of Assembly representing the electoral district of Terra Nova, as well as Mr. John Allan, President of the Newfoundland and Labrador Liberal Party, and Mr. Kelvin Parsons, Chief of Staff of the Premier.

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

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

#### AHOUSAHT FIRST NATION

##### SHIPWRECK OF THE *LEVIATHAN II*— EXPRESSION OF THANKS FOR RESCUE EFFORTS

**Hon. Mobina S. B. Jaffer:** Honourable senators, on October 25, off the coast of Tofino, Ken Brown and Clarence Smith were fishing in waters they did not usually frequent. The men are both members of the Ahousaht First Nation.

By chance, Mr. Brown turned around in time to see a single flare in the sky above the water. He instinctually knew someone was in danger, and the two men rushed to see who needed their help.

The boat that sent out the flare was the *MV Leviathan II*, one of the largest tourist boats in the area. The boat had capsized. The scene was terrible: people screaming, and a man struggling to stay above water because his foot was stuck to a rope on the quickly sinking boat.

The two men acted on instinct and began responding. They pulled the man up to their boat and cut his foot free from the rope, saving his life. They sent out a distress signal. It is because of their actions that a total of 21 survived that horrific event.

Dwayne Mazereeuw was on the boat that day. After waiting in the freezing water for at least half an hour, waves crashing over him and his wife as they clung to a life ring, his hope began to

fade. But his hopes lifted that help was on its way when they saw a flare go off. He said, “After a bit, it didn’t seem too long when we saw the first boat come. We were frozen solid, exhausted. They literally had to pull us out of the water.”

He said that the Ahousaht residents who launched a rescue effort likely saved numerous lives. “It could have been a lot worse out there,” said Mazereeuw. “They risked their lives to come out and save us. The waters weren’t calm.”

Honourable senators, today I want to thank Mr. Ken Brown and Mr. Clarence Smith. I want to thank the Ahousaht First Nation and Chief Councillor Greg Louie. These members know the land and water, and their deep connection led them to be heroes.

I echo Premier Clark’s comments when she stated:

The Ahousaht First Nation did not miss a beat. First Nations on this coast have been fishing it for millennia. Nobody knows the water better.

Honourable senators, by example, the Ahousaht First Nation has shown us what it means to care for a community, to step in and help when help is needed and to be leaders.

Please join me in thanking Mr. Brown, Mr. Smith and the Ahousaht First Nation. I would like to say in their Nuu-chah-nulth language: *ᑲᓄᓂᓴᓴ ᓂᓴᓴᓴᓴᓴᓴ*.

#### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I draw your attention to the presence in the gallery of His Excellency Mr. Tariq Azim Khan, High Commissioner for Pakistan, accompanied by the Deputy High Commissioner for Pakistan, Mr. Mohammad Saleem. They are the guests of the Honourable Senator Ataullahjan.

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

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

#### INTERNATIONAL HUMAN RIGHTS DAY

**Hon. Thanh Hai Ngo:** Honourable senators, I rise today in anticipation of International Human Rights Day which will be commemorated tomorrow, on December 10.

This year, we celebrate the fiftieth anniversary of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political

Rights, which together with the Universal Declaration of Human Rights form the International Bill of Rights.

On International Human Rights Day, I invite all Canadians to join in celebrating the 50 years of freedom as embodied in these pacts, which are as relevant today as when they were adopted.

[Translation]

As evidenced by the Canadian Charter of Rights and Freedoms, human rights are inalienable for Canada. We should be proud of our history in that regard.

We are actively participating in efforts to promote those rights and freedoms abroad. Our influence should not be underestimated, particularly when so-called progress in this area is actually masking human rights violations in many nations of the world.

• (1410)

[English]

Through this year’s themes — Our Rights, Our Freedoms, Always — we should embark on a campaign to shine a light on the inalienable and inherent rights of global citizens. Our freedoms always revolve around the timeless theme of rights and freedom and the relevance of the work that continues in securing and ensuring them.

[Translation]

As we mark and celebrate the fiftieth anniversary of International Human Rights Day, I invite you to also take a look at the most recent annual report released by my office, which you received a copy of. This report looks at the human rights situation in Vietnam and provides case studies on a number of prisoners of conscience in that country.

The purpose of the report is to raise public awareness about the Covenants, whose fiftieth anniversary we are celebrating, under the theme of human rights and freedoms — freedom of speech, freedom of religion, freedom from want and freedom from fear. The International Bill of Human Rights is founded on those Covenants.

Honourable senators, on this Human Rights Day, let us recommit to guaranteeing fundamental freedoms and protecting human rights for everyone.

Thank you.

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

[English]

## ROUTINE PROCEEDINGS

### PRIVACY COMMISSIONER

#### PRIVACY ACT—2014-15 ANNUAL REPORT TABLED

**The Hon. the Speaker:** Honourable senators, pursuant to section 38 of the Privacy Act, I have the honour to table, in both official languages, the 2014-15 Annual Report of the Office of the Privacy Commissioner of Canada on the Privacy Act.

### COMMITTEE OF SELECTION

#### FIRST REPORT OF COMMITTEE PRESENTED

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

Wednesday, December 9, 2015

The Committee of Selection has the honour to present its

#### FIRST REPORT

Your committee wishes to inform the Senate that it nominates the Honourable Senator Eaton as Speaker *pro tempore*.

Respectfully submitted,

ELIZABETH MARSHALL  
*Chair*

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

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

#### SECOND REPORT OF COMMITTEE PRESENTED

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

Wednesday, December 9, 2015

The Committee of Selection has the honour to present its

#### SECOND REPORT

Pursuant to Rule 12-2(2) of the Rules of the Senate, your committee submits herewith the list of senators nominated by it to serve on the following committees:

### Standing Senate Committee on Aboriginal Peoples

The Honourable Senators Beyak, Carignan, P.C., Enverga, Dyck, Lovelace Nicholas, Moore, Patterson, Plett, Raine, Sibbeston, Tannas and Wells.

### Standing Senate Committee on Agriculture and Forestry

The Honourable Senators Beyak, Dagenais, Maltais, McIntyre, Mercer, Merchant, Moore, Ogilvie, Oh, Plett, Tardif and Unger.

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

The Honourable Senators Bellemare, Black, Campbell, Gerstein, Greene, Hervieux-Payette, P.C., Maltais, Massicotte, Ringuette, Smith (*Saurel*), Tannas and Tkachuk.

### Standing Senate Committee on Energy, the Environment and Natural Resources

The Honourable Senators Bellemare, Frum, Johnson, MacDonald, Massicotte, McCoy, Mockler, Mitchell, Neufeld, Patterson, Ringuette and Seidman.

### Standing Senate Committee on Fisheries and Oceans

The Honourable Senators Enverga, Hubley, Lovelace Nicholas, Manning, Martin, McInnis, Munson, Poirier, Raine, Stewart Olsen, Watt and Wells.

### Standing Senate Committee on Foreign Affairs and International Trade

The Honourable Senators Andreychuk, Ataullahjan, Cordy, Dawson, Downe, Housakos, Johnson, Ngo, Oh, Poirier, Rivard and Smith, P.C. (*Cobourg*).

### Standing Senate Committee on Human Rights

The Honourable Senators Andreychuk, Ataullahjan, Cordy, Frum, Hubley, Munson, Nancy Ruth, Ngo and Plett.

### Standing Committee on Internal Economy, Budgets and Administration

The Honourable Senators Batters, Campbell, Cordy, Downe, Doyle, Housakos, Jaffer, Lang, Manning, Marshall, Munson, Smith (*Saurel*), Tannas, Tkachuk and Wells.

### Standing Senate Committee on Legal and Constitutional Affairs

The Honourable Senators Baker, P.C., Batters, Dagenais, Fraser, Jaffer, Joyal, P.C., McInnis, McIntyre, Plett, Runciman, Wells and White.

### **Standing Joint Committee on the Library of Parliament**

The Honourable Senators Ataullahjan, Eaton, Mercer, Merchant and Rivard.

### **Standing Senate Committee on National Finance**

The Honourable Senators Bellemare, Campbell, Cowan, Eaton, Gerstein, Hervieux-Payette, P.C., Manning, Marshall, Mitchell, Mockler, Neufeld and Smith (*Saurel*).

### **Standing Senate Committee on National Security and Defence**

The Honourable Senators Beyak, Carignan, P.C., Dagenais, Day, Kenny, Lang, Mitchell, Ngo and White.

### **Standing Senate Committee on Official Languages**

The Honourable Senators Fraser, Jaffer, Maltais, McIntyre, Poirier, Rivard, Seidman, Tardif and Wells.

### **Standing Committee on Rules, Procedures and the Rights of Parliament**

The Honourable Senators Batters, Cools, Doyle, Fraser, Frum, Jaffer, Joyal, P.C., Martin, McInnis, Ogilvie, Seidman, Smith, P.C. (*Cobourg*), Tkachuk, Wells and White.

### **Standing Joint Committee for the Scrutiny of Regulations**

The Honourable Senators Carignan, P.C., Frum, Martin, McCoy, Moore, Plett, Runciman and Smith, P.C. (*Cobourg*).

### **Standing Senate Committee on Social Affairs, Science and Technology**

The Honourable Senators Carignan, P.C., Cowan, Eggleton, P.C., Frum, Martin, Merchant, Munson, Nancy Ruth, Ogilvie, Raine, Seidman and Stewart Olsen.

### **Standing Senate Committee on Transport and Communications**

The Honourable Senators Black, Dawson, Eggleton, P.C., Frum, Greene, MacDonald, Martin, Mercer, Plett, Ringuette, Runciman and Unger.

Pursuant to rule 12-3(3) of the *Rules of the Senate*, the Honourable Senator Carignan, P.C. (or Martin) is ex officio member of all committees except the Standing Committee on Ethics and Conflict of Interest for Senators and the joint committees.

Respectfully submitted,

ELIZABETH MARSHALL  
*Chair*

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

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

[*Translation*]

## **ABORIGINAL LANGUAGES OF CANADA BILL**

### **FIRST READING**

**Hon. Serge Joyal** introduced Bill S-212, An Act for the advancement of the aboriginal languages of Canada and to recognize and respect aboriginal language rights.

(Bill read first time.)

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

(On motion of Senator Joyal, bill placed on the Orders of the Day for second reading two days hence.)

[*English*]

## **CONSTITUTION ACT, 1867 PARLIAMENT OF CANADA ACT**

### **BILL TO AMEND—FIRST READING**

**Hon. Terry M. Mercer** introduced Bill S-213, An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate).

(Bill read first time.)

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

(On motion of Senator Mercer, bill placed on the Orders of the Day for second reading two days hence.)

## **THE SENATE**

### **NOTICE OF MOTION TO STRIKE SPECIAL COMMITTEE ON SENATE MODERNIZATION**

**Hon. James S. Cowan (Leader of the Senate Liberals):** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That a Special Committee on Senate Modernization be appointed to consider methods to make the Senate more effective within the current constitutional framework.

That the committee be composed of fifteen members, to be nominated by the Committee of Selection, and that five members constitute a quorum;

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

That the committee be authorized to hire outside experts;

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

That the committee be empowered to report from time to time and to submit its final report no later than June 1, 2016.

[Translation]

## BANKING, TRADE AND COMMERCE

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY EXPORT PERFORMANCE

**Hon. Céline Hervieux-Payette:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Banking, Trade and Commerce, when and if it is formed, be authorized to examine and report on Canada's export performance as compared to international best practices in order to provide recommendations to improve Canada's current export performance, the worst in 30 years according to the OECD;

That the committee make a preliminary report on the current export performance to the Senate no later than April 14, 2016; and

That the committee make to the Senate a final report on the implementation of an integrated policy for all partners to improve Canadian exports to all countries, especially those with which Canada has a free trade agreement, no later than December 16, 2016.

[English]

## EFFECTS OF CLIMATE CHANGE ON HUMAN RIGHTS

### NOTICE OF INQUIRY

**Hon. Mobina S.B. Jaffer:** Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to the human rights implications of climate change, and how it will affect the most vulnerable in Canada and the world by threatening their right to food, water, health, adequate shelter, life, and self-determination.

• (1420)

[Translation]

## ORDERS OF THE DAY

### SPEECH FROM THE THRONE

#### MOTION FOR ADDRESS IN REPLY— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Jaffer, seconded by the Honourable Senator Cordy:

That the following Address be presented to His Excellency the Governor General of Canada:

To His Excellency the Right Honourable David Johnston, Chancellor and Principal Companion of the Order of Canada, Chancellor and Commander of the Order of Military Merit, Chancellor and Commander of the Order of Merit of the Police Forces, Governor General and Commander-in-Chief of Canada.

#### MAY IT PLEASE YOUR EXCELLENCY:

We, Her Majesty's most loyal and dutiful subjects, the Senate of Canada in Parliament assembled, beg leave to offer our humble thanks to Your Excellency for the gracious Speech which Your Excellency has addressed to both Houses of Parliament.

**Hon. Maria Chaput:** Honourable senators, the debate was adjourned in Senator MacDonald's name, so I ask that the adjournment stand in his name once I have finished my speech.

Today I am very pleased to share some comments on our new government's Speech from the Throne, which opened the 42nd Parliament of Canada.

As a Canadian, I am pleased with the speech because it reflects a government that embraces values worthy of a nation and that wants to create a world where equality, justice and dignity prevail. Canada is a vast country from sea to sea, and all Canadians must be respected and heard regardless of their political stripes.

[English]

Critics will no doubt say, "These are merely words — very few words, indeed." I will say, rather, that they express a clear vision well rooted in the fundamental values our government has adopted — a vision that will serve as a road map for the next decade.

[Translation]

Let us not forget that Canadians made it clear they want real change; they want to trust the government they elected. The federal government's priorities must therefore reflect the concerns and aspirations of Canadians.



In this Throne Speech, the government has demonstrated that it is listening and that it is all about respect. Respect means giving the middle class a fair shot at success and collaborating with all sectors of government, the provinces and the territories. It also means respect for democracy, democratic institutions and agents of parliament, as well as the diversity that makes Canada so strong, diversity that includes First Nations, immigrants, veterans' families and many more.

Those are just a few examples, and the government's initiatives in these areas are specific, fair and sound.

The government is committed to openness and transparency. It is committed to re-establishing communication with Canadians and restoring their confidence in our public institutions, including Parliament. I am relieved that the focus will be on open debate, that the government will not run partisan ads and that it will shun omnibus bills. What a relief!

I am also very proud of this government for wanting to establish a nation-to-nation relationship between Canada and its indigenous peoples. I will quote the Speech from the Throne:

. . . one based on recognition of rights, respect, co-operation and partnership.

I would like to highlight a few words about the federal government's commitment to:

. . . promote the use of Canada's official languages . . .

I imagine that these are a few words of encouragement for the development of official language minority communities, the French-language minority in particular. However, we have to read between the lines to discern the federal government's encouragement. I would have liked to see the government set out a clearer commitment and specific, targeted initiatives, as it did with its other priorities.

I would like to quote a few lines from the December 4, 2015, press release of the Fédération des communautés francophones et acadienne du Canada:

These words indicate that there is a desire for the official languages to take their place in the country, both in the government's offer of services in French and the support to the vitality of these communities.

The following excerpt is from a press release issued by the Société santé en français of Manitoba this morning on December 9:

The Société santé en français salutes the Liberal government on its Speech from the Throne, which is positive for health services in French in Canada.

As a Franco-Manitoban and a senator representing official language minority communities, I still would have preferred to see concrete initiatives in support of this commitment to promote the use of Canada's official languages.

Therefore, I would respectfully like to make the following comments.

In order to use the official languages, one must first learn them, speak them and have many opportunities to use them. Accordingly, since the Government of Canada takes its commitment to linguistic duality seriously, it will have to do its part to teach new immigrants about the unique linguistic duality of our country and give them access to the tools they need to learn both of Canada's official languages — if they so desire, of course.

Here are some other questions that come to mind: how will this commitment to support the development of our artists and cultural industries in French have a direct impact on francophone minority communities? Will they have access to development and promotional tools in French equal to those available to the majority? Will these good words translate into action to support cultural development, which is even more important for a linguistic minority?

Will our magazines and community radio stations have access to programs that take their specific realities into account?

Will the federal government and its departments take steps to strongly encourage any of their offices that provide services across Canada to use, promote and provide those services in Canada's official languages? Will this willingness lead to a review of Treasury Board policies and guidelines with respect to the Official Languages Act? Will we finally see some Treasury Board regulations that are in line with our reality?

Can we expect this federal government to fulfill its obligations under the Official Languages Act and to remain open to amending Part IV of that Act, which is outdated and unfair and encourages our assimilation?

Many were relieved to see a link with the federal government's Action Plan for Official Languages for promoting the ongoing development of official language communities across the country. However, the new emphasis on creating partnerships with the provinces in the areas of health, education and culture, among others, must not undermine federal obligations and responsibilities toward linguistic minorities, particularly regarding services in French in minority communities.

The government must keep in mind on the national level the international role of francophones. That is important for this community, which wants to contribute fully to the development of Canadian society.

I personally appreciated that the Speech from the Throne mentioned democratic renewal and the measures that will be taken to restore trust and accountability with respect to the Government of Canada. I share Canadians' desire to see their government make a greater effort to respect the rules of ethics.

Canadians are entitled to expect their government to make proper use of public funds. In the Speech from the Throne, our government gives Canadians hope that public funds will be used wisely.

I consider it a privilege to be part of this important change. I believe Canada stands to come out a winner as a result.

Honourable senators, thank you for your attention.

[English]

**Hon. Lillian Eva Dyck:** Honourable senators, I would also like to add a few words into the debate about the Speech from the Throne to open the first session of the Forty-second Parliament of Canada, "Making Real Change Happen," which was delivered here in the chamber last week.

First of all, what really struck me about the audience was the number of young people who were here. They looked like they were young people who could have come from high schools throughout Ottawa and perhaps farther away. I thought it was wonderful to see the youth and know that this is a way to engage them in political action and about what goes on within Parliament.

Today, I would like to focus my remarks on the fourth item in the speech, the section dealing with diversity and Canada's strength.

As an Aboriginal woman, as a visible minority, it's really hard to put into words the reaction I felt and the reaction I know many of my friends and colleagues back home in Saskatchewan felt when the speech was delivered. It was like going from dark to light, the change in the attitude of this government towards the First Peoples, the indigenous peoples of Canada.

• (1430)

There are many promises there, and certainly we will do our best to ensure that those promises are kept, that they will appear in various policies and perhaps in various pieces of legislation.

What was very interesting in the Speech from the Throne is that it says:

... the relationship between Canada and Indigenous peoples, one based on recognition of rights, respect, co-operation and partnership.

First Nation peoples have been asking the Government of Canada for this for many decades. It will be most interesting to see how this nation-to-nation relationship unfolds over the next few years. Of course, the bureaucrats within Indigenous and Northern Affairs Canada will now have to change the way in which they interact with the various First Nation, Metis and Inuit leaders who come to visit with them and attempt to negotiate some changes.

There was also mention in the Speech from the Throne about how the government will work cooperatively to implement recommendations at the Truth and Reconciliation Commission of Canada, how it will launch an inquiry into missing and murdered indigenous women and girls and how it will work with First Nations to ensure that every First Nations child will receive a quality education. I cannot tell you how wonderful it was to hear those words.

[ Senator Chaput ]

First, with respect to the Truth and Reconciliation Commission of Canada, of course we know that the final public meeting was held in Ottawa in June. When the commissioner, Justice Murray Sinclair, announced that the commission supported an inquiry into missing and murdered indigenous women and girls, the room erupted in applause, great emotion and tears of joy that that was going to happen. I'm pleased to note that that process is proceeding and that the minister announced the first phase yesterday.

I'm first going to talk about First Nation education, because of course we know that in order to advance in Canadian society, or any society in the world, having a good education is one of the best things you can do to escape from the cycle of poverty. It's not the only thing, it's not the magic bullet, but it's certainly something that helps enormously along with other things. That commitment to education is extremely important.

As honourable senators know, I've been a senator for the last 10 years. During Question Period I asked numerous questions of our esteemed colleague Senator Carignan about First Nations education and unequal funding, and for many years that unequal funding was denied. Now it has been acknowledged by the new government that there is unequal funding and that the 2 per cent cap that we complained about for many years will be removed.

With respect to unequal education funding, across Canada on average on-reserve education funding is \$7,000 per pupil, whereas the provincial average is \$10,000. There's a gap of about \$3,000 per child across the country. That's from kindergarten to Grade 12.

In my home province of Saskatchewan on-reserve students, each pupil will receive \$6,400 for their education, whereas the provincial rate is \$10,500. So that's a gap of \$4,100. That gap will be closed.

Of course, unless we have equal funding you cannot have the same quality of teachers and you cannot have the same resources. That will go a long way to improving high school graduation, along with changes to the curriculum to include the history of indigenous peoples and the language.

I also want to mention that we in the Senate have contributed to these findings. In December 2011, the Standing Senate Committee on Aboriginal Peoples released our Senate report on First Nations education. Our second recommendation dealt with this issue of funding.

To quote from our report, we said:

... we believe that a new funding formula, negotiated by the parties and based on real cost drivers, must be developed to replace the current system of contribution agreements.

Then we had Recommendation 2, which basically stated that we should provide statutory authority funding to the minister to make payments for education; we should ensure that the payments are enshrined in regulations, authorized under a new education act and developed in consultation with First Nations; that the regulations would consider key cost drivers, such as

demographics and remoteness; and that the formula for establishing payments include, among other things, language preservation and revitalization programs.

Now, I read this into the record because it isn't sufficient to say we're going to remove the 2 per cent cap. It's more complicated than that. I hope that the government will take into account our report. It was an excellent report. As a committee I think we developed this report in probably the most non-partisan manner possible. That recommendation on funding is a very strong one and should not be forgotten by the new government — it's more than removing the 2 per cent cap.

I'd like to turn your attention to the missing and murdered indigenous women and the inquiry. Since June of this year I have given four major speeches about missing and murdered indigenous women and girls in my province of Saskatchewan. Most of the time I focused my remarks on the RCMP reports, the first of which came out in May 2014 and confirmed what the Native Women's Association of Canada and Amnesty International said in 2004. They confirmed that we have a problem: Indigenous women and girls go missing and are murdered in much higher numbers than they should.

The RCMP essentially confirmed that and said that there are about 1,200 missing and murdered indigenous women and girls across Canada and that indigenous women and girls are three times more likely to go missing and four times more likely to be murdered. Unfortunately, the RCMP report and the media, and the previous minister, made a mistake in focusing on family violence only. They focused on family violence as being the key cause for the murders and kidnapping and what have you of these indigenous women.

Over the summer I went through the RCMP's statistics to show where they had gone wrong, and there were three big mistakes that the RCMP made. The problem with that was those mistakes informed the government action plan. So the action plan was based on a false or flawed interpretation of the RCMP report.

First, what the RCMP did in terms of big mistakes, they noted that the number of homicides for non-Aboriginal women had dropped, but for Aboriginal women it had remained steady over 30 some odd years. They noted that, but they didn't see the significance. If the rate of homicides of non-Aboriginal women is dropping, then you have to question why there is a difference. Clearly what we're doing now is not helping Aboriginal women, because the number of homicides has not dropped. So they basically ignored that finding.

Second, they didn't assign much importance to their own data, which showed that Aboriginal women are more likely to be murdered by an acquaintance than are non-Aboriginal women. Following on that, if you're a non-Aboriginal woman it's more likely that your spouse will be the person who will kill you. Family violence was actually greater in the non-Aboriginal population, but somehow that was left by the wayside. Nobody was interested in that. So prevention efforts should be focused on acquaintances of Aboriginal women, and that's not what the previous government's action plan was doing.

Finally, their third mistake — I'm repeating it again — is they focused on family violence on reserves. We all know that the majority of Canada's Aboriginal people do not live on reserves

anymore; the majority live off reserve. We now know that family violence isn't the main factor.

• (1440)

There were flaws in the interpretation of that report that informed the government action plan. Consequently, there will need to be changes to that government action plan.

Fortunately, in the last month or two, the media has caught on to these mistakes, and now we're getting headlines such as in *The Toronto Star* — I think that's what it is — just within the last few weeks, it says:

Nearly half of murdered indigenous women did not know or barely new killers, *Star* analysis shows

They're now highlighting the fact that it isn't just family violence and that there's a high percentage of acquaintances. To quote one of their paragraphs:

In the seemingly ceaseless tragedy of murdered indigenous women, the country has been left with one crystal-clear impression: the overwhelming majority of these were in some sort of relationship with their killers.

This is not true.

It's acquaintances, it's strangers and it's serial killers that account for nearly half of the murders. It isn't only family violence.

These are very important things to take into consideration. That's one of the reasons why we need an inquiry — to get good data so we know what's actually happening.

Similarly, *The Globe and Mail*, within the last few weeks, also had a number of articles talking about serial killers. The serial killers are not indigenous men; they are non-Aboriginal men within the greater Canadian society.

Those were the comments that I wished to make. Over the last 10 years, I've asked many questions and, along with my colleague Senator Lovelace Nicholas, we've initiated inquiries about the missing and murdered indigenous women in the Senate Chamber. We have contributed a lot of knowledge, and I hope the current Liberal government will take advantage of the expertise that we have developed over the last 10 years, and certainly I am offering to do that.

We must remember that it's been more than 10 years since Amnesty International first brought this problem to the attention of Canada with their *Stolen Sisters* report and the Native Women's Association of Canada in 2010, with their report, *What Their Stories Tell Us*, the Sisters in Spirit work. In that, they clearly documented that it wasn't family violence alone. There were other things that were going on. There were acquaintances and strangers who were also murdering indigenous women.

I am extremely happy that the Liberal government is now proceeding with a pre-inquiry, contacting the families, because the families, of course, are very important because they know what

their experiences are. They can inform the inquiry as to what should be done in terms of prevention and how to improve policing and how to improve searches and all those kinds of things. Thank you.

(On motion of Senator MacDonald, debate adjourned.)

[Translation]

## THE SENATE

### MOTION TO INVITE MINISTERS OF THE CROWN WHO ARE NOT MEMBERS OF THE SENATE TO PARTICIPATE IN QUESTION PERIOD— DEBATE ADJOURNED

**Hon. Claude Carignan (Leader of the Opposition)**, pursuant to notice of December 8, 2015, moved:

That, notwithstanding usual practice, the Senate invite any Minister of the Crown who is not a member of the Senate to enter the chamber during any future Question Period and take part in proceedings by responding to questions relating to his or her ministerial responsibilities, subject to the Rules and practices of the Senate.

He said: Honourable senators, the purpose of this motion is to authorize the Senate to invite ministers to Question Period so that senators may ask oral questions on their portfolios.

This is a simple and effective way to give the Senate a role that meets Canadians' expectations of Parliament. It is a simple and effective way to uphold the principle of ministerial responsibility. It is a simple and effective way to respond to the new government's desire to be more open and transparent.

Ministerial responsibility, meaning the government's duty to be accountable, is one of our fundamental democratic principles.

Dear colleagues, I come from the city of Saint-Eustache. Our church, which was recently recognized as a national historic monument, still bears the marks of the cannon balls the British troops fired at the Patriotes. What were those Patriotes fighting for? They were fighting to remind the executive that it had a duty to be accountable to the public through the parliamentary assembly.

[English]

One of the fundamental roles of Parliament is to hold the government accountable, and the essence of accountability is Question Period. Ministers must be present for that to happen. John B. Stewart, in his book *The Canadian House of Commons: Procedure and Reform*, states at page 56:

The Oral Question Period provides the most dramatic example of the operation of Responsible Government.

[ Senator Dyck ]

Let me continue with a quote from O'Brien and Bosc, *House of Commons Procedure and Practice*, page 491:

The right to seek information from the Ministry of the day and the right to hold that Ministry accountable are recognized as two of the fundamental principles of parliamentary government. Members exercise these rights principally by asking questions in the House. The importance of questions within the parliamentary system cannot be overemphasized and the search for or clarification of information through questioning is a vital aspect of the duties undertaken by individual Members.

[Translation]

The Senate is not an inferior chamber, exempt from the principle of ministerial responsibility. Question Period in the Senate is a unique, essential and distinct part of the democratic process.

In fact, senators have always had the right to ask the government questions. Allow me to cite the *Companion to the Rules of the Senate*, which says on page 73, and I quote:

For much of its history no formal written rules existed in the Senate which permitted the asking of oral questions, although the practice, in some format, did exist. When a formal Question Period was first recognized on December 10, 1968 . . . , a rule was established that senators could ask questions of the Leader of the Government (rule 20). The rule was amended to its present content on June 14, 1977 . . . , and the current wording was adopted on June 19, 2012 . . . .

[English]

Senators are expected to be informed on the issues of the day and all affairs related to Canadian public affairs. To meet these expectations, there must be a dialogue between government and senators. This dialogue should occur between senators and ministers on a regular basis in this chamber during Question Period. Senators will agree that the presence of cabinet ministers at Question Period will provide current information from the government to give senators the opportunity for meaningful debates.

[Translation]

If they do not have access to ministers during Question Period, senators are unable to exercise this principle of accountable government. They are denied their right to hold the government to account and ask questions that are related not only to legislation, but also to policy and public affairs. For the democratic process to work, the government must be transparent and open. Transparency can be achieved when ministers are present and can answer senators' questions on their areas of responsibility.

• (1450)

Prime Minister Trudeau made a number of promises during the election campaign, and one of them was for open and transparent government.

[English]

He said:

We will make information more accessible by requiring transparency to be a fundamental principle across the federal government.

[Translation]

That quotation is from a *Globe & Mail* article dated August 11, 2015.

[English]

This commitment was repeated in the Speech from the Throne, where he said:

. . . the Government is committed to open and transparent government.

And:

By working with greater openness and transparency, Parliament can restore it.

I trust that Prime Minister Trudeau will do what he says and send ministers to Question Periods.

[Translation]

However, to ensure that the Prime Minister can fulfill his campaign promise, we must invite his cabinet ministers to come before the Senate. An important member of the current government's cabinet, the leader in the House of Commons, the Honourable Dominique Leblanc, also agrees with this vision of openness and transparency. On November 5, he said, and I quote:

[English]

I look forward in the coming weeks to discussing with senators on all sides of the Senate Chamber how we can work constructively with them . . .

[Translation]

Those words are taken from an *Ottawa Citizen* article dated November 5, 2015.

Mr. Leblanc also had this to say on December 5, on a public affairs program on CBC, and I quote:

[English]

. . . he will ask senators to think outside the box, and that allowing senators to question ministers directly, in a verbal or written form, might help remove some of the partisanship from the institution.

[Translation]

Clearly, honourable senators, we can count on the Honourable Dominique Leblanc to persuade his colleagues to come and answer our questions, but first we must agree to open our doors to them.

Therefore, honourable senators, I ask you to support this motion, which will enable the Senate to invite any Minister of the Crown to attend Question Period. The government is reaching out and trying to breathe new life into our Question Period. Let's not miss out on this opportunity, honourable senators; rather, let's seize it so that we may improve government transparency and accountability.

Thank you.

[English]

**Hon. George Baker:** Would the honourable senator permit a question?

[Translation]

**Senator Carignan:** Yes, I'm already missing Question Period.

[English]

**Senator Baker:** Ministers of the Crown appear before the Senate on a regular basis. They appear before the Senate more than they appear before the House of Commons in our committees.

Each piece of legislation and each resolution is dealt with by the ministers, and we see that is why our courts, as the honourable senator well knows, being a former litigator himself who reads case law, would know that ministers are quoted in our courts more for what they say before the Senate than what they say before the House of Commons. In fact, analysis shows that they're quoted three times more in what they say before the Senate than what they say before the House of Commons committees.

So I'm wondering, given the fact that we do have the ministers answering the questions right now at this very moment, in a very obvious way, used in our courts and quasi-judicial bodies throughout Canada, showing the Senate to be performing the duty they should be performing as sober second thought, then what does the honourable senator envision as being the purpose for the minister to appear before the Senate as a whole?

He suggests that it's because it would make the minister and the government accountable. Accountable to whom; to just the people in this chamber? Because in order for a minister or the government to be accountable in Question Period, there has to be someone listening to communicate that to the general public.

The media is missing in the Senate. We do not have televised debates, but audio to the senators' offices. Is it the purpose of his motion so that the ministers will be accountable to individual

senators and their staff? Is that the purpose, or is the minister suggesting that we should televise the proceedings of the house and invite the media over so that the ministers can be truly accountable to the people of Canada if they're invited into the Senate?

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

[Translation]

**Senator Carignan:** Thank you for your question, senator. I may be able to clarify the issue of the audio right now. As many know, and I know that some journalists heard your question, the audio is broadcast on the Senate website. Now, anyone who wants to listen to the debates in this chamber may do so.

However, you are right to raise the issue of televising debates. I think this is something new that is worthy of being discussed, and I'm sure that it is one method that leader Cowan had in mind when he tabled his motion to appoint a Special Committee on Senate Modernization to look at how we can modernize and improve transparency here in the Senate. I think that televising debates is one thing that we should do rather quickly. That's my opinion.

I was happy to hear you ask that question about ministers, since it gives me an opportunity to highlight the Senate's different roles. The Senate plays a legislative role. When ministers testify in committee, they are there specifically to defend or explain a bill that they plan to have passed by Parliament. They are testifying in the course of specific legislative studies.

Question period, which is when the government and ministers are supposed to be accountable to Parliament, is another one of the Senate's duties. It is our job to question the government and play an oversight role, to be the eyes, ears and voices of the people, to function as a counterweight to the executive.

Question period is also intended for raising matters relating to public affairs, not only regarding legislation in committee business, but also more broadly, on public affairs that are of interest to Canadians and on a minister's entire portfolio. The context is therefore much broader than just the time when the minister introduces a bill.

That is a whole other aspect of the Senate's work, and that is the part we want to focus on.

[English]

**Hon. David Tkachuk:** If you don't mind, would you like to take a question?

**Senator Carignan:** Yes.

**Senator Tkachuk:** I'm just trying to sort out what the intention of the government is here.

[ Senator Baker ]

• (1500)

Normally, as an independent house, we would decide whether we wanted to have Question Period or not.

The government would transmit its intentions through their government leader in the Senate. We would refer the matter to the Rules Committee. Rules would make a decision, or they would do a study and would recommend.

We're an independent house. Why are we dealing with the house leader from the other place, which, it seems to me, we have been doing over the last little while? Plus, the Prime Minister and the government have decided that they are going to change the rules of the house by not appointing anybody to represent them here to transmit the wishes of the government, but rather through the newspapers. That's the way they are trying to change the *Rules of the Senate*, through the newspapers.

At least Prime Minister Harper came before a Senate committee, and the Senate itself was making decisions. A report was made to the Senate of Canada. This Prime Minister and this government don't seem to be interested in doing any of that.

[Translation]

**Senator Carignan:** The important thing about this motion is that it creates an opportunity for us to question the government and to play our role, namely making the government more accountable.

To me, whether the Prime Minister decides to appoint a leader of the government in the Senate or not is a separate matter. Even if a leader is appointed, we can still pass this motion in order to also invite ministers to the Senate.

I am watching my colleagues opposite. When I was the leader of the government in the Senate, they were not always satisfied with my answers, although I was answering in good faith. I am convinced that, from time to time, they would have liked to ask their questions directly to the minister in order to learn more about certain subjects and to make the government more accountable.

That is the purpose of this motion. If the government later decides to appoint a leader of the government in the Senate, we would still have the opportunity to ask questions of the committee chairs and the leader of the government in the Senate during Question Period. Government ministers could also come to answer questions and contribute to Question Period, when deemed appropriate.

It is an additional option available to us.

[English]

**Hon. Larry W. Campbell:** This reminds me of the old Question Period, where nobody asks a question and nobody gets an answer.

The fact of the matter is that this isn't actually being decided through the newspapers. It's being decided by the government, and when we return within the next month, there will be

somebody here who will be, I guess, answering your questions, if you actually have questions. But, again, it seems to me that we're sitting here in neutral, arguing over something that within the next week or two will be taken care of.

If we require a minister to come before us, do you think that is the appropriate way for us to address questions to them, or should we continue addressing questions to the minister through the committees that we all represent?

Is the Committee of the Whole something we should be looking at, or is it something that should be used once in 100 times, when it's something so overwhelming that we need to have the minister here?

[Translation]

**Senator Carignan:** Senator, it is important to note that the purpose of Question Period is to ask government representatives questions on the issues of the day in order to obtain more information or on subjects related to certain events.

Right now, we can ask ministers questions in committee about a bill they have introduced but not about their portfolio in general.

In my opinion, having another opportunity to invite a minister to the Senate and to ask a series of questions about the management of his or her portfolio would make Question Period much more useful. Furthermore, having the opportunity to question a minister for 30 minutes would allow us to delve deeper into some questions and responses. If the minister decided to repeat exactly the same thing for 30 minutes, we would draw our own conclusions, as would Canadians. It would be obvious that the minister was quite simply refusing to answer. In that case, the government would be failing to be open and transparent.

**Hon. Ghislain Maltais:** Leader of the Opposition, will someone be accountable to the government? If I have understood correctly, none of the senators opposite are currently accountable to the government.

Will the individual who is "appointed" in January or February be accountable to the Senate?

I don't understand why the senators opposite don't want to have ministers come to the Senate. The Crown is represented in both the House of Commons and the Senate.

**Senator Carignan:** To answer your question, I don't believe that the senators opposite are opposed to this motion. I believe they welcome the motion. However, with respect to the government representative as announced and based on the bits and pieces I have heard, as I have said from the outset — for example, in some interviews I have given — either you are the Leader of the Government or you are not.

In short, if the government decides to appoint a Leader of the Government, we will welcome him or her appropriately, bearing in mind the rights and responsibilities incumbent upon the leader, and we will expect him or her to be able to answer our questions.

If the government simply decides to appoint a senator as a facilitator and not as the government leader in the Senate, first of all we will expect that he or she will not receive the salary bonus for the Leader of the Government in the Senate as provided for in the Parliament of Canada Act, nor will that person have the use of the tools set out in the Rules that give certain rights to the Leader of the Government in the Senate but not to a senator who is the facilitator for the government.

[English]

**Hon. James S. Cowan (Leader of the Senate Liberals):** I was going to move the adjournment of the debate, but I see that Senator Baker is back on his feet. He may have a question.

**Senator Baker:** Yes.

Your Honour, several senators in this chamber, sitting here today, took time out during the break to attend a special meeting here in Ottawa. In fact, 40 senators in this place responded to a questionnaire, and during those three days, we discussed the subjects that were raised.

One of the suggestions was that ministers be invited to appear before the Senate on special occasions, but also a unanimous conclusion of 50 per cent of the senators presently sitting was that Question Period should be done away with. Fifty per cent of the senators in this chamber responded in an overwhelming way, one third sitting across the way and two thirds sitting on this side, that Question Period served no useful purpose. It politicized things. It made the institution more political, which was not the purpose of the creators of the Constitution. The Supreme Court of Canada, in their recent judgment, said that Question Period didn't fit because it was too political. They also suggested other things, including inviting the minister to appear here for special purposes on special occasions. And they made several other recommendations.

• (1510)

So I ask Senator Carignan whether he agrees with the other recommendations that were agreed to and suggested by 50 per cent of the senators in this place. Has he had a look at those recommendations? We see now that he agrees with one of them, namely, inviting the ministers. Does he also agree with the other resolutions that were passed unanimously by half of the senators in this place?

[Translation]

**Senator Carignan:** Senator, I will answer your question even though it is, in essence, outside the scope of my motion.

Today, Senator Mercer introduced a bill to provide for the election of the Speaker of the Senate. I welcome this bill, and we will have an opportunity to debate it. This is a very serious issue, and we have a unique opportunity to debate it now that the bill has been introduced.

Several things are already in place on our side. I myself was elected by members of my group. Many elements are already in place, and others merit careful consideration.

I believe that Senator Cowan's proposal is for a committee to study how to implement measures to modernize the Senate. This is the culmination of some excellent and thoughtful work done by our colleagues under the leadership of senators Greene and Massicotte.

[English]

**Hon. Yonah Martin (Deputy Leader of the Opposition):** Will the leader take a question?

**Senator Carignan:** You can ask me a question.

**Senator Martin:** I have been listening to what our colleagues have been saying. As former Deputy Leader of the Government, Senator Carignan also understands how the *Rules of the Senate* really serves the work that we do and allows us to deliberate and work effectively in this chamber. It also is malleable, and when I say "malleable," I mean we are the masters of our domain and there is an opportunity to adapt to changes.

In this time of great change — and we can anticipate changes we have yet to fully understand — this seems to be something proactive we could do as a chamber, if it is our will to adopt this motion.

Whether we bring in television in the future, I've always thought that Question Period as we had it would seem quite odd to the viewing public, who would see only one person answering. Senator Baker has said we have seen ministers come to the Committee of the Whole, and I agree that is a valuable exercise.

So this seems like a proactive a measure — a motion that we could adopt — and, Senator Carignan, having the ministers here would be an opportunity to delve deeper into some of these issues.

Was it your intention, regarding proactivity, to do something as we anticipate some of the changes that will come?

[Translation]

**Senator Carignan:** Thank you for your question, senator. Just today, journalists were asking me about the government's desire to transform the Senate into a more transparent and open institution. I replied that all of my colleagues — or at least the vast majority of them — want that to happen, that they have already begun the thought process, and that this desire for change preceded the election campaign.

I believe that, in light of everything we have been through, we are becoming increasingly aware that we must turn the page and show Canadians that this institution is meaningful, open and trustworthy and that we must do everything in our power to serve Canadians and raise awareness of the excellent work we do here.

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

**Hon. Serge Joyal:** Would the honourable senator agree to take more questions?

**Senator Carignan:** Yes.

[ Senator Carignan ]

**Senator Joyal:** I was thinking during your speech, senator, that there are indeed circumstances where officers of Parliament, who submit annual or special reports, could be invited to Parliament to answer our questions. I am thinking, for example, of the Auditor General of Canada, who sometimes issues interim reports or the results of a very specific inquiry. I need not remind honourable senators of the sponsorship scandal or other such abuses, but obviously when the Auditor General tables a special report or an annual report, we would have there a good opportunity to invite an officer of Parliament to come answer questions from both sides of the chamber.

Would you agree to adding officers of Parliament to Ministers of the Crown?

**Senator Carignan:** Thank you, senator, for the question. I thought this through before drafting the motion. You will see that the motion establishes a practice for the session and does not make any official changes to our Rules.

I already discussed this with Senator Cowan and he told me of his intention to propose striking a committee to study all the recommendations of the think tank, which I will call the Massicotte-Greene think tank. That particular idea caught my attention, but I thought the committee could look into it to see whether it could be incorporated in our Rules. I thought that by proposing a new practice by moving a motion involving ministers without changing the Rules, we could achieve consensus of the chamber more quickly and implement the practice also more quickly. The absence of a government leader requires us to act swiftly so that we may continue fulfilling our oversight role with respect to the government.

However, to answer your question specifically, if an amendment to the motion would allow for a quick consensus in order for it to be adopted, in principle, I don't see any problem.

**Senator Joyal:** I wanted to point out that yesterday our Speaker tabled the report of the Information Commissioner. It seems to me, if you have a quick look at it, that there are some very important elements in it that we need to ask some questions about. When an officer of Parliament is invited to appear in this chamber, his or her answers become part of the public domain. At that point, they have repercussions outside this chamber. Obviously, the very fact that one is in this chamber increases the solemnity of the context in which the individual is asked to appear.

I think it would definitely be beneficial to include officers of Parliament. I repeat, officers of Parliament. We know who they are. We are familiar with their practices and their reports. It seems to me that when an annual report is tabled, we could certainly read it and determine whether there is enough material to arrange a Question Period that could be useful and serve the public interest.

**Senator Carignan:** I agree, senator. We are talking about officers of Parliament. They work for us, in our role as parliamentarians. I have always thought it strange that once their reports are tabled, it is the journalists in the gallery who ask



them questions, while we, the parliamentarians for whom they work, aren't given a chance to ask them anything. That is rather strange.

• (1520)

**Hon. Joan Fraser (Deputy Leader of the Senate Liberals):** Will the leader take another question? As I said yesterday, I find your proposal very interesting but I would like to know whether you have thought about whether we should make some slight adjustments to our Rules with regard to Question Period and our practices.

One thing I have always liked about Question Period is that it allows for a lot more spontaneity than we see in the House of Commons. You yourself have sometimes witnessed question periods that have turned into rather lively debates. I think that it is a good thing when that happens. However, you have also seen times when one passionate senator ends up monopolizing Question Period.

When you were the Leader of the Government in the Senate, you were always here, so we could resume the debate the next day. However, if we invite a minister, he or she would only be here for one day. The minister would not be here the next day or the day after. Do you think we need to review the Rules? Did you think about that?

**Senator Carignan:** Yes, I thought about that. The problem is that in Question Period, senators cannot rise on a point of order. The Rules indicate that only brief comments and explanatory remarks are allowed. The word "brief" seems to be open to interpretation, so we have seen more time being given both for the initial question and for the supplementary question.

I think that this is the type of thing that the Rules Committee or the special committee could consider. However, if we invite ministers, many people could have questions for them. We should therefore consensually agree to a rotation and a way of asking our questions in order to show respect for our members as well as our guests, who will then have an equal opportunity to present their opinions.

(On motion of Senator Cowan, debate adjourned.)

[English]

## **RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT**

### **MOTION TO AUTHORIZE COMMITTEE TO EXAMINE AND REPORT ON COMMITTEE MEMBERSHIP— DEBATE ADJOURNED**

**Hon. John D. Wallace,** pursuant to notice of December 8, 2015, moved:

That the Standing Committee on Rules, Procedures and the Rights of Parliament, when and if it is formed, be authorized to examine and report on Senate practices, and

provisions in the *Rules of the Senate*, relating to committees, including senators' memberships on committees, in order to evaluate whether all senators:

- (a) are, in practice, treated equally, and with fairness and equity, irrespective of whether they sit as government members, as opposition members, as members of recognized parties or as independent senators; and
- (b) have reasonable and equal opportunities to fully participate in and contribute, through committee work and membership, to this chamber's role as a complementary legislative body of sober second thought, thereby enabling all senators to adequately fulfill their constitutional roles and responsibilities;

That in conducting this evaluation the Rules Committee pay particular attention to:

- (a) the process for selecting members of the Committee of Selection, so that all senators can be considered for membership on that committee, and so that the interests of all senators, whether they sit as government members, as opposition members, as members of recognized parties or as independent senators, are represented in the membership of that committee; and
- (b) the process whereby the Committee of Selection develops its recommendations for membership of the other committees;

That the Rules Committee also take into account the anticipated increase in the number of senators who are not members of a recognized party and how this emerging reality should be taken into account, including during the current session;

That the Rules Committee recommend necessary amendments to the Rules and adjustments in Senate practice based upon the results of its examination; and

That the Rules Committee present its final report on this study to the Senate no later than March 31, 2016.

He said: Honourable senators, the past three years have been very difficult and trying times for the Senate of Canada, difficult and trying not only for the institution but also for each of us as its members, its senators.

Throughout this period, the reputation and credibility of the Senate in the eyes of the general public have suffered, and, to a person, I know that is something that has impacted each of us in very personal and profound ways. These most certainly are not matters that any of us takes lightly.

Some of the issues that have drawn considerable attention from both the public and the media concern matters involving the rules, policies and practices that govern Senate financial expenditures and Senate financial control systems. It does appear at this point, however, that necessary corrective action by Senate officials is

well under way, and I do feel confident that this will be completed in the near future. That can only be positive news for our institution and the results of these efforts should, over time, assist in creating a greater sense of public confidence in the operations and functioning of the Senate.

There are, however, other issues that I and others believe must also be addressed, issues that relate directly to the functioning and performance of the Senate and which are more of what I would describe as being foundational in nature in that they go to the very heart or core of this institution, and that is to the actual performance and fulfillment of the Senate's constitutional roles and duties.

Honourable senators, as you may recall, these particular Senate roles, responsibilities and duties were the subject of seven separate Senate inquiries that were introduced in this chamber on January 30, 2014, by our highly respected colleague and former Speaker, the late Honourable Pierre Claude Nolin. These inquiries focused attention and Senate debate on the origins, history and evolution of the Senate and on the roles and duties of the Senate, which he described as follows: representing the regions of the Canadian federation; protecting minorities; its investigative role; participating in parliamentary diplomacy; promoting and defending causes that concern the public interest; and its legislative role.

There is, of course, much that could be said about each of these; however, for the purposes of the motion that is before you today, I will restrict my comments specifically to senators' legislative role, since the Senate is first and foremost a house of legislative review, with its primary function being to review and revise legislation adopted by the House of Commons.

In this regard, in the Supreme Court of Canada's 2014 decision in *Reference re Senate Reform*, the court confirmed in paragraph 52 that the Senate's fundamental nature and role is, in fact, as a "complementary legislative body of sober second thought."

The importance of the Senate's legislative role and the manner in which it is intended to be performed by each of us as senators was made entirely clear at the time of Confederation by Sir John A. Macdonald:

There would be no use of an Upper House, if it did not exercise, when it thought proper, the right of opposing or amending or postponing the legislation of the Lower House. It would be of no value whatever were it a mere chamber for registering the decrees of the Lower House. It must be an independent House, having a free action of its own, for it is only valuable as being a regulating body, calmly considering the legislation initiated by the popular branch, and preventing any hasty or ill-considered legislation which may come from that body, . . .

And also:

No ministry can in the future do what they have done in Canada before,—they cannot, with the view of carrying any measure, or of strengthening the party, attempt to overrule the independent opinion of the Upper House, by filling it with a number of its partisans and political supporters.

In a similar vein, the Supreme Court of Canada also stated the following in paragraph 57 of its 2014 decision:

[i]n creating the Senate in the manner provided in the Act, it is clear that the intention was to make the Senate a thoroughly independent body which could canvass dispassionately the measures of the House of Commons": p. 77 (emphasis added). The framers sought to endow the Senate with independence from the electoral process to which members of the House of Commons were subject, in order to remove Senators from a partisan political arena that required unremitting consideration of short-term political objectives.

As a consequence of the significance of the Senate's legislative role in our parliamentary system, any issues, including impediments that would directly impact the ability of senators to be able to adequately perform and fulfill our responsibilities and duties in furtherance of the Senate's legislative role, would undoubtedly be considered what I previously referred to as "foundational issues."

• (1530)

As such, I believe that issues of this nature should always receive priority attention on our part, including a strong sense of urgency in our response as we move forward in all possible ways to modernize our Senate institution and, in doing so, hopefully instill a far greater sense of public confidence and respect for the Senate and the work that we do.

In the words of Senator Nolin, from his address to this chamber on February 4, 2014, regarding his inquiry on the legislative role of the Senate:

The Senate is the product of an historic covenant. It is up to the Senate and the senators to use their power and carry out the work envisioned by that founding covenant.

At that time Senator Nolin also stated that, in his opinion:

The problem is that we are starting to lose sight of our responsibilities.

Honourable senators, in the context of the motion of referral to the Rules Committee that is before you today, I offer the following additional comments.

The work performed by senators on Senate committees is a critically important and fundamental component of the Senate's primary function as a legislative chamber of sober second thought, since it is at committee where detailed analysis and scrutiny of bills actually occurs. This includes, of course, receiving and examining evidence and testimony from a wide range of relevant witnesses, expert and otherwise.

The work of Senate committees is often referred to as the crown jewel of all Senate activities or, as described by retired Senator Muriel McQueen Fergusson, first female Speaker of the Senate, "the heart and soul of the Senate."

Whenever possible we must be vigilant in identifying and removing from Senate rules and practices impediments that unreasonably interfere with or prevent senators from being able to adequately perform and fulfill our constitutional roles and responsibilities.

From the time of our appointments to the Senate, all senators are entitled to receive, as a matter of fairness, equity and equality, all of the same rights and privileges that are required to enable each of us to adequately perform and fulfill our constitutional roles and responsibilities which each of us, through our oath of office to Her Majesty Queen Elizabeth II and not to a political party or caucus, swore an oath to honour and uphold.

These particular rights and privileges must include equal opportunity for all senators to fully participate and contribute through Senate committee work and membership in the Senate's primary role as a complementary legislative body of sober second thought.

It has been a long-standing unwritten practice of the Senate for the whips of the Liberal and Conservative caucuses, and more recently the whip of the Liberal senators who collectively are now referred to as a recognized party, to receive requests from their respective Liberal and Conservative Senate members for placement and appointment to the various Senate committees.

After receiving such requests, the Liberal and Conservative whips meet and negotiate as to which senators for both parties will be appointed to the various committees. For all practical purposes, all committee memberships have been and remain within the exclusive domain and control of the leadership of the Liberal and Conservative political caucuses. There are no membership positions on any Senate committees specifically reserved or set aside for independent senators. To the contrary; the Senate practice has been to require independent senators, if they so wish, to request of either the Liberal or Conservative whips one or more of the committee membership positions that they have under their direction and control and thereby enable a requesting independent senator to participate as a member of the committee if, in fact, their request is granted.

The practice has also been that, if such request is granted, it is on the basis that if the independent is unable to attend any of the committee meetings his or her replacement would be determined by that particular whip.

The reality is that independent senators do not have access to committee membership or to changes in membership, as referred to in rule 12-5 of the *Rules of the Senate*, in a manner that is fair, equitable and equal, but rather is entirely dependent upon the mercy and possible goodwill of the Liberal and Conservative Senate leaders.

These particular practices and rules are contrary to the requirement that all senators are entitled to receive the same rights, benefits and privileges that would enable each of us to adequately perform and fulfill our constitutional roles and responsibilities. As such, I'm strongly of the view that appropriate changes should be made to the existing rules and practices so as to remove all such inequities and inequalities.

Similarly, the composition of the nine-person Committee of Selection is composed entirely of Liberal and Conservative members, with no independent senator representation and, as such, reflects the same lack of fairness, equity and equality as in the current committee membership selection process. Once again, I'm strongly of the view that appropriate changes should be made to existing rules and practices so as to remove this particular inequity and inequality.

Current Senate membership consists of 45 Conservatives, 29 Liberals, 9 independents and 22 vacancies, with another 3 retirement vacancies to occur prior to June 30, 2016. Prime Minister Trudeau has stated that Senate appointments to fill those vacancies will occur in 2016 and that each of those appointed will be required to perform their senatorial roles and duties in an entirely independent and non-partisan manner.

As such, prior to June 30, 2016, the current Senate membership will potentially change to 44 Conservatives, 27 Liberals and 34 independents, the number of independents then exceeding the number of Liberal members in this chamber. Consequently, I believe there is a heightened sense of urgency that the issues raised in this motion be addressed without delay.

Honourable senators, I respectfully request your support for the referral to the Rules Committee of these matters, and for the purposes outlined and contained in the motion that is before you. Thank you.

**Hon. George Baker:** Would the honourable senator permit a question? These are very important matters.

Does the senator have any suggestion as to how the problem can be solved? Back in 1975 I was on a three-member House of Commons committee. Stanley Knowles represented the NDP, I represented the Liberals and Walter Baker the Conservatives. We went to Britain and other Commonwealth jurisdictions with the Speaker of the house to examine their rule changes and how they brought about changes that couldn't be brought about in the past, but they brought them about. They told us that they appointed an outside body, outside the House of Lords and the House of Commons in Britain, made up of academics and members of the press gallery, to suggest changes to their rules committee. Invariably, those suggested changes were made, but they said without that the changes would never have been made to the British House of Commons and the House of Lords.

• (1540)

Would the honourable senator agree with such a suggestion if his suggestion now that this be sent to the Rules Committee doesn't work? Does he have any idea how the Rules Committee can take this and make some substantive change to do what they should be doing, given that we're going to have such a large number of independent senators, and independent senators of great ability, as the honourable senator is?

**The Hon. the Speaker:** Senator Wallace, your time has expired. Are you asking for five minutes to answer questions?

**Senator Wallace:** Yes.

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

**Hon. Senators:** Agreed.

**Senator Wallace:** Thank you, senator. In all of this, correcting what I think is a tremendous inequality and inequity requires objectivity. If it's looked at simply from the position of protecting caucus turf, you're right that there will never be a solution that satisfies what I've described.

My feeling would be that if this matter is referred to the Rules Committee, they should examine what has happened in other jurisdictions. There's Australia and other jurisdictions, such as the House of Lords with the cross-benches. They can see how that has worked.

As much as we can deal with matters internally and make decisions on these hard issues ourselves, I think we should always try to do that. Some of the issues that have involved senators' expenses could have been dealt with within the institution, but it didn't work out that way, not as far as the review goes.

I would think, as a starting point, if there's a sincere wish on the part of the leaders of both of the leading parties to examine this, we could see what might be done. However, if the Rules Committee were not satisfied that a satisfactory result would come from that, then perhaps it does require an objective, non-partisan, arm's-length group to have a look at it.

One point is that the advisory board that will give Prime Minister Trudeau advice on Senate appointments is an advisory board outside of Parliament. I'm sure his idea is to have some objectivity. With qualified people on an advisory board, I think that is possible, so the idea you suggest in the same vein does make some sense.

However, I guess the first issue, the major issue, has to be whether there is a realization that there's a problem here that has to be corrected. If both sides of the chamber are not going to accept that, then the mechanisms will just fill time and space, with no change. So that's the first thing. On the issues I've raised, and there are other issues, times are changing. Is there a will to move forward in this? We know that in this institution, which has been around for a long time, old habits, old practices and outdated rules are slow to die. But those that are not reasonable must die.

[Translation]

**Hon. Diane Bellemare:** I have a question for you, Senator Wallace. The answer may also answer Senator Baker's question. Why did you not consider putting the independent senators into a group that would have the same privileges as those granted to an official party? I'm talking about creating a third caucus.

[English]

**Senator Wallace:** Thank you, senator. That certainly would have some merit. Faced with the reality of the numbers of independent senators that we will have in this chamber in the very near future, even if there's reluctance about what you suggested, the numbers and the presence of these independent senators will force change. I think the issue is whether leadership is prepared to

get out in front of that change and direct it to satisfactory ends and solve real issues, or whether we will move forward kicking and screaming. But it's inevitable. It's inevitable that those types of changes will have to be made. I think what you suggest makes a lot of sense and is worthy of a lot of thought.

**The Hon. the Speaker:** Senator Wallace, your time has expired.

On debate, Senator McCoy.

**Hon. Elaine McCoy:** Honourable senators, first of all, let me congratulate Senator Wallace. Having long sat outside of caucus in this institution, since I was appointed, indeed, I'm so pleased to see my colleagues gradually filtering out and adopting much of the same stance. I want to bring to everybody's attention, just to underline it, that the benefit of that stance is to hear the insights and thoughtful remarks of men and women of stature. Senator Wallace is certainly modelling that behaviour for us. I think it can only strengthen and nourish and enrich our institution.

I'm particularly pleased that he has brought the subject of the Selection Committee to us. It wasn't until I think maybe my second year here that I realized how these things are done. The first year, 2005, I don't think I was appointed to any committees when I first arrived. The second year, there was a new Parliament, and at that time we were all invited to indicate what committees we would like to sit on. Lo and behold, I was appointed to a committee.

I think two years later I got a little more curious, and I actually went to a Selection Committee meeting to see how it worked. I was astounded, because I discovered that it was all done in less than an hour. Everybody had their scripts in front of them. They all read out in pro forma. It was done obviously by agreement behind closed doors. It was a charade enacted for public consumption.

I hadn't been back for several years, but this morning the Selection Committee met again. I thought I should, before I speak to this motion, attend the Selection Committee in 2015 and see what the practice is today. Sure enough, as I arrived, I'm handed the committee proceedings, and I'm handed two lists: one from the Conservative caucus members who were there and one from the Liberal caucus members who were there. Of course, I gazed around at the members of the Selection Committee, and they are all members of either the Conservative or the Liberal caucus.

Once again, as I said this morning, I have been dealt with generously and courteously my whole time here in the Senate, so this is not a personal complaint so much as it is an observation as to what I will call the inefficient use of the resources available to this institution.

This morning, as an example, of all the nominations to all the committees that were made, five sitting senators were not nominated.

• (1550)

There are five sitting senators who were not nominated to any committee. The question is why? Well, they're not a member of any caucus. I was nominated, Senator Cools was nominated, but

none of the other senators who are not a member of a caucus were nominated to committees. That is an inefficient use of our resources.

The other thing, of course, that happens, once these committees get together and start organizing, again the deal has been made behind closed doors. Who gets elected to be chair, deputy chair and the third member of the steering committee — the agenda committee, as it's called — on each committee? It's never anybody but a member of a caucus. So in all the time I have been here, I have never been invited to sit on steering; I've never been invited to be a deputy chair; and I've never been invited to be chair of a committee.

I do have certain expertise in energy and the environment, and in fact the Energy Committee was gracious enough to acknowledge that it was my idea, seconded enthusiastically by Richard Neufeld, that we do the energy study. We did and it was well-received. I'm proud of that study on behalf of this institution, but was I asked to lead the study? No.

So there are inefficiencies in the allocation of resources in terms of how we ask people to participate and how we ask for the benefit of the talents and skills of the people who are in this chamber.

Those talents and skills are considerable, of course. In every case, that's why people were appointed here. Every one of you is special. Every one of you has something special to bring to this institution. Every one of you has a skill and an ability that we need, but is every one of you being used to the utmost capacity that you have to offer? I would say no.

So this review that is being proposed, I suggest, is not only timely in view of the changes that we are anticipating, but I think it will be fruitful for the strength of the institution.

I suggested this morning to the Selection Committee that they slow down, surely, before they carry on in the same old way — what was your phrase, Senator Wallace? You said in the same old tradition. Just because we've done it before and have always done it, should we continue bullheadedly doing the same thing? There was resistance to that. I would prefer to see the committee slow down such that we do have an opportunity to review what we might in fact institute by way of some changes, and there are some good ideas on the table.

One of the good ideas has been put on the table by Senator Ringuette, for example, in her proposals to reform the Senate, and it is to have a house affairs committee made up of representatives of the regions. That committee would make appointments to other committees, based mostly on regional representation, but also, of course, taking cognizance of the special skills and special subjects being discussed. That's one very good idea.

Another very good idea came out of the Greene-Massicotte modernization workshop we held at the end of October. Thanks very much to Senators Massicotte and Greene. They organized an excellent workshop. Indeed, as Senator Baker said, half of us were there, and we came to some unanimous conclusions.

One of them was around the Selection Committee. The solution that was put forward there, if I recall correctly, was to have nominations put forward and then a secret ballot held in Committee of the Whole. So indeed we have a democratic process, supported by our peers, to choose who would sit on which committees. A similar process would then be followed in the committees to nominate and select chairs, deputy chairs and a third member of the steering committee.

I'm sure there are other suggestions. Senator Baker brought forward a third alternative this afternoon, having an arm's-length, external committee help and give advice, which I think has merit. The suggestion for a third caucus I think has a great deal of merit. These ideas do need to be discussed.

It's been a bit up and down. I must admit I was a bit appalled yesterday to hear one senator say that to change the rules and procedures of this institution, which I think is fundamentally obscene, illegal and irresponsible on the part of the government. I found that to be quite distressing. But, then again, here we are today and Senator Carignan is on his feet, suggesting changes.

So I think there is some cause for optimism that there is some critical mass in the institution, in the Senate, to move forward. I would certainly support Senator Wallace's motion to refer this to the Rules Committee, or to combine it with Senator Cowan's motion to move forward with a select committee on the modernization of the Senate, or some variation of those two, so we can get ahead of the changes that are coming and begin to put the very real and dedicated and sincere efforts of all of these capable people that I see in front of me to the point, and that is to strengthen and enrich this institution on behalf of all Canadians.

**Senator Baker:** Would the honourable senator permit a question?

**Senator McCoy:** Absolutely.

**Senator Baker:** The honourable senator noted that there were four senators in this place who were not on any committees.

**Senator McCoy:** Five.

**Senator Baker:** Five. I just counted them. There are 17 committees; there are 12 members on each committee. That's 204 positions. That means that if it were done equitably, all the senators would be on at least two committees and some senators on three committees. Two hundred and four positions, and five senators are not on any committee.

For the record, let me ask this question: As an independent senator — and we have other independent senators in this place — were you consulted on a regular basis, every time committees were selected, as to your wishes and desires of which committee you would like to sit on as an independent, and do you know if all of the other independent senators were so consulted and were then appointed to committees in the past?

**Senator McCoy:** Thank you.

As I say, I have been very courteously and generously dealt with, Senator Baker, and I want to reiterate that. I have no personal complaints. Well, yes, I do. I've always wanted to be on Internal, and nobody would ever nominate me to go on Internal. There are other senators who have the same complaint.

I have regularly, at the beginning of each session, been asked to indicate in writing what my preferred top two or three choices would be. As I say, other than Internal, I would be put on Rules or on Energy, not both at the same time, but either one; and I would attend the other one, whether a member or not.

I've been dealt with fairly, with limitations. I think I've been underused, if I can put it that way, but I've been dealt with courteously at least.

You asked me about other senators who are independents, and I cannot be 100 per cent sure because I have not canvassed them all. A quick conversation with a seatmate tells me that one of the new independents has not been consulted this round. I don't know if that's true of the others. I rather think that's true of a couple of the others, but I don't know for a fact. I can't say either whether everyone has been consulted on a regular basis over the years.

(On motion of Senator Bellemare, debate adjourned.)

(The Senate adjourned until tomorrow at 2 p.m.)

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