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OFFICIAL REPORT
(HANSARD)

Thursday, May 12, 2016

The Honourable GEORGE J. FUREY
Speaker

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

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THE SENATE

Thursday, May 12, 2016

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

Prayers.

SENATORS' STATEMENTS

ENERGY EAST PIPELINE

Hon. Percy Mockler: Honourable senators, we must continue our advocacy for the nation-building project that is the Energy East pipeline because the issue is so compelling that its importance cannot be overstated.

New Brunswick Premier Brian Gallant is in Ottawa this week meeting with Prime Minister Trudeau, Government House Leader Dominic LeBlanc and different federal ministers on issues of importance to New Brunswick. He has always been supportive of this project. He understands that Energy East is vital for building and sustaining jobs in our province and in all of Atlantic Canada.

This issue extends beyond partisan lines, Senator Mercer.

Honourable senators, I want to congratulate former Prime Minister Brian Mulroney on his recent comment that Energy East is "a nation-building opportunity" for Justin Trudeau.

It is also a great pleasure to have former premiers of New Brunswick like Frank McKenna, Camille Thériault and Bernard Lord who have been steadfast advocates for Energy East, and I want to laud their enthusiasm.

[Translation]

I also want to thank the Leader of the Government in the Senate, the Honourable Peter Harder, for his statement yesterday, which I will quote:

I would be happy to bring to the attention of the government. . .

[English]

. . . I will convey the sentiment of the Senate on this important matter Energy East.

Moreover, in addition to what has been said, I welcome the comments of Senator Moore and Senator McCoy supporting Energy East from their regions and impressing on Senator Harder to give a positive message to the Government of Canada. He said he would do it.

Some Hon. Senators: Hear, hear!

Senator Mockler: Honourable senators, I urge this chamber to take a united approach in support of the Energy East project. There is no doubt in my mind the decision will be based on scientific facts, with all stakeholders sitting at the table.

Honourable senators, all authorities in North America are unanimous: The pipeline is the most secure means of transportation for oil.

I also welcome the comments made by First Vice President of the Federation of Canadian Municipalities, Mr. Clark Somerville, at the Senate Finance Committee last night:

We have a group being struck in the next couple of weeks that will look at the principles municipalities should consider for pipelines.

We are on the right track. Let us unite for an important project to give jobs to Canadians.

Some Hon. Senators: Hear, hear!

UNIVERSITY OF SASKATCHEWAN

ABORIGINAL ENGAGEMENT STRATEGY

Hon. Lillian Eva Dyck: Honourable senators, I rise today to recognize the Aboriginal Engagement Strategy at the University of Saskatchewan.

In 2012, an Aboriginal Engagement Strategy was developed by the College of Agriculture and Bioresources at the University of Saskatchewan to support the strategic priority of Aboriginal engagement. College staff met with First Nation communities across Saskatchewan to assess their post-secondary education needs. In all, 75 Aboriginal community members from 23 First Nation and Metis organizations contributed to the consultation. In addition, an Aboriginal advisory group was formed to take the consultation feedback into account in developing programs and curriculum additions and changes.

One result of the work of the Aboriginal advisory group was the approval of the Kanawayihetaytan Askiy certificate program. *Kanawayihetaytan Askiy* is Cree, and in English it means, "Let's take care of the land."

This certificate program offered at the University of Saskatchewan integrates traditional knowledge with Western science, with a strong focus on the management of lands and resources in Aboriginal communities. The *Kanawayihetaytan Askiy* Program — formerly known as the Indigenous Peoples Resource Management Program Certificate — is a uniquely designed certificate program focused on providing a broad range of topic areas specific to the management of lands and resources.

The Kanawayihetaytan Askiy Program examines basic environmental, legal and economic aspects of land and resource management in Aboriginal communities. It also provides students with the opportunity to increase their skill levels in communications, computers, time management, leadership, research and project management.

The vision and direction of the program is based on consultation with Aboriginal communities and expanding the audience to include Aboriginal land managers, Aboriginal land and economic development staff, Aboriginal leadership, urban and rural Aboriginal youth, federal and provincial government staff, and individuals interested in working with Aboriginal communities.

Since the 2006-07 school year, the Indigenous Peoples Resource Management Program and the KA Program have graduated over 200 students. As noted in the December 17, 2015 minutes of the University Council's Academic Programs Committee meeting:

The demand for graduates from this program remains high and nearly all graduates have current employment or confirmed employment as land managers.

Honourable senators, the Aboriginal Engagement Strategy and the Kanawayihetaytan Askiy Program, specifically, are examples of the type of reconciliation program needed at the university level to live up to the Calls to Action in the Truth and Reconciliation report.

Thank you.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of President Young Yeon Cho and members of the HanCa Seniors Association. They are guests of the Honourable Senator Martin.

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

Hon. Senators: Hear, hear!

• (1340)

ASIAN HERITAGE MONTH

Hon. Yonah Martin (Acting Leader of the Opposition): Honourable senators, I wish to first acknowledge the presence of my elders, or family members, who travelled five hours to be here in our chamber today.

Honourable senators, I rise during Asian Heritage Month to speak about a largely unknown part of Asian Canadian history: the covert operations of Force 136.

The Chinese Canadian Military Museum in Vancouver is launching an exhibition on May 14, 2016, called "Rumble in the Jungle" that tells the story of this secret force, and I look forward to visiting the museum, located in historic Chinatown in downtown Vancouver, to view the exhibit. Colonel Howe Lee, one of the founders of the museum, has taught me to value, above all, the history that has shaped Canada and each of our lives. The lesser known or perhaps unknown pieces of Canadian history of the invaluable contributions of Asian Canadians are hidden treasures of our past that are being showcased at the museum. Finding these missing pieces of our history is essential for our understanding of who we are as Canadians, on whose shoulders we all stand as we enjoy the freedoms that were hard fought and won for us.

The Chinese Canadian Military Museum and other museums that archive our history are, in the words of Colonel Howe Lee, "the soul of our community."

Honourable senators, let me tell you about Force 136. During the last years of the Second World War, a small multinational force of operatives was recruited by British intelligence and secretly trained in commando-style warfare and jungle survival tactics. These elite operatives formed the core of Force 136. Their mission was to be dropped in small teams behind enemy lines in Southeast Asia, make contact with guerrilla groups, and assist with sabotage and intelligence gathering.

They were told there would be only a 50 per cent chance of surviving the mission. In fact, each person was handed a cyanide capsule just in case they were captured by the enemy. Those who survived their missions lived to tell harrowing tales of enduring malaria, monsoons, suffocating humidity and broken bones.

Force 136 was in many ways equivalent to the undercover agents the British parachuted into occupied Europe, people who risked their lives to support underground movements and fight the enemy while operating in their midst.

What makes the fearless and heroic agents of Force 136 all the more remarkable is the fact that these individuals were, at the time of their service to Canada, stateless Asians born in Canada but officially deemed "aliens" on their birth certificates. They were not recognized as citizens of Canada due to their ethnicity. The larger group of Asians who volunteered to serve in the Canadian military during World War II did so to prove their allegiance to Canada, the country of their birth and the only country they knew as their own. Despite being rejected by their motherland, the members of Force 136 were still eager and willing to fight and die for Canada.

Honourable senators, let us all join together to acknowledge the contributions of these Asian Canadians to our history and be proud of what they did to give us the freedom we have today.

Hon. Senators: Hear, hear.

[Translation]

ROUTINE PROCEEDINGS

OFFICIAL LANGUAGES

BUDGET AND AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—STUDY ON THE CHALLENGES ASSOCIATED WITH ACCESS TO FRENCH-LANGUAGE SCHOOLS AND FRENCH IMMERSION PROGRAMS IN BRITISH COLUMBIA—SECOND REPORT OF COMMITTEE PRESENTED

Hon. Claudette Tardif, Chair of the Standing Senate Committee on Official Languages, presented the following report:

Thursday, May 12, 2016

The Standing Senate Committee on Official Languages has the honour to present its

SECOND REPORT

Your committee, which was authorized by the Senate on Wednesday, April 20, 2016, to study the challenges associated with access to French-language schools and French immersion programs in British Columbia, respectfully requests funds for the fiscal year ending March 31, 2017, and requests, for the purpose of such study, that it be empowered to:

- (a) engage the services of such counsel, technical, clerical and other personnel as may be necessary;
- (b) adjourn from place to place within Canada; and
- (c) travel inside Canada.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee are appended to this report.

Respectfully submitted,

CLAUDETTE TARDIF

Chair

(For text of budget, see today's Journals of the Senate, Appendix A, p. 475.)

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

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

[English]

HUMAN RIGHTS

BUDGET AND AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—STUDY ON THE STEPS BEING TAKEN TO FACILITATE THE INTEGRATION OF NEWLY-ARRIVED SYRIAN REFUGEES AND TO ADDRESS THE CHALLENGES THEY ARE FACING—THIRD REPORT OF COMMITTEE PRESENTED

Hon. Jim Munson, Chair of the Standing Senate Committee on Human Rights, presented the following report:

Thursday, May 12, 2016

The Standing Senate Committee on Human Rights has the honour to present its

THIRD REPORT

Your committee, which was authorized by the Senate on Thursday, April 14, 2016, to study steps being taken to facilitate the integration of newly-arrived Syrian refugees and to address the challenges they are facing, including by the various levels of government, private sponsors and non-governmental organizations, respectfully requests funds for the fiscal year ending March 31, 2017, and requests, for the purpose of such study, that it be empowered:

- (a) to engage the services of such counsel, technical, clerical and other personnel as may be necessary;
- (b) to adjourn from place to place within Canada; and
- (c) to travel inside Canada.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee are appended to this report.

Respectfully submitted,

JIM MUNSON

Chair

(For text of budget, see today's Journals of the Senate, Appendix B, p. 483.)

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

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

[Translation]

LA CAPITALE FINANCIAL SECURITY INSURANCE COMPANY

PRIVATE BILL—FIRST READING

Hon. Dennis Dawson introduced Bill S-1001, An Act to authorize La Capitale Financial Security Insurance Company to apply to be continued as a body corporate under the laws of the Province of Quebec.

(Bill read first time.)

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

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

THE SENATE

NOTICE OF MOTION TO URGE THE GOVERNMENT TO TAKE THE STEPS NECESSARY TO DE-ESCALATE TENSIONS AND RESTORE PEACE AND STABILITY IN THE SOUTH CHINA SEA

Hon. Thanh Hai Ngo: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Senate note with concern the escalating and hostile behaviour exhibited by the People's Republic of China in the South China Sea and consequently urge the Government of Canada to encourage all parties involved, and in particular the People's Republic of China, to:

- (a) recognize and uphold the rights of freedom of navigation and overflight as enshrined in customary international law and in the United Nations Convention on the Law of the Sea;
- (b) cease all activities that would complicate or escalate the disputes, such as the construction of artificial islands, land reclamation, and further militarization of the region;
- (c) abide by all previous multilateral efforts to resolve the disputes and commit to the successful implementation of a binding Code of Conduct in the South China Sea;

(d) commit to finding a peaceful and diplomatic solution to the disputes in line with the provisions of the UN Convention on the Law of the Sea and respect the settlements reached through international arbitration; and

(e) strengthen efforts to significantly reduce the environmental impacts of the disputes upon the fragile ecosystem of the South China Sea;

That the Senate also urge the Government of Canada to support its regional partners and allies and to take additional steps necessary to de-escalate tensions and restore the peace and stability of the region; and

That a message be sent to the House of Commons to acquaint it with the foregoing.

• (1350)

[English]

QUESTION PERIOD

DEMOCRATIC REFORM

MEMBERSHIP OF PARLIAMENTARY COMMITTEE ON ELECTORAL REFORM

Hon. Yonah Martin (Acting Leader of the Opposition): Honourable senators, I have a question for the Leader of the Government in the Senate.

Leader, at a press conference yesterday regarding the new government's announcement on the proposed all-party parliamentary committee on electoral reform, the Minister of Democratic Institutions and the Leader of the Government in the other place gave contradictory views on whether the Liberal government is willing to hold a referendum on the subject. I wonder if the Leader of the Government in the Senate would provide all honourable senators in this chamber with a clear answer on behalf of the government. Will the Liberal government take their changes to the people of Canada in a referendum for all Canadians to have a say in the most fundamental element of a democracy — how they vote? Yes or no?

Hon. Peter Harder (Government Representative in the Senate): Before responding to the honourable Acting Leader of the Opposition's question, I want to associate myself with the applause of the chamber for the hosting of her guests. I wish that they were here so that I could report to them the esteem in which the honourable senator is held in this chamber.

Now, that does not get me off the hook of answering. I wish it did.

[Senator Munson]

Let me assure the honourable senator that the government's view is that there should be the broadest consultation possible. That is the purpose of launching this special committee, and the commitment of the government is that Canadians be heard in this process.

With respect to the precise question asked, I will seek a precise answer, but I haven't heard nor do I believe has a minister said whether the government's intention was to hold a referendum or not. The process has been launched, and we will see how that process unfolds.

Senator Martin: To the leader, I appreciate your kind remarks, but that does not change my absolute concern about the process that is launched. In fact, leader, yesterday you committed to Senator Carignan and Senator Mercer that you would take their concerns regarding the exclusion of senators from the all-party parliamentary committee to the attention of the government.

Many honourable senators share their concerns. Have you, leader, done this in the 24-hour period that has passed? If so, what was the response?

Senator Harder: Well, let me say that I have conveyed the views of the honourable senators as conveyed in Question Period.

As to the response, I would simply report that I conveyed the views. I didn't seek to ascertain a particular response, and I can assure the honourable senator that that will not be the only occasion on which I raise the issues that have been raised in this chamber, and I will do so as appropriate.

PUBLIC SAFETY

AUXILIARY CONSTABLE PROGRAM

Hon. Daniel Lang: Colleagues, I want to raise another question with the government leader. It's a question I've raised a number of times, and I want to bring it to every member's attention.

I think it's important for the senators from Prince Edward Island, senators from Nova Scotia and New Brunswick and other provinces, other than Quebec and Ontario, to understand that their Auxiliary Constable Programs are fully under review in respect to their responsibilities and authorities in their various jurisdictions. This should be of concern right across the country. It's just not a Yukon concern, and I want to bring that to everyone's attention. It's something they may want to discuss with their constituents when they go home a week from now.

I do have a question, and it's the response tabled in the house here in respect to the intentions of the government and the RCMP auxiliary program. In the French version, the text that was tabled states that they will undertake, through consultation with the provincial and territorial partners, to update the national policy and training standards of the Auxiliary Constable Program. But the English response that was tabled indicates they are currently consulting on the proposed changes that have already taken place in the program.

That's two entirely different responses. I'm wondering if the government leader would clarify to the house today just in respect to what was tabled.

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his ongoing interest in this matter, and I can report that the Government of Canada is consulting to ensure the need to protect the volunteers and meet community needs, and they will, further to those consultations, be examining the policies and will make any adjustments as appropriate.

Senator Lang: Colleagues, this is a very important issue, and I know that the government leader shares my view in respect to the program and the importance of the program. But for the purpose of public discussion and public debate about the future of this program, I'm wondering if the government leader would undertake to ask the government to table in this house any changes that they are proposing to be discussed with the provinces, and secondly, if and when those conclusions are reached, if they could table the responses from the provinces so that we clearly understand exactly what is taking place.

Senator Harder: Again, I make that undertaking to the honourable senator.

DEMOCRATIC REFORM

ELECTORAL REFORM

Hon. Linda Frum (Acting Deputy Leader of the Opposition): My question is for the Leader of the Government in the Senate.

The design of Canada's electoral system is fundamental to our democracy. Surely, leader, you would agree that any alteration to a system that fundamentally changes the rules of our democracy requires a legitimate mandate to do so.

Instead, and shockingly, the Trudeau Liberal government has stacked the deck by appointing a Liberal-dominated committee empowered to make unilateral partisan changes to Canada's voting system. This is a serious affront to our democracy.

I want to ask the Leader of the Government in the Senate: Does the Prime Minister that he serves really believe that the Liberal government has the right to alter our country's historic voting system without consulting the people of Canada in a national referendum? Or, instead, does he believe that the Canada Elections Act can be altered unilaterally at the whim of the Liberal Party by and for the Liberal Party for the perpetuation of the Liberal Party?

Some Hon. Senators: Hear, hear.

Hon. Peter Harder (Government Representative in the Senate): Thank you for the question, honourable senator.

Let me simply remind the chamber that this was an issue in the last election where the position of the now Prime Minister was clearly articulated. The position of the government, through the

establishment of this special committee, is designed to ensure there is an appropriate parliamentary process for this engagement and consultation period, and the government has been exceedingly transparent that it will proceed in the fashion of engaging multiple stakeholders in this important issue.

Senator Frum: If it's true that the Prime Minister's position on electoral reform was clearly articulated in the election, can you tell us exactly what his plan for electoral reform is right now?

• (1400)

Senator Harder: Honourable senators, I think it's safe to say that the Prime Minister has been careful not to say which precise reform he would personally support. What he did indicate was a desire to ensure that the last election which was fought on the first-past-the-post system would be the last election fought on that system. As a result of gaining office, he is fulfilling that commitment through the process I've just outlined.

EMPLOYMENT, WORKFORCE DEVELOPMENT AND LABOUR

WORKERS INJURED OR KILLED IN THE WORKPLACE

Hon. Percy Mockler: Your Honour, there's never a right time to ask this question. Even though we know that in Newfoundland we arrive half an hour later, I still want to say "happy birthday" to you.

Honourable senators, in 1991, eight years after the Day of Remembrance was launched by the Canadian Labour Congress, the Parliament of Canada passed the Workers Mourning Day Act making April 28 the official Day of Mourning.

Today the Day of Mourning has since spread to approximately 100 countries in the world and is recognized as Workers' Memorial Day and as International Workers' Day. Every year, on April 28, we observe a National Day of Mourning dedicated to remembering and honouring those lives lost or injured due to a workplace tragedy. While it is important to remember, it is equally important to improve health and safety in the workplace to prevent further injury, illness and deaths.

My question to the Leader of the Government in the Senate is what is your government's plan now that the National Day of Mourning has come and gone to ensure workers return home safely at the end of each day?

Hon. Peter Harder (Government Representative in the Senate): I'd like to thank the honourable senator for his question. Before I reply to him, although it's half an hour late, I want to associate myself with the conveyance of best wishes to His Honour on his birthday. In this place, birthdays are particularly important, as I understand it.

The particular question the honourable senator is asking is one that I would wish to ensure a more precise answer. With the indulgence of the senator, I will take the question as notice.

[Senator Harder]

JUSTICE

RECREATIONAL USE OF MARIJUANA

Hon. Lynn Beyak: Honourable Senator Harder, this week Canadians heard Ontario's premier saying that the federal government must clarify the law around the recreational use of marijuana. I've personally never understood the term "recreational" around the use of any drug, but that's another discussion.

The premier mentions complications involving shops selling pot and the premier says provinces and cities remain confused about how to handle those shops because of a lack of direction from Ottawa. This is not the first time we've heard these concerns from law enforcement, cities and provinces about the mixed messages they are receiving from the federal government.

Could you tell me if the minister has had any kind of reports on this issue, if she has been briefed on the activities of these illegal activities and if she would be willing to commit to clarifying this situation as soon as possible?

Hon. Peter Harder (Government Representative in the Senate): I want to thank the honourable senator for her question and will indeed do as she requests and report back.

DEMOCRATIC REFORM

ELECTORAL REFORM

Hon. Nancy Ruth: Senator Harder, I'm very keen on there being an alternative system to first past the post, but what I would like to ask you to convey to both the PCO and the PMO is that unless gender and race are taken into equal benefits in whatever new system is devised, there is no point in doing it at all.

Hon. Peter Harder (Government Representative in the Senate): Thank you, honourable senator, for your question. I indeed commit to do as you request.

PRIVY COUNCIL

PARTICIPATION OF GOVERNMENT MEMBERS IN RIGHT TO LIFE MARCH

Hon. Tobias C. Enverga, Jr.: I have a question for the leader and, of course, happy birthday to you, Your Honour!

Mr. Leader, life is the most fundamental right of every Canadian. Right now, there are thousands upon thousands out there marching for life. I was so proud to join my fellow Senators Unger and Doyle outside.

My question is: Why is it that no member of the government is marching for life?

Hon. Peter Harder (Government Representative in the Senate): I appreciate the question, honourable senator, but I am not in a position to answer whether or not any government officials were part of the activities on the front lawn. I certainly heard them, but I have no information to bring forward at this time.

FOREIGN AFFAIRS

ETHIOPIA

Hon. Don Meredith: Thank you, Your Honour. Happy birthday to you as well.

To the Government Representative in the Senate, my question is with respect to Ethiopia. We've been focusing on Syria, the Zika virus and the Middle East with respect to our international support. There is a drought taking place in Ethiopia currently and attention has not been given from the international community, Government Representative. I'm wondering what the Canadian government has done to support the Ethiopian government in this ongoing crisis with respect to loss of life in Ethiopia.

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. Ethiopia seems to be one of these countries in repeated cycles of challenge. I would be happy to undertake to find precisely what the latest government contribution has been, but this is a serious situation which, unfortunately, has repeated itself several times and one for which a more holistic and appropriate set of responses is required from all — both the domestic and the international community.

That, if the bells are ringing for a vote at 3:30 p.m. on that day, they be interrupted for Question Period at that time, and resume thereafter for the balance of any time remaining; and

That, if the Senate concludes its business before 3:30 p.m. on that day, the sitting be suspended until that time for the purpose of holding Question Period.

He said: Honourable senators, this is the usual motion with respect to Question Period and I have nothing further to add.

Hon. Joan Fraser (Deputy Leader of the Senate Liberals): Would Senator Harder take a question?

Senator Harder: Certainly.

Senator Fraser: Do we have any indication about who we will be receiving on Tuesday?

Senator Harder: Absolutely. I indicated in Question Period yesterday in response to a question that it will be the Minister of State for Small Business, and we anticipate that it will indeed be the Minister of State for Small Business.

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

Hon. Senators: Agreed.

(Motion agreed to.)

ORDERS OF THE DAY

THE SENATE

MOTION TO AFFECT QUESTION PERIOD ON MAY 17, 2016, ADOPTED

Hon. Peter Harder (Government Representative in the Senate), pursuant to notice of May 11, 2016, moved:

That, in order to allow the Senate to receive a Minister of the Crown during Question Period as authorized by the Senate on December 10, 2015, and notwithstanding rule 4-7, when the Senate sits on Tuesday, May 17, 2016, Question Period shall begin at 3:30 p.m., with any proceedings then before the Senate being interrupted until the end of Question Period, which shall last a maximum of 40 minutes;

That, if a standing vote would conflict with the holding of Question Period at 3:30 p.m. on that day, the vote be postponed until immediately after the conclusion of Question Period;

THE ESTIMATES, 2016-17

NATIONAL FINANCE COMMITTEE AUTHORIZED TO STUDY SUPPLEMENTARY ESTIMATES (A)

Hon. Peter Harder (Government Representative in the Senate), pursuant to notice of May 11, 2016, moved:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (A) for the fiscal year ending March 31, 2017;

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

That the committee be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate its report at any time that the Senate is not sitting, and that the report be deemed to have been tabled in the Chamber.

He said: Again, honourable senators, this is the usual motion with respect to the tabling of estimates. I commend it to the Senate so that the standing committee can do its work.

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

Hon. Senators: Agreed.

(Motion agreed to.)

• (1410)

CRIMINAL CODE

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Dyck, seconded by the Honourable Senator Eggleton, P.C., for the second reading of Bill S-215, An Act to amend the Criminal Code (sentencing for violent offences against Aboriginal women).

Hon. Scott Tannas: Honourable senators, I rise today in support of Bill S-215, An Act to amend the Criminal Code (sentencing for violent offences against Aboriginal women). I'd like to thank and congratulate Senator Dyck for putting forward this bill and for her thoughtful, eloquent and passionate advocacy of this particular subject.

I was here in the chamber when she gave her speech on Bill S-215 and was one of many who were profoundly moved by her words. She described stories of real women victimized simply because they were Aboriginal and vulnerable.

In her speech, Senator Dyck presented two compelling and very logical arguments, in my opinion, as to why this bill is important and should be adopted. First, she cited clear statistics from an RCMP report that many of us are familiar with that show that Aboriginal women are especially vulnerable. She paired that with the fact that there are many precedents for laws that protect people exactly as this law is intended to protect.

We had a recent example of that in this chamber when Senator Runciman proposed a bill protecting and providing for aggravating circumstances for those who would do harm to taxi drivers, bus drivers and other people involved in public service.

Senator Dyck spoke about societal indifference. This observation is particularly powerful. I believe that Canadian society has to be aggressive. We have to become far more aggressive in our protection of our most vulnerable people.

This bill is a small but positive step that we can take now to affirm to ourselves, and to all, that this epidemic of violence against Aboriginal women is unacceptable, period. No excuses.

This brings me to a delicate subject that I believe must be discussed in conjunction with this bill. That is how we want to see the application of this bill and what is proposed here and how it will be applied in conjunction with the *Gladue* principle.

Let me first start by saying what Senator Dyck's bill wants to accomplish. In her speech, she said:

Bill S-215 amends the Criminal Code to require a court to consider the fact that when the victim of an assault or murder is an Aboriginal female person, this constitutes an aggravating circumstance for the purpose of sentencing.

I'm sorry that Senator Baker is not here today, as he has reminded us in different circumstances and situations about the *Gladue* principle, which provides this:

In sentencing an aboriginal offender, the judge must consider: (a) the unique systemic or background factors which may have played a part in bringing the particular aboriginal offender before the courts; and (b) the types of sentencing procedures and sanctions which may be appropriate in the circumstances for the offender because of his or her particular aboriginal heritage

It also requires the trial judge to obtain information pertaining to the accused and:

. . . take judicial notice of the broad systemic and background factors affecting aboriginal people, and of the priority given in aboriginal cultures to a restorative approach to sentencing.

In other words, we have before us a bill that proposes that judges consider violence against Aboriginal women as an aggravating factor. On the other hand, we have a principle that is clear that says that an Aboriginal offender should be looked at and sentenced in a mitigating way.

This clearly could be conflicting priorities, especially when you consider that the overwhelming majority of offenders in violent crimes against Aboriginal women are Aboriginal men. We need to think carefully about that.

I agree with Senator Dyck when she said, in her speech, that in what she was proposing, she did not want the *Gladue* principle to be abandoned in favour of her proposal. I totally agree with that. Both need to be weighed.

I believe it's up to us to signal that in the consideration that we give to this bill. I believe, and I hope you do too, that we need to provide a signal that we don't do the opposite, that the provisions of this bill are abandoned by the *Gladue* principle.

When this bill comes before committee, I intend to propose observations to the effect that we can lean on what Senator Baker always talks about, how the courts look carefully at our intentions and read our observations as they try and understand why we're proposing certain things.

Working with other members of the committee and with Senator Dyck herself, I'm proposing and will undertake to work with everybody to develop some observations that will capture this concern that we have and ask that the balance be maintained. At the end of the day, violence against Aboriginal women has to be stopped. No excuses.

• (1420)

I want to close with some personal observations. As many of you know, I'm from a little Prairie town in the foothills of the Rocky Mountains. I have witnessed violence against Aboriginal women in the streets, and I have seen and participated in the indifference.

This bill is important. As I said, we need to do something now. I think that the inquiry into missing and murdered Aboriginal women is long overdue, and I congratulate the government for moving forward on that.

I also want to dedicate a moment in my remarks to Georgina Papin. Georgina was a Vancouver sex-trade worker who was killed by that monster Willie Pickton. Georgina was one of many of his victims.

I knew her. She grew up in my town. Her story, I can tell you, was a tragedy from her childhood through to her death. She was a most vulnerable person throughout all of her life.

Much hope is pinned on this upcoming inquiry, and I certainly hope that we can find the answers that we're looking for. I think that it requires candour and an unrelenting search for the truth.

In the meantime, I think we can take a step, and I recommend that we move forward and pass this bill on to committee. Thank you.

Hon. Senators: Hear, hear!

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

Senator Tannas: Yes.

Senator Dyck: I would like to congratulate you on your speech. You've gotten right to the heart of the matter.

When I have spoken about this bill at various places in Saskatchewan, the question always comes up, "What about the Aboriginal men?" It's an important consideration, and I'm glad you elaborated on that in your speech.

At committee, do you think this is one of the things that the committee should study in depth so that we fully engage in the application of the bill?

Senator Tannas: I think it would be helpful, particularly in our efforts to make sure that we provide the background so that judges, prosecutors and defence can really look at what we're intending here.

(On motion of Senator Lovelace Nicholas, debate adjourned.)

CONTROLLED DRUGS AND SUBSTANCES ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator White, seconded by the Honourable Senator Ogilvie, for the second reading of Bill S-225, An Act to amend the Controlled Drugs and Substances Act (substances used in the production of fentanyl).

Hon. Wilfred P. Moore: Thank you, Your Honour. Happy birthday, sir.

Honourable senators, I rise today as critic to speak to Bill S-225, An Act to amend the Controlled Drugs and Substances Act (substances used in the production of fentanyl).

Senator White, as a former assistant commissioner of the RCMP and chief of police in Ottawa, has experience and knowledge of the drug trade in Canada, and this bill is a result of his informed interest. As the senator has stated, we are in the midst of a drug crisis in Canada centred around opioids — fentanyl, to be more specific.

Fentanyl is a synthetic opioid which has been around since the 1960s. It is used as an anesthetic and as a pain reliever. It is favoured by doctors due to its rapid onset and short duration. Fentanyl is highly addictive and is 100 times more powerful than morphine, 50 times more powerful than heroin. It is this potency level that makes fentanyl so dangerous when it is used recreationally.

Just a few milligrams can kill a human being. An amount the size of two grains of salt can be fatal, even to opiate users with a high tolerance. It is anecdotally reported that many of the overdose deaths related to fentanyl happened because the user thought they were using heroin or oxycodone but mistakenly used fentanyl.

According to the Canadian Centre on Substance Abuse, between 2009 and 2014 there were 665 deaths in Canada where fentanyl was the cause or a contributing cause. Alberta and British Columbia were the hardest hit, but it appears the drug is moving east, with Ontario experiencing a rise in fentanyl-related deaths. Indeed, Alberta's Associate Minister of Health, Brandy Payne, is reporting that in 2015, 274 people died of fentanyl-related overdoses, and 69 people have died in the first three months of 2016.

Illegal fentanyl comes to Canada in the form of pills or ingredients called "precursors," mostly from China. According to police, the pills are sold for enormous profit on the street by gangs, or the precursors are made into pill form here in Canada. As I said, it is not obvious to the user that they're taking the powerful fentanyl at all, which is a major factor in the rising rate of overdose fatalities and another reason to get this drug off the illegal market as soon as possible.

There is more to this than meets the eye, however.

The opioid crisis in Canada, according to many experts, is a homemade one. Over the past decade, Canada has seen opioid prescription levels triple. Many Canadians who have resorted to the purchase of fentanyl from abroad or from drug labs here in Canada originally were exposed to opioids through the medical system here. The health system in Canada, and in the United States, for that matter, has prescribed opiates in what can only be described as an irresponsible manner, leading us to the dire situation Senator White is trying in part to fix with Bill S-225.

Dr. David Juurlink, a physician at the Sunnybrook Health Sciences Centre in Toronto, echoes this belief, saying, “Doctors have a measure of ownership in this issue; think twice before we prescribe this stuff.” Dr. Juurlink goes further and indicates that the over-prescription of opiates is also linked to drug companies. He is not alone in this belief.

In the United States, the Obama administration has moved to institute mandatory training for prescribing opiates, and 11 states have gone so far as to institute their own mandatory training programs. The United States federal government has also introduced new national standards for prescribing painkillers. As was reported in *The Globe and Mail* in March of this year, the U.S. Centers for Disease Control and Prevention urged doctors to move towards non-drug approaches to treat chronic pain, and to prescribe opioids sparingly by starting patients with low doses and providing only a few days’ supply.

Canada has not revised its guidelines for prescribing opiates since 2010. Currently a review is under way with results expected in January of next year. Many find that delay unacceptable in the face of this widely acknowledged and ever-growing problem of abuse, and some provinces have decided to take action themselves.

The Globe and Mail reports that the College of Physicians and Surgeons in British Columbia, Nova Scotia, New Brunswick and Newfoundland and Labrador have all moved to curb opioid over-prescription ahead of the Canadian review. These provinces are following the guidelines set by the U.S. Centers for Disease Control and Prevention due to the vacuum at our federal level and the ongoing crisis involving fentanyl in Canada. To put it in perspective, under the Canadian guidelines for prescribing opioids, the maximum daily dose in Canada is 200 milligrams. The U.S. Centers for Disease Control recommends that doctors seriously consider prescribing no more than 50 milligrams per day and to avoid doses above 90 milligrams per day.

• (1430)

All this to say that Canada is behind at the federal level at a time when fentanyl addictions and overdoses are increasing across our country.

Dr. Evan Wood, a professor of medicine at the University of British Columbia, writing in *The Lancet*, stated:

Doctors helped create this problem, however they cannot solve it alone, because even if prescriptions for opioids are hugely reduced, organised crime groups are already now making counterfeit opioid pills.

That brings us to the essence of Bill S-225, an attempt by Senator White to help fight this ongoing fentanyl crisis in Canada. As he has informed us, fentanyl is arriving in the illicit drug market in Canada by one of two means: through misuse of prescribed fentanyl patches, or through the smuggling of fentanyl or fentanyl precursors from abroad.

It is these precursors which Bill S-225 seeks to place on the Controlled Drugs and Substances Act’s list of prohibited substances in order to stop the manufacture of fentanyl in Canada. As Senator White has said, “The challenge with precursors is that today, although the sale of fentanyl is illegal, the sale of precursors that make fentanyl is not illegal.”

I want to read the names of these precursors. They sound deathly: propionyl chloride; 1-phenylethyl-4-piperidone; aniline; 4-piperidone. These are bizarre chemicals which are killing our kids. By putting these precursors on the list, we will enable law enforcement to identify who is producing the illegal fentanyl and where it is coming from. Making the precursors illegal will allow law enforcement to stop the shipment of precursors to illegal labs in Canada.

Until this bill passes, policing efforts will be restricted to only public warnings and education programs. Bill S-225 would greatly expand the effort to bring this situation under control.

The number of fatal drug overdoses involving fentanyl across our country is indicative of a health crisis. To my mind, such a crisis merits a rapid response. So far, this has not been the case in Canada. We should be doing a lot more to address the problem. In my opinion, passing Senator White’s Bill S-225 would provide a very valuable tool to stop this drug from killing more Canadians.

Colleagues, as the critic for this bill, I don’t think anyone else in our caucus wants to speak to it.

Hon. Jane Cordy: Thank you. Will you accept a question?

Senator Moore: Certainly.

Senator Cordy: Thank you. That was an excellent speech, by the way.

One thing is that the general public believes that addiction to drugs tends to be illegal drugs, and we know that’s not the case. We know that many people are actually addicted to prescription drugs, and we know that the second-largest users of opioids per capita — you mentioned opioids in your speech — are Canadians. The United States is ahead of us, but neither first nor second place is much to be proud of.

The Social Affairs Committee, when we were doing our study on prescription drugs, heard about generic OxyContin being made available. I remember asking Senator LeBreton, who was Leader of the Government in the Senate at the time, about generic OxyContin and why the government would not delay allowing it to be produced. The answer was “Well, we’re going to leave it up to the provinces.” But, in fact, the federal government is one of the largest providers of health care, particularly for our Aboriginal people.

[Senator Moore]

We had Aboriginal members appear before our committee as witnesses, and they had asked the federal government to please at least delay the legalizing of generic OxyContin.

Should we be concerned about the number of people in Canada who are becoming addicted to prescription drugs like fentanyl and opioids? I think you gave us a description of drugs that are called other names so that people are not even aware that the drug they are choosing could, in fact, be extremely addictive.

Senator Moore: I'll attempt to answer your question, senator. Thank you for it.

For the last two years, I've been attending through our Canada-United States Inter-Parliamentary Group, meetings of the governors in the United States, both their annual meetings and their mid-winter meetings in Washington. In every one of these meetings, the top item on the agenda is the opioid crisis in the United States. More people are dying from an overdose of prescribed medicines than from automobile accidents in the U.S. In recent reports, our deaths in Canada from overdoses of prescribed medicines are nearing that.

So in the U.S., Purdue Pharma, which made OxyContin, changed its recipe so that abusers can no longer inject it or melt it down.

We haven't done that in Canada. They have come up with a new one that they now call "oxycodone." But we have not done that in Canada, and I don't know why. This is one of the areas where nation to nation we should be acting together and regulating some of these prescribed medicines and their manufacture, their availability and the prescribing of them.

Beyond that, senator, this is bad, bad, bad. We can do something about it. It's raging. Young people don't know how bad fentanyl is. When the precursors are made into the drug, they don't know its strength. The illegal people try to cut it and water it down. I don't think they know how to do it in terms of the impact it's going to have on the consumers. The young people don't know. They are taking it when they can, and they become addicted to the stuff. It's beyond addiction. It is not an addictive thing; it's a killing drug. We have to do something about it.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read a second time.)

REFERRED TO COMMITTEE

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

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

• (1440)

HUMAN RIGHTS ABUSES IN IRAN

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Frum, calling the attention of the Senate to egregious human rights abuses in Iran, particularly the use of torture and the cruel and inhuman treatment of unlawfully incarcerated political prisoners.

Hon. Dennis Glen Patterson: Honourable senators, yesterday I was talking about the plight of human rights activist Arash Sadeghi and his wife Golrokh Irayee, and their unfortunate appearance before the "Judge of Death," as he's known, Judge Abolqasem Salavati.

Like every other prisoner spoken about in this chamber in connection with this inquiry, Arash and Golrokh did not receive a fair trial, did not have access to a lawyer during interrogations or judicial proceedings and had their most basic human rights violated while in the custody of Iranian authorities.

For Arash, the nightmare began seven years ago, in the summer of 2009, when Iranian authorities violently raided his parents' home and arrested him. A month earlier, Arash had been a volunteer for the 2009 presidential campaign of Mir Hossein Mousavi. Arash was then taken to the notorious Evin Prison and held in solitary confinement for long durations and subjected to interrogations in addition to brutal psychological and physical torture.

I want to mention a bit about this notorious prison. It's actually in a residential and commercial area of Tehran. It was initially designed to house 320 inmates, but under the Islamic Republic the prison population was expanded to 15,000 inmates. There is a large park area with a popular upscale teahouse and restaurant located immediately next to it.

I was amazed to hear yesterday in this chamber that Senator Munson had stood in front of the prison, as he described to us. It's a good thing he didn't try to take a photograph while he was there, because photography in front of and around the prison is illegal. In fact, on June 23, 2003, Iranian-Canadian photojournalist Zara Kazemi was arrested for taking a photograph in front of the prison and died of blunt trauma to the head while imprisoned. The Iranian government said she died from a stroke while being interrogated, but doctors who examined her body found evidence of rape, torture and a skull fracture.

While Arash was in Evin Prison, the Iranian authorities violently raided his home again, causing his mother to suffer a heart attack. Sadly, she died a few days later in the hospital.

So, honourable senators, let us stand together to condemn the Iranian regime for its deplorable human rights abuses and treatment of its citizens.

Arash and Golrokh were recently temporarily released on bail but they are in danger of being arrested again at any moment, as authorities have already summoned them back to prison.

As members of the Senate of Canada, let us join our voices to call on the Iranian authorities to release all political prisoners, including Arash Sadeghi and Golrokh Irayee.

Thank you.

Hon. Wilfred P. Moore: Honourable senators, I rise today to inform you about the plight of two musicians: Mehdi Rajabian and Yousef Emadi; and a filmmaker, Hossein Rajabian. These three Iranian artists may be thrown into prison at any moment just for their art. Human rights groups warn that their arrest is imminent; Iranian authorities have sent their case files to the Office of the Implementation of Sentences at Evin Prison in Tehran. This can all be seen on the website iranhr.net.

They are two friends who ran a popular music streaming website called BargMusic. Unfortunately, the Iranian authorities have confiscated the website and shut it down, eliminating all the hard work these two young artists put into the website. Additionally, Mehdi had just completed his first musical album and was about to release on it online. But he never got the chance to do so, because agents of the Iranian Revolutionary Guard Corps confiscated all his music. According to human rights reports, the album told the story of Iran's history through instrumentals played by Mehdi on his sitar. Hossein is Mehdi's brother. He had just finished producing a film, entitled *The Upside Down Triangle*, about a woman's right to divorce in Iran.

The three men were arrested by Iranian authorities in October 2013 at a media studio they shared located in the City of Sari, in the Mazandaran province in northern Iran. They were first held in the detention centre in Sari, where they were reportedly blindfolded and tortured with electric tasers. They were eventually shipped to Evin Prison in Tehran, where they were held for more than two months in a solitary confinement cell fully controlled by the Revolutionary Guards. In solitary confinement, Mehdi, Yousef and Hossein reportedly endured hours upon hours of interrogations and were subjected to both physical and psychological torture.

They were released on a bail of \$67,000 U.S. dollars each, but in May 2015 an Iranian court sentenced each of them to six years in prison and a fine totaling approximately \$6,600 U.S. dollars. An appeals court upheld the judicial fines but reduced each of their sentences to three years in prison and three years suspended imprisonment. So technically this means they are still condemned to six years in prison each. The court justified the prison sentence through trumped up charges like "Insulting Islamic sanctities," "Propaganda against the regime," and "Illicit financial gain through audiovisual activities."

Honourable senators, I am deeply concerned about the effects prison and further torture will have on the physical and psychological state of these brave artists. I'm appalled that in 2016 there are young artists who are being persecuted and tortured merely for having the courage and the will to exercise their fundamental right to freedom of speech and expression.

[Senator Patterson]

Honourable senators, Hossein Rajabian, in protest to the unlawful prison sentences issued to him, his brother Mehdi and their friend Yousef, has uploaded a medium-quality version of his film *The Upside Down Triangle* on YouTube and you can see it there. I urge you to take the time to watch the movie in order to fully grasp how easy it is to be arrested and tortured in Iran just for exercising artistic expression.

I call upon my colleagues today to stand with me, as Senator Patterson did, in calling on the Iranian authorities to quash the prison sentences and judicial fines against Mehdi, Hossein Rajabian and Yousef Emadi.

(On motion of Senator Raine, debate adjourned.)

[Translation]

• (1450)

THE SENATE

MOTION TO AMEND THE *RULES OF THE SENATE* TO ENSURE LEGISLATIVE REPORTS OF SENATE COMMITTEES FOLLOW A TRANSPARENT, COMPREHENSIBLE AND NON-PARTISAN METHODOLOGY—DEBATE ADJOURNED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of May 3, 2016, moved:

That, in order to ensure that legislative reports of Senate committees follow a transparent, comprehensible and non-partisan methodology, the *Rules of the Senate* be amended by replacing rule 12-23(1) by the following:

"Obligation to report bill

12-23. (1) The committee to which a bill has been referred shall report the bill to the Senate. The report shall set out any amendments that the committee is recommending. In addition, the report shall have appended to it the committee's observations on:

(a) whether the bill generally conforms with the Constitution of Canada, including:

(i) the Canadian Charter of Rights and Freedoms, and

(ii) the division of legislative powers between Parliament and the provincial and territorial legislatures;

(b) whether the bill conforms with treaties and international agreements that Canada has signed or ratified;

(c) whether the bill unduly impinges on any minority or economically disadvantaged groups;

(d) whether the bill has any impact on one or more provinces or territories;

(e) whether the appropriate consultations have been conducted;

(f) whether the bill contains any obvious drafting errors;

(g) all amendments moved but not adopted in the committee, including the text of these amendments; and

(h) any other matter that, in the committee's opinion, should be brought to the attention of the Senate."

She said: Honourable senators, the motion I am moving today relates to the debate on the legitimacy of the Senate and our work. It seeks to increase the added value of our studies of bills and to have our work reported in a more transparent manner.

It arises out of a reflection that began with a speech I gave in September 2014 concerning Senate reform. At the time, I proposed that the Senate draw up, by convention, a list of considerations that committees should address when reporting to the chamber on their study of a bill.

In my opinion, the methodology that I am now presenting — which is transparent, comprehensible and non-partisan — would allow us to debate the merits of bills that are studied by going beyond a simple personal or partisan position and beyond our personal preferences.

It also seeks to meet two important objectives in order to improve the added value of our work.

First, it frames our constitutional duty to provide sober second thought in the context of the Senate as a complementary chamber to the House of Commons and not a rival chamber. As defined by the Fathers of Confederation and reiterated on a few occasions by the Supreme Court, the Senate is not a copy of the other place. Senators are not elected. We are appointed. However, our constitutional powers are vast and, therefore, we must use them responsibly, because we cannot legitimately compete with the House of Commons. Nevertheless, we have a duty to improve legislation passed in the other place when it seems appropriate, but we cannot legitimately oppose a bill passed by the House of Commons just because we don't like it. I will repeat that this motion proposes matters for committees to consider when analyzing bills in keeping with our mandate.

Second, this motion seeks to improve debate in the chamber by requiring committees to report on their deliberations in a more transparent manner.

Honourable senators, let me now explain the motion. At this time, when a committee examines a bill, the *Rules of the Senate* require that committee to provide observations or explanations

only when it amends or rejects the bill. In the other scenarios, with the exception of the budget implementation bill, the committee is not required to append any observations to its report.

Therefore, when a bill is studied in committee and no amendments are accepted, the committee can simply table a report in the Senate that contains the following wording: "Your committee, to which was referred Bill XYZ, has, in obedience to the order of reference, examined the said bill and now reports the same without amendment."

This is true regardless of whether any amendments were proposed but rejected during the committee study. In fact, when amendments are rejected, the committee reports that the study was completed with no amendments. The same is true when a minority of senators on the committee propose to reject the bill.

In these two extreme cases, the debate continues in the chamber at third reading.

Without this information, senators who did not take part in the committee study have to ask questions or rely on the good judgment of the members of the committee that examined the bill. Alternatively, as has been the traditional practice, senators rely on their caucus whip and vote according to party lines.

As a result, when the legislative agenda is full, some controversial bills could pass third reading even though not all senators have been properly informed of the controversial aspects of the bill.

If we require committees to append to their report observations on matters that are essential to their study, senators will be better able to debate bills at third reading.

This will also lessen the impact of partisanship when bills are studied. As long as the Senate is organized as it is now and a large group of senators participate in their party's caucus, there is no guarantee that the Senate will take an independent approach to bills, as we are meant to do.

This motion sets out eight items that should be subject to a specific observation that could be as simple as "not relevant" in many cases. There may be other items that should be added. This motion can obviously be improved.

The motion proposes that the committee be required to append observations to the report. Why? There is a simple reason.

When observations are appended to the report, they cannot be amended in the Senate. In other words, they don't need to be debated or voted on. However, this in no way prevents a senator from challenging them at third reading. These observations help make senators aware of the nature of the discussions the committee had about the bill and are not meant to delay discussions on the bill itself.

The first item on the list has to do with whether the bill generally conforms with the Constitution of Canada, including:

- (i) the Canadian Charter of Rights and Freedoms, and

(ii) the division of legislative powers between Parliament and the provincial and territorial legislatures.

Admittedly, we are not Supreme Court judges. However, we are reasonable enough to determine how likely it is that a bill could end up before the courts. When legal experts and lawyers' associations testify before a committee and say that a bill presents some serious constitutional problems, there is a strong chance that this bill will end up before the courts. In other words, the committee studying the bill cannot ignore this problem when a single expert testifies that he has no problem with a bill on which the committee has received contrary opinions.

Based on the committee's observations, the Senate could determine whether to send the bill to another committee for further study, take a chance and pass it as is, or amend it if that seems possible. The Senate could thus tell the public and the other place "I told you so."

The second item has to do with whether the bill conforms to treaties and international agreements that Canada has signed or ratified.

This obviously includes treaties signed with First Nations. The purpose of this criterion is to inform the Senate about whether or not the bill complies with all the treaties and agreements that Canada has signed. That does not mean that we cannot pass a bill if there is any question about its compliance, but at least we will do so knowingly.

In the past, we have adopted legislative changes in order to comply with international agreements, despite opposition from some groups. The Senate has a duty to clarify these problems, even though they are not easily resolved. These issues must be debated.

• (1500)

The third item is whether the bill unduly impinges on any minority or economically disadvantaged groups. This criterion is part of our mandate. Our role is to prevent the exploitation of a group or a minority by a majority. This can be difficult to assess. However, for this criterion as for others, there are generally accepted philosophical references that can be useful for debate in the chamber.

Take, for example, a bill to increase foreign trade. Let us suppose that the expected benefits of this bill are great enough to warrant passing it. Let us also suppose that it would result in significant costs to a minority or a given group. What should we do? According to utilitarian philosophical principles, for example, which often support conventional economic analyses, such a bill could be defended as it would boost the country's prosperity if the benefits outweigh the costs. However, based on analyses that incorporate notions of welfare or well-being, such laws could reduce the welfare of a group if no compensation is offered to those who bear the brunt of the cost. In the case of force majeure, the Senate may have the duty to ensure that such a bill provides necessary compensation or at the very least to make observations.

The fourth criterion addresses whether the bill has any impact on one or more provinces or territories. This criterion relates to priority key constitutional mandate for which the Senate was created. It is inescapable. We are required to consider the effects of federal legislation on the provinces and territories that we represent. This allows us to systematically inform the chamber and Canadians of the regional impacts of a federal bill.

The fifth item involves checking whether the appropriate consultations have been conducted. This criterion is self-explanatory. The Senate needs to know which groups appeared before the committee. For example, it would be quite simple to make a list of the key witnesses and summarize their testimony, if necessary.

The sixth item involves checking to see whether the bill contains any obvious drafting errors. Honourable senators, the least we can do is to ensure that the bill does not contain any typos and the French and English versions are consistent. Even so, sometimes the text is not corrected.

The seventh criterion has to do with including all amendments moved but not adopted in the committee, as well as the text of these amendments. This criterion is also self-explanatory. This is not currently required under the Rules, but it would help to ensure that the committee debates are transparent, particularly when a Senate caucus has control over the committee report. As I said earlier, under the Rules, only amendments that have been moved and adopted by the committee are currently included in the report.

The final criterion pertains to any other matter that, in the committee's opinion, should be brought to the attention of the Senate.

Some of you will say that this motion will place a heavier burden on the committees. There is no doubt that it will. However, I believe that this increased transparency will improve the quality of the debates in the chamber and add value to our work. It will also encourage more independent and less partisan debate. Others will agree with Senator Joyal, who in 2014 raised the idea that such an approach would subvert the principle of adversarial debate. I thought about that, and I do not believe that this approach will kill debate. On the contrary, I think that the approach that I am proposing will promote debate by going beyond the confrontations dictated by the party line. This approach will allow senators to debate more specific aspects of the legislation being examined rather than just indicating whether they are for or against a bill. As Senator Carignan indicated on April 12 and Senator Housakos mentioned yesterday, this approach will help to ensure quality control of bills. It will help to identify any legislative gaps, constitutional impasses and unintended inaccuracies and to propose amendments to improve bills.

I don't know when or if this motion will be accepted. I appeal to your good faith, however, and above all, your sense of responsibility and invite you to use such a gauge when you analyze the merits of a bill for yourself. I also invite the committees to give it a try as they study the bills currently before them. Indeed, even though this motion is not part of the

Rules of the Senate, nothing is stopping us from following this in practice. Furthermore, page 147 of *Senate Procedure in Practice* states, and I quote:

Whether a committee reports a bill with or without amendments, it may also make observations on the bill. Committees have used observations as a way of providing commentary on a wider range of issues surrounding the bill. This practice is in keeping with the Senate's traditional role as a revising chamber.

In other words, the Rules allow this. This practice is not used very often, but it could be used more.

In closing, the Senate's constitutional powers are very important. Very few upper chambers elsewhere in the world have such powers. As a result of some research I did in 2014 with my legislative assistant, I can tell you that the vast majority of senates around the world have a suspensive veto and not an absolute veto, as is the case in Canada. In fact, only about a dozen senates out of the 80 that we polled have an absolute veto.

Adopting this motion will allow the Senate to demonstrate that when it passes a bill, that means that the bill reasonably meets all the criteria set out to ensure that it is consistent with all of our laws and democratic practices. If it has no obvious deficiencies, apart from having a certain political stripe, we can seriously ask ourselves if the Senate can legitimately oppose it. Furthermore, if a bill does not meet the reasonable expectations that come from an objective examination, the Senate and senators will be able to clearly explain their decision to Canadians. That is what I am proposing to you with this motion. Thank you.

Hon. Senators: Hear, hear!

[*English*]

Hon. Dennis Glen Patterson: I'd like to ask the honourable senator if she would take one or more questions.

[*Translation*]

The Hon. the Speaker: I'm sorry, Senator Bellemare, but your time is up. Do you want five more minutes?

Senator Bellemare: Yes, Mr. Speaker.

[*English*]

Senator Patterson: Thank you, Your Honour.

I believe this motion was put forward the day you were announced as the Legislative Deputy to the Government Representative in the Senate. Do I take it that your motion to add these eight mandatory conditions to the workload of a committee has the blessing and imprimatur of the Government Representative in the Senate?

[*Translation*]

Senator Bellemare: Senator Patterson, thank you for your question.

[*English*]

Senator Patterson, you can read the speech I made in this chamber on September 30, 2014, where I was explaining why we should have such an approach to the study of our bill. It's been a long time since I wrote my speech. I had wanted to do it for a long time, so I thought I would do it now, but it is not related whatsoever to my appointment.

On the other hand, there's a link that you can read into it. I'm an independent and unaffiliated senator, and I take my constitutional duties very seriously. This is the approach I took last year in many studies. This is why I opposed Bill C-377, and this is why I voted in favour of Michael Chong's bill, for example.

This is why I voted on many bills, like the bill dealing with the Pope, even though that's not my preference at all. I respect the Pope. That's not what I want to say, but with all those names and those weeks, I had some reservation.

This approach enables senators to exercise their duty in an honest, careful way, with respect to the Constitution and the fact that we are appointed. We are not elected. We are different from MPs, but our responsibility is to correct bills. We didn't do that when we adopted Bill C-525 last year. Senator Tannas and I and others, Senator Wallace, were completely upset about it.

• (1510)

Nobody explained in this chamber the amendments I tried to push on this bill because the way it was written was not correct. Nobody talked about that.

In many cases, and in my own personal case, I experienced the fact that our studies in committee, even though we had a lot of experts, remained in committee and did not really help us and all the senators to have real debate at third reading.

Because of this concern, I sometimes had to oppose my whole group last year because I was following my elements. I invite you to do the same thing, because I think that's the proper way. I think that is what Canadians expect of us. They respect judges. We are not judges, but at least we need criteria to study the bills that we are being asked to adopt.

Senator Patterson: The honourable senator suggests that this will allow us to look at bills in an honest, careful way. I guess I'm wondering if she thinks we have been examining bills in the 150 or so years of the Senate in a dishonest and careless way.

Further to that, I'd like to ask this: You've offered these guidelines not as a helpful outline but as an obligation, which to me looks like a tremendous amount of additional work, examining such issues as the impact on the division of

legislative powers between Parliament and the provincial and territorial legislatures. Court decisions over the years have waxed eloquent on that subject alone. And whether the bill conforms with treaties and international agreements — I'm just wondering if you're not concerned about creating a tremendous amount of extra work in the already busy obligations of Senate committees examining bills. Perhaps it might have been better to suggest these guidelines as an outline rather than as a mandatory obligation.

Senator Bellemare: Actually, what I propose is to have a checklist. When people come to committee and talk to you about the constitutional aspect of it, you have to report. You don't have to dig into every item on the list, but you have to at least be open to report on those issues when experts come and tell you about them.

Hon. Yonah Martin (Acting Leader of the Opposition): On a point of order. We had given Senator Bellemare five minutes. She may ask for another five. I thought it might be a concise response, but she said, "For instance." If she wishes more time, she would have to seek leave of the Senate.

The Hon. the Speaker: Senator Martin, I was being a little indulgent here because Senator Bellemare indicated she would be

short in her answer. I will give her more time and then time will have expired. Thank you for bringing it to our attention, Senator Martin.

Senator Bellemare: Thank you, Your Honour.

What I'm saying is that it's kind of a checklist. For instance, we adopted bills in past years that went back to the Supreme Court. People had heard about that, and in the report there was no indication about it.

I'm not here to judge. It's not that at all. I'm here so that we can do a better job. That is the only difference.

The Senate is changing. We have been experiencing a crisis of all time, and Canadians want us to change. They want us to be more independent in our studies, less partisan. They don't want us to act like the other chamber, because we're not the other chamber.

(On motion of Senator Frum, debate adjourned.)

(The Senate adjourned until Tuesday, May 17, 2016, at 2 p.m.)

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