



# DEBATES OF THE SENATE

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OFFICIAL REPORT  
(HANSARD)

Wednesday, May 18, 2016

The Honourable GEORGE J. FUREY  
Speaker

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## THE SENATE

Wednesday, May 18, 2016

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

Prayers.

### SENATORS' STATEMENTS

#### NATIONAL FIDDLE DAY

**Hon. Elizabeth Hubley:** Honourable senators, I am extremely pleased to rise today to recognize Canada's second National Fiddling Day, which is coming up this Saturday.

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

**Senator Hubley:** As many of you will remember, my bill to establish this commemorative day received Royal Assent last year. Again, I would like to thank everyone in this chamber who supported the bill. Many of you spoke to its merits, and I am grateful for your enthusiasm.

National Fiddling Day events are being held across the country on Saturday. In my home province of Prince Edward Island, fiddlers from across the province — myself included — will be coming together for a concert at the Harbourfront Theatre in Summerside.

A giant jam session will be happening at City Hall here in Ottawa. I encourage everyone to check what is happening in their own provinces and territories and take part in the festivities.

Because National Fiddling Day falls on the weekend, we will be celebrating here on Parliament Hill today. At noon, Dr. Andrea McCrady, who is the Dominion Carillonneur, played a medley of fiddle tunes from the Peace Tower Carillon.

In addition, Senator Carolyn Stewart Olsen, Members of Parliament Mark Eyking and Rodger Cuzner and I are hosting a kitchen party-style reception in the East Block Courtyard from 4 p.m. until 6 p.m. today. We are expecting fiddlers who will perform a variety of traditional styles, as well as step dancers of all ages. I invite you and your staff to come by. I know that it will be fantastic entertainment. If you happen to have a fiddle, bring it along and join in the fun!

Whether you are a fiddler yourself or simply enjoy a great fiddle tune, I hope you will all join me in celebrating Canada's National Fiddling Day.

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

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of the Right Honourable Abdurahman Mohamed Abdullahi, Speaker of the Republic of Somaliland, accompanied by a delegation of MPs and staff. They are the guests of the Honourable Senator Jaffer.

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

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

### FORMAL APOLOGY FOR KOMAGATA MARU INCIDENT

**Hon. Mobina S. B. Jaffer:** Honourable senators, I rise today on behalf of Senator Omidvar and myself to thank the Prime Minister for his apology in Parliament for the pain caused by the *Komagata Maru* incident.

On May 23, 1914, 376 people of South Asian descent arrived on the shores of British Columbia after a long journey from Japan. They hoped to start a new life in a country full of opportunity. However, after a month at sea, all of them — 12 Hindus, 24 Muslims and 340 Sikhs — were denied entry into Canada.

This event was not an accident. At that point in Canada's history, deep-seated prejudice against visible minorities and immigrants was reflected in the law and prevented them from entering our country.

My father, a former politician, taught me that politicians can be scissiors, whose words and actions can divide or cut up communities. He also taught me that we can be needles that stitch communities together and, by extension, strengthen the fabric of society.

Eight years ago in Surrey, British Columbia, I stood before thousands of Sikhs with Member of Parliament Sukh Dhaliwal. I promised then that one day there would be an apology in Parliament for the *Komagata Maru* incident.

When I returned to Parliament, I made a statement and started an inquiry in the hopes of raising awareness amongst parliamentarians of the pain felt within the South Asian and Sikh communities. In our last session, former Members of Parliament Jinny Sims and Jasbir Sandhu joined me in Parliament in an attempt to obtain an apology. Today I would like to thank them for their efforts.

In April, Prime Minister Trudeau announced that he would make the apology we fought for. He promised that the prejudice suffered by the Sikh community would not be forgotten, and that

this would be the first step in making amends. Today Prime Minister Trudeau will make that apology in the House of Commons.

Today Senator Omidvar and I would like to thank the Prime Minister for this commitment to mending the wounds of the past and recognizing the pain felt by the passengers of the *Komagata Maru*.

Honourable senators, I invite you today to join me in remembering the events that took place on the shores of British Columbia on May 23, 1914. It is our responsibility as parliamentarians to never forget the events of the past, and to keep them in our memory as we work to build a better future.

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. Bryan Myers and Ms. Margaret Myers from Fishing Lake, Saskatchewan. They are the guests of the Honourable Senator Wallin.

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

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

### CHNS RADIO HALIFAX

#### CONGRATULATIONS ON NINETIETH ANNIVERSARY

**Hon. Wilfred P. Moore:** Honourable senators, I rise today to pay tribute to CHNS Radio, in Halifax, Nova Scotia, now known as 89.9 The Wave, which marked its ninetieth anniversary last Thursday.

CHNS Radio made its first broadcast from a tiny room at the Carleton Hotel in Halifax on May 12, 1927, using a 500-watt transmitter. In 1928 the station was acquired by William H. Dennis, who later became a senator, through his Maritime Broadcasting Company. In 1979 Maritime Broadcasting was sold to Maclean Hunter Limited, which increased its holding to six stations and sold in 1994 to a group of Halifax investors headed by Robert L. Pace. Today Maritime Broadcast System Radio comprises 26 radio stations throughout the Maritime provinces.

For the past 90 years this radio station has informed and entertained Haligonians with popular programs such as “Tales Told Under the Old Town Clock,” about Nova Scotia history, hosted by Major William C. Borrett, one of the station’s founders. Another program, “Atlantic Nocturne,” featured reading accompanied by organ music provided by J. Frank Willis. “Uncle Mel” was hosted by Hugh Mills, who would read,

using many voices, the comics found in that day’s edition of *The Chronicle Herald*. Then there were educational programs such as “ABC Quiz” and “IQ Challenge.”

• (1410)

From 1933 to 1960 the station was an affiliate of CBC, and during the Second World War, the Korean War and other major world events, CHNS served as an important broadcast outlet in the Halifax area.

In 2006, CHNS was rebranded, moving from its original 910 on the AM frequency to classic rock music as 89.9 HAL FM, followed by a switch to classic hits and rebirth in 2013 as 89.9 The Wave.

Mike Mitchell, Director of Programming, was quoted as follows in *The Chronicle Herald* last Thursday:

At the heart of it, radio is about putting great storytellers on the air. . . .

Throughout our history, this radio station has told the story of Halifax . . . We’ve accompanied great music with stories about the city’s people, businesses, organizations, and charities. This month, we’re celebrating that.

During the entire month of May, listeners will be taken down memory lane with vintage music, historic news stories, commercials, archived interviews and talk shows. If you tune in you can also expect to hear replays of broadcasts by such radio greats as Don Tremaine, Frank Cameron, Stan Carew, Merv Russell and Ian Hanomansing.

We extend our sincere congratulations to CHNS, or as it is now called, 89.9 The Wave; its parent company, Maritime Broadcasting System Radio; and its keen staff as they celebrate 90 years of providing listeners with solid information and entertainment. We wish the station another successful 90 years as it expands and evolves with Facebook, YouTube, Twitter and whatever new means of communication might come along.

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of Dr. Jamie Lau, Laurie Clement, Debra Yearwood, Laurèl Craib, Emily Theelen, representatives of the Canadian Association of Optometrists. They are the guests of the Honourable Senator Mockler.

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

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

## VISION HEALTH MONTH

[English]

**Hon. Percy Mockler:** Honourable senators, since I am fasting on water for Food Banks Canada, I might have difficulty pronouncing some words. Maybe I will have a few seconds longer than what I am allowed.

I would be remiss not to mention Dr. Lillian Linton. I would like to congratulate Dr. Lillian Linton from Perth-Andover, New Brunswick, for the leadership she has provided to the Canadian Association of Optometrists as chair.

[Translation]

Her term at the Canadian Association of Optometrists was exemplary. I wish to extend my sincere congratulations to Dr. Linton.

[English]

Honourable senators, in celebration of National Vision Health Month, I rise today to call on my fellow parliamentarians and invite them to associate themselves with eye health and vision care in Canada. It is an important subject matter.

Vision health is integral to the overall health and well-being of all Canadians at every age. The importance of vision transcends party, politics and economics. Sight is one of our most important senses, and Canadians fear blindness more than any other disability. Right now, vision needs a voice at the federal level.

Let me share with you this: Vision loss affects all Canadians in some way and at every stage of the life spectrum, from a child's struggles in school due to undiagnosed vision problems, to coping with the inevitable decline of our sight as we age.

It is alarming, honourable senators. Seventy per cent of Canadians who need corrective eyewear or contact lenses cannot function normally in their everyday lives without their corrective eyewear. The implications of undiagnosed vision problems in children can have a devastating impact on their learning, behaviour and personal development. Despite this, only 14 per cent of Canadian children under the age of 6 have received professional eye care. This must change.

[Translation]

Honourable senators, the early detection and treatment of vision problems have to become a major public health priority. Many age-related eye diseases have no symptoms and go undiagnosed. In 75 per cent of cases, vision impairment is preventable or treatable when Canadians are given the knowledge and tools they need to preserve their vision.

The time has come to have a non-partisan parliamentary committee to sensitize Canadians in all walks of life to promote vision health from coast to coast to coast. We must reach out and seize this occasion, honourable senators.

I believe that this bicameral, non-partisan opportunity will allow parliamentarians to meet and share real experiences in order to give vision a voice on the federal stage.

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of participants of the World Bank-McGill International Professional Development Program for Parliamentary Staff, a McGill University program comprising parliamentary staff from around the world.

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

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

## MEDICAL ASSISTANCE IN DYING BILL

**Hon. John D. Wallace:** Honourable senators, as we are all well aware, a declaration by the Supreme Court of Canada on February 6, 2015, struck down the federal ban on physician-assisted dying and detailed situations where patients have the legal right to request it. This declaration of invalidity was suspended for 12 months and subsequently extended to June 6, 2016.

If no federal legislation is enacted by June 6, the Supreme Court's declaration of invalidity will take effect, voiding the prohibition on physician-assisted death within the Supreme Court's declared parameters.

The federal government's response to the Supreme Court decision has been the introduction in the House of Commons of Bill C-14, the Medical Assistance in Dying Bill. The bill is expected to be received in the Senate by the end of this week.

On May 17, 2016, federal Justice Minister Jody Wilson-Raybould told CBC News Network's "Power & Politics" that there are real-world ramifications if her government misses the June 6 deadline:

I would like to dispel those opinions that say that June 6 isn't an important deadline to meet. The Carter decision and the criteria laid out by the Supreme Court will apply . . .

there will be absolutely no safeguards in place. No defined eligibility criteria. Medical practitioners will be uncertain to say the least in terms of how somebody can access medical assistance in dying.

In an article in the *Globe and Mail* on May 18, 2016, Conservative Senate Leader Claude Carignan is quoted as follows:

It will be, I think, impossible, to have the bill pass [by] June 6.

The article continues with a quote by Senator Cowan:

“I haven’t sensed any desire on the part of senators to rag the puck on this or delay it, but they are going to take the time to study it,” Mr. Cowan said. “How it will go and how long it will take, I don’t know.”

Also, as quoted in the Canadian Press on May 18, 2016:

“There’s no way that it’ll get through . . . by the sixth of June,” Cowan said in an interview after the meeting with Harder, adding that the government isn’t happy about it . . .”

On CTV News on May 17, 2016, Senator Robert Runciman, who is Chair of the Senate Legal and Constitutional Affairs Committee that has just completed a Senate pre-study of Bill C-14, is quoted as saying:

I don’t think there’s any way, shape or form that we can meet this imposed June 6 deadline. I think that’s not going to happen, and if the government thinks it’s going to happen they’re badly mistaken.

Senator Runciman continued:

Is the world going to fall apart if we don’t meet this date? Most of us don’t think so.

From Friday, May 20, to the Supreme Court deadline date of Monday, June 6, 2016, the number of actual calendar days, excluding Victoria Day, is 18. In that same period, the number of regular Senate sitting days is three, namely May 31, June 1 and June 2.

• (1420)

The bottom line, colleagues, is that we in the Senate must do everything possible to ensure that deadline is met. Whatever final form that bill takes, we must meet that deadline. This is a matter — and we all realize this — of extreme personal importance to all Canadians. We must get it done. It would be totally unacceptable

for us in this Senate to not enable final passage of that bill to meet the deadline — a deadline imposed by the Supreme Court of Canada.

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

**Senator Wallace:** 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 Mr. Daniel Shewchuk, Acting Chair of the Nunavut Wildlife Management Board, and Mr. Jason Akearok, Nunavut Wildlife Management Board Executive Director. They are the guests of the Honourable Senator Patterson.

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

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

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[*Translation*]

## ROUTINE PROCEEDINGS

### THE SENATE

#### NOTICE OF MOTION TO SUSPEND TOMORROW'S SITTING TO RECEIVE MESSAGES FROM COMMONS

**Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate):** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, at the end of the Orders of the Day, Motions and Inquiries on Thursday, May 19, 2016, the sitting be suspended to await the receipt of messages from the House of Commons if the Government Representative or the Legislative Deputy to the Government Representative so requests;

That, if the sitting is suspended under this motion, it be to the call of the chair, with the bells to ring for 15 minutes before the sitting resumes; and

That rule 3-3(1) be suspended on that day.

[English]

## ADJOURNMENT

### NOTICE OF MOTION

**Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate):** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Monday, May 30, 2016 at 6 p.m.; and

That rule 3-3(1) be suspended on that day.

[Translation]

## THE SENATE

### MOTION TO AFFECT QUESTION PERIOD ON MAY 19, 2016, ADOPTED

**Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate):** Honourable senators, with leave of the Senate and notwithstanding rule 5-5(j), I move:

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 Thursday, May 19, 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;

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.

[English]

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

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** On debate.

[Translation]

**Senator Bellemare:** With leave of the Senate, we plan to receive the minister responsible for small and medium-sized businesses tomorrow. We believe it would be advisable to proceed in this way, given that Bill C-14 will be introduced later tomorrow evening.

**Hon. Claude Carignan (Leader of the Opposition):** I know that we can't raise a point of order, but since we can debate the motion, I would like to point out that we are at Government Notices of Motions. To my knowledge, Mr. Speaker, you have not ruled on the point of order raised recently concerning whether Senator Bellemare is the deputy leader according to our Rules and the Parliament of Canada Act. Therefore, to avoid calling into question the validity of the notices, I propose that when the issues are truly about the government, the Leader of the Government should be responsible for notices of motions, not a private member.

**Senator Bellemare:** I'm not sure what to say. In my opinion, the mandate the Government Representative presented in this chamber is very clear when it comes to the Parliament of Canada Act. Senator Harder is the Leader of the Government in the Senate, and I am the Deputy Leader of the Government. However, during this transition period, our titles are styled differently. The Leader of the Government is the Government Representative, and the Deputy Leader of the Government is the Legislative Deputy. We are waiting for the Speaker's ruling, but in the meantime, it seems to me that the rule is relatively clear, given our roles.

[English]

**The Hon. the Speaker:** Senator Carignan, the point you raised has to do with the actual styling of the Government Representative in the Senate, not whether or not it's the government leader or deputy leader. The point of order had to do with whether or not they could be styled as Government Representative or Deputy Government Representative. The motion by Senator Bellemare is in order and the ruling on the point of order will be coming soon.

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

**Hon. Senators:** Agreed.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

NOTICE OF MOTION TO AFFECT QUESTION  
PERIOD ON MAY 31, 2016

**Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate):** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

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 31, 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;

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.

**COPY RIGHT ACT**

**BILL TO AMEND—FIRST READING**

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-11, An Act to amend the Copyright Act (access to copyrighted works or other subject-matter for persons with perceptual disabilities).

(Bill read first time.)

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

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

• (1430)

**CANADA-UNITED STATES INTER-PARLIAMENTARY  
GROUP**

ANNUAL NATIONAL CONFERENCE OF THE COUNCIL  
OF STATE GOVERNMENTS, DECEMBER 10-13,  
2015—REPORT TABLED

**Hon. Janis G. Johnson:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States

Inter-Parliamentary Group respecting its participation at the Annual National Conference of the Council of State Governments, held in Nashville, Tennessee, United States of America, from December 10 to 13, 2015.

ANNUAL WINTER MEETING OF THE NATIONAL  
GOVERNORS ASSOCIATION, FEBRUARY 19-22,  
2016—REPORT TABLED

**Hon. Janis G. Johnson:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Annual Winter Meeting of the National Governors Association, held in Washington, D.C., United States of America, from February 19 to 22, 2016.

**FISHERIES AND OCEANS**

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO  
STUDY THE REGULATION OF AQUACULTURE,  
CURRENT CHALLENGES AND FUTURE PROSPECTS  
FOR THE INDUSTRY AND REFER PAPERS AND  
EVIDENCE FROM FIRST SESSION OF THE  
FORTY-FIRST PARLIAMENT TO  
CURRENT SESSION

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

That the Standing Senate Committee on Fisheries and Oceans be authorized to examine and report on the regulation of aquaculture, current challenges and future prospects for the industry in Canada;

That the papers and evidence received and taken and work accomplished by the committee on this subject during the First Session of the Forty-first Parliament be referred to the committee; and

That the committee report from time to time to the Senate, but no later than June 30, 2016, and that the committee retain all powers necessary to publicize its findings for 180 days after the tabling of the final report.

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[Translation]

**QUESTION PERIOD**

**AGRICULTURE AND AGRI-FOOD**

**DAIRY INDUSTRY—DIAFILTERED MILK**

**Hon. Claude Carignan (Leader of the Opposition):** Honourable senators, my question is for the Leader of the Government in the Senate and it is about a problem that is threatening Canadian

dairy producers, particularly those in my home province of Quebec. I am talking about diafiltered milk, a form of highly concentrated milk protein that is imported from the United States and used instead of fresh milk in the manufacture of cheese products.

The Canada Border Services Agency authorizes the importation of diafiltered milk as a milk protein concentrate, which is not subject to duty and is considered to be fresh milk. Dairy products made from diafiltered milk from the U.S. are cheaper to manufacture than products made from fresh milk. Imports of these milk proteins have skyrocketed in the past two years, and our producers are paying the price. Last month, on CBC, Marcel Groleau of the Union des producteurs agricoles said, and I quote:

For the average family, they are losing between \$15,000 and \$18,000 a year. That's about 30 to 50 per cent of their annual revenues.

My question for the Leader of the Government in the Senate is as follows. When will the Liberal government keep its campaign promise and resolve this serious problem affecting the Canadian dairy industry?

[English]

**Hon. Peter Harder (Government Representative in the Senate):** Let me thank the honourable senator for his question. The issue of diafiltered milk is one that is top of mind with the Minister of Agriculture, and I'm happy to convey the concerns of the honourable senator directly to the minister. There are discussions taking place regularly with the producers and other levels of government. This is an important matter and, as I said earlier, has the attention of the minister.

[Translation]

**Senator Carignan:** I have a follow-up question. On May 2, the Minister of Agriculture and Agri-Food and the Minister of International Trade promised to meet with representatives from the dairy industry within 30 days to discuss the Canada-European Union Comprehensive Economic and Trade Agreement. The Minister of Agriculture later said that diafiltered milk would be on the agenda at that meeting. More than 15 of those 30 days have passed.

Can the Leader of the Government in the Senate tell us whether this meeting has taken place and, if so, what the outcome was?

[English]

**Senator Harder:** I will take that question under advisement and report back. I am uncertain as to the outcome of the meetings to which he is referring.

[ Senator Carignan ]

## PRIVY COUNCIL

### FREE VOTES IN PARLIAMENT

**Hon. Donald Neil Plett:** My question is for the Leader of the Government in the Senate.

Leader, two weeks ago, I was delighted to hear that MP Doug Eyolfson, the Liberal member for Charleswood—St. James—Assiniboia—Headingley, in the City of Winnipeg, a riding that encompasses the entire Winnipeg airport and, indeed, the entire maintenance section of the airport in Winnipeg, told the CBC that he would vote against Bill C-10 in the house, acknowledging that this bill would result in the loss of quality aerospace jobs in Manitoba. Quite proud of himself, he boasted:

. . . I felt I had done the right thing.

He said that many questioned whether he would actually go through with this commitment, and he responded:

So now I can look people right in the eye and say, "Believe it."

Then, after the Liberals were at risk of losing a vote in the house on Monday, at the report stage of this very bill, Mr. Eyolfson miraculously changed his tune and voted in favour of the bill. So, in essence, the member told his constituents of Charleswood—St. James—Assiniboia—Headingley, "I will fight hard to protect Manitoba jobs, unless I actually have a chance of succeeding."

Is the Trudeau Liberal government actually serious when they talk about free votes, saying that they will have free votes on many issues, that you can vote your conscience, or is that freedom only there as long as they have the numbers to win the votes?

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for his question. I do think it would be inappropriate for me, as Government Representative in the Senate, to comment on votes taking place in the other chamber, but this has given the honourable senator the opportunity to express his point of view.

**Senator Plett:** Well, it certainly has, and you are, in fact, a member of the Privy Council of that very chamber over there, so I find it a little strange that you do not want to answer on behalf of the government that you're representing.

However, you have done that on numerous occasions and will possibly continue to do that, but then let me bring that conversation home into our chamber.

Will the "free vote policy" apply to the Leader of the Government in the Senate? Will the new independent senators be free to vote their conscience, or will your whip, styled as a liaison, whip or liaise with them to ensure the support for

government legislation? Or will there indeed be a free vote, and will my colleagues from Manitoba be allowed to vote in favour of jobs in Winnipeg?

**Senator Harder:** I thank the honourable whip opposite for his dedication to free votes. Let me say that, as an independent senator, with the responsibility to represent the government in the Senate, I sit as an independent and welcome the independents who joined me several weeks ago now in this chamber.

The position of the government is very clear in that it wishes to see a Senate that is more independent of the other chamber, a Senate in which individual members exercise their judgement independently.

• (1440)

But, yes, it is the view of the government that on government legislation, I, as the representative, will articulate support for the votes for the positions that government legislation requires. That shouldn't be a surprise, but I am not compelling through any whip-like functions how senators vote.

**Senator Plett:** This encouragement will be given to the senators regardless of whether or not you believe it is good legislation.

On Monday of this week, I believe, one of your independent colleagues said on a Quebec radio station, station 98.5, that Manitoba does not support Bill C-10. The newly elected government, and indeed the Deputy Premier of Manitoba, the Honourable Heather Stefanson, said:

We believe the amendments allow for too much flexibility for Air Canada to pull jobs out of Manitoba.

She goes on to say:

Until we come up with some sort of solution where there is a net gain to Manitoba, we cannot support this bill.

So, leader, will you and your government do the right thing for Manitoba? Will you encourage your senators, and especially my colleagues from Manitoba, to do the right thing for Manitoba?

**Senator Harder:** Inasmuch as I can, honourable senator, I will encourage all senators to do the right thing by their conscience and judgment on this and all issues.

## NATURAL RESOURCES

### TRANS MOUNTAIN PIPELINE PROJECT

**Hon. Nancy Greene Raine:** My question is for the Leader of the Government in the Senate, and today it concerns the proposed Trans Mountain Pipeline expansion project.

Tomorrow, the independent National Energy Board is set to release its findings of its review of this project, which has taken over two years to complete. It has been a very thorough review.

I would remind you that this pipeline was originally built in the 1950s in a right of way and located so that sometime in the future it could be expanded with a second pipeline; and it makes logical sense that that pipeline be a little bigger so that you can take out the old pipeline. This is just common sense in the long-term planning for pipelines.

On Tuesday, the Minister of Natural Resources announced the creation of the Trans Mountain Pipeline Expansion Project Ministerial Panel. This panel will report to the minister and essentially go over the same ground that the National Energy Board examined in its deliberations.

My question for the Leader of the Government in the Senate is this: Why is the Liberal government choosing to review the review even before it has been released? The Liberal government has already pushed off making a decision on this project to the end of this year. What assurance can your government give that it will not delay that decision even further?

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for her question on this important subject, and I would like to take the occasion to remind all senators that it is the government's view that in the 21st century, the only way to get big projects like pipelines built is to do them responsibly and sustainably. That is certainly a hard lesson we learned in the absence of pipelines being built in the last 10 years. We believe that a clean environment and a strong economy go hand in hand, and it is the job of the government to get resources to international markets. It is by engaging Canadians and conducting deeper consultations, particularly with Indigenous peoples and based on decisions that are fact-based, science- and evidence-enforced, that we will build the public trust necessary to build a project, not just plan a project.

With this in mind, the senator has appropriately referenced in respect of the Trans Mountain expansion that the government has created a task force to advise on the project in relation to the NEB report and to provide all other evidence associated with the project and engage the Indigenous peoples, in particular, and other affected stakeholders, before a decision is made as to whether or not to approve the project.

It is our hope that this process will lead to greater success for building pipelines that are publicly acceptable and meet the conditions of both the environment and economy.

**Senator Raine:** Leader of the Government in the Senate, I asked what assurance you can give that the government will not delay the decision any further than the end of this year. We know it is important to consult with Canadians, all of whom have a stake in these major projects, but at some point a decision has to be made. Will there be other committees and other studies after this final study, or will this come to an end?

**Senator Harder:** Well, I cannot speak for the minister, but as I read his report and as I am informed, this process that has been launched is designed to achieve all the necessary ingredients to render a decision. Again, I would remind all honourable senators that we have not been successful in building a pipeline for the last 10 years, and I hope and believe that the process under way is one that's designed to bring all parties together so that we achieve that objective.

## JUSTICE

### MEDICAL ASSISTANCE IN DYING BILL—ALBERTA COURT OF APPEAL JUDGMENT

**Hon. James S. Cowan (Leader of the Senate Liberals):** My question is for the Leader of the Government in the Senate.

Yesterday the Court of Appeal of Alberta issued a unanimous decision which, I think it's fair to say, eviscerated the government's position reflected in Bill C-14.

My question for you is this: Is the government intending to appeal that decision to the Supreme Court of Canada? If not, does it intend to overhaul Bill C-14 before it asks Parliament to vote on it, or perhaps even withdraw it?

**Hon. Peter Harder (Government Representative in the Senate):** Well, first of all, I want to thank the honourable leader for his question. I would like to respond by suggesting that the decision of the Court of Appeal was not a decision on Bill C-14. I would quote from the decision itself where the court said this:

... the interpretation and constitutionality of eventual legislation should obviously wait until the legislation has been enacted.

I remind honourable senators that in *Carter*, the Supreme Court of Canada told us that Parliament is best placed to design a regime around medical assistance in dying with a robust set of safeguards. That is what the intention of the government is, and that is what I hope this chamber is engaged on very soon.

The Alberta decision certainly underscores the need to have legislation in place, we would argue, by June 6 so that all Canadians are clear as to what the conditions and the circumstances for medical assistance in dying are.

**Senator Cowan:** Supplementary. I was not suggesting that the subject matter of the decision of the Court of Appeal of Alberta was Bill C-14. It was an unprecedented intervention by the Attorney General of Canada to appeal a decision that had been granted by a motions judge in Alberta permitting somebody who is suffering terribly to end her own life. There were some very scathing comments about the role of the Attorney General in that respect.

Clearly the point that was made by the justices in their unanimous decision was that the arguments, indeed the very documents, including the backgrounder, that the government was circulating in support of its position were rejected, as they had been before; the position had been rejected.

In view of the decision of the court, it is not within the purview of Parliament to restrict further access to this service as set out in paragraph 127 of the decision of the Supreme Court of Canada in *Carter*, where that set out specifically and very clearly the eligibility criteria for access to this medical service.

The court very clearly said that any attempt to further restrict access was unconstitutional. Do you agree with that? What's the government going to do about it?

• (1450)

**Senator Harder:** Again, I would respond to the honourable senator's question by suggesting that I, like every senator, am awaiting further clarification from the government, from the Attorney General, with respect to the specifics of the court case.

What I do think is logical to conclude from the Court of Appeal judgment is that guidelines and expeditious and timely enactment by Parliament of the legislation are the best ways to ensure access to and conformity with norms that are adopted by Parliament. We will have that early opportunity to engage in that debate more broadly soon, I hope.

**Hon. Frances Lankin:** My question is to the Government Representative.

With respect to the Alberta decision, I beg to differ on a couple of points. That won't surprise you. I agree with you in that the court, in *Carter* and in the Alberta case, reflected on the fact that complex regimes of regulations and safeguards are best done by Parliament, but that is with respect to the safeguards to be put in place.

What was very clear, as well, is that the attempt in Bill C-14 to limit the right of medical assistance in dying to those persons who are terminally ill is not what was contained within *Carter*. It was not intended in *Carter* and the Alberta Court of Appeal decision. Justices are clear on that. Not only on that, but they're also clear with respect to the exclusion of people with mental illness. On the face of it, mental illness as a sole reason may well entitle a person to medical assistance in dying if all other requirements of the safeguards that are set out in paragraph 127 of the *Carter* decision are met.

Having said that and having listened to your decisions, I would ask you to undertake to have a discussion with the government with respect to their intent to potentially amend the bill with respect to terminal illness and the mental illness exclusion to bring forward a bill to this Senate that we can pass knowing that it is constitutionally compliant.

**Senator Harder:** I thank the honourable senator for her question and, indeed, make that undertaking.

## IMMIGRATION, REFUGEES AND CITIZENSHIP

### FOOD BANKS—COMMENTS OF MINISTER

**Hon. Salma Ataullahjan:** My question is to the Leader of the Government in the Senate. Today, as we observe food bank day on the Hill, does the Liberal government agree with John McCallum's response during this morning's Human Rights Committee meeting, when he suggested that there might be a cultural element as the explanation for why some Syrian refugees are relying on food banks in Canada?

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for her question. Not having seen the context or, indeed, the comments made by the minister to whom she refers, I'm unable to respond, except by underscoring my own personal view that this is an issue that is important for all Canadians and is not culturally related in its pervasiveness.

**Hon. Carolyn Stewart Olsen:** Honourable senators, my question is to the Leader of the Government in the Senate.

I'm wondering, in Senator Ataullahjan's question, if you would convey to the minister, perhaps, your response and our extreme discomfort with the response given and the comment about it being a cultural difference. Thank you.

**Senator Harder:** I would be happy to make an undertaking to bring to the attention of the minister both senators' questions and, indeed, my response.

## DEMOCRATIC REFORM

### ELECTORAL REFORM

**Hon. Yonah Martin (Deputy Leader of the Opposition):** My question is to the Leader of the Government in the Senate regarding electoral reform.

A first-past-the-post system is the most widely used electoral system in the world, as we know. It is also the voting system that Canadians have used in every federal election since this country was formed in 1867. When provinces in Canada considered changing its electoral systems, they sought consensus from the public through electoral reform referendums: P.E.I. in 2005, Ontario in 2007, and my home province of B.C. in 2005 and 2009. Changing the way Canadians have voted in every federal election for nearly 150 years without directly engaging them with a clear referendum question is simply unacceptable.

When announcing the Liberal plan to change the voting system, the minister of democratic institutions said:

It's time to remind Canadians that they are in charge.

Leader, if the minister and the government truly believe that putting Canadians in charge is what they want to do, will the government take the issue to Canadians in a referendum, like provinces have done with this very same issue?

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for her question and would refer to my response to an earlier similar question, in which I pointed out that, in the course of the last election, the position of the then-leader of the third party was made very clear with respect to electoral reform, not by specific design but by at least recognizing, as he said, that the first-past-the-post system's deficiencies caused him to believe that this should be the last election fought under those rules. The government has put in place, as all senators are aware, a special committee of the other place to consult with Canadians and hear from Canadians and, indeed, even senators on their views on this matter.

I will bring to attention, as I have in the past, the concerns that have been expressed in this chamber on this issue, but I'm sure that this consultation process is one that will engage all Canadians. Indeed, should there be any change that is brought forward, this chamber will have a special role.

**Senator Martin:** On that note, to engage all Canadians would be taking it to the people in a referendum, I would state.

Also, how is the special committee you refer to, the all-party committee, the makeup of which is 60 per cent of the seats being taken up by Liberal MPs, who only earned 39.5 per cent of the popular vote in the 2015 federal election, even democratic?

**Senator Harder:** Well, I won't use the occasion to discuss Senate representation on committees, but I take the senator's point. This is the practice in the other place with respect to the representation on committees. There was an election. This was an election issue. The government is moving forward with its commitment to engage Canadians on this issue. As I said now several times, that engagement, if it does lead to legislation, is one in which this chamber, as well as the other place, will have its views.

### QUEBEC—CLARITY ACT

**Hon. David Tkachuk:** Would the same rules apply to Quebec, to the Clarity Act, simply having a committee travel around the province of Quebec and report to the separatist government of the day?

**Hon. Peter Harder (Government Representative in the Senate):** I think that I would suggest, with respect, honourable senator, that that's a question that would be totally inappropriate for me to speculate on.

**Senator Tkachuk:** That's for sure.

[*Translation*]

## VETERANS AFFAIRS

### PENSIONS AND DISABILITY PAYMENTS

**Hon. Claude Carignan (Leader of the Opposition):** My question has to do with veterans, and since we're talking about the Liberal Party's campaign promises, I'd like to share a quote from the party's election platform:

We will re-establish lifelong pensions as an option for our injured veterans, and increase the value of the disability award.

Honourable senators will surely recall the class action lawsuit that the Equitas Society launched several years ago regarding pensions and other benefits, including lump sum payments. The previous Conservative government and the claimants had agreed to take a break from this lawsuit and work on settling it out of court. However, the deadline for a settlement passed last weekend.

A news story recently revealed that instead of trying to reach a settlement, federal government lawyers have informed the British Columbia Court of Appeal that the lawsuit will resume. What is more, federal lawyers are apparently again arguing that the federal government has no social covenant with or sacred obligation to veterans.

I would remind senators that the former veterans affairs minister, member of Parliament Erin O'Toole, had refuted this argument.

Leader of the Government in the Senate, is the report on this about-face accurate, and is the Liberal Party breaking another of its promises, this time the one it made to injured veterans?

[*English*]

**Hon. Peter Harder (Government Representative in the Senate):** I would like to thank the honourable senator for his question.

The Government of Canada has a very deep commitment to veterans. While I am not, at this stage, able to answer precisely the question that was asked with respect to the quotes from the journal, I would be happy to undertake such an inquiry with the minister responsible and report back.

• (1500)

### LEADERSHIP

**Hon. Percy E. Downe:** Speaking of Veterans Affairs, Senator Harder would have noticed I filed a list of questions about the department.

I hear growing concerns from employees with the department in Charlottetown that they lack the leadership to serve veterans and their families because too many of the senior managers are

located in Ottawa, rather than at the national headquarters in Charlottetown.

As you know, decades ago the government of the day relocated Veterans Affairs to Charlottetown, making it the only national headquarters located outside the National Capital Region. We continue to have a problem with erosion of the senior leadership.

You would know from your time in the position of deputy minister that we have had deputy ministers — Suzanne Tinning and David Nicholson — who actually lived in Charlottetown and went to work there every day. I'm sure when you were Deputy Minister of Foreign Affairs you lived in Ottawa and not Halifax. The deputy minister is very competent. We all know him; he is a former Chief of the Defence Staff. He and a number of senior assistant and associate deputies don't actually live in Prince Edward Island; they live in Ottawa. It's affecting the department: Employees tell me constantly, when I meet them in Charlottetown, that the department lacks the leadership they need.

Could you bring this to the attention of the minister and report back, along with the questions I have provided to you?

**Hon. Peter Harder (Government Representative in the Senate):** I thank the senator for his supplementary question. Indeed, I saw the written question that you tabled and I would use this occasion to report that I encouraged a prompt response. I am sure that the questions that you are asking are ones that will elicit a conversation, I trust, of significance, because you are asking some very important questions.

With respect to the questions you asked today, I indeed make that undertaking.

### FUNDING

**Hon. Yonah Martin (Deputy Leader of the Opposition):** Speaking of veterans, leader, I have another issue that I wish to bring to your attention, and also to ask the veterans' minister about.

In British Columbia, there is a very well-run care facility for veterans, the George Derby Centre, in my city. Decades ago there was a tripartite agreement with Veterans Affairs Canada, the provincial government, which has a health authority that administers care, as well as the George Derby Care Society. The funding follows the veteran. With the passing of World War II and Korean War veterans, the numbers are diminishing in these centres. Some of the veterans' spouses are in these centres but there isn't funding following them, so they are under tight financial constraints. As a result, I think care in those places could be compromised, because whatever happens in the cutbacks impacts the entire facility.

Would you please bring this concern to the minister and ask whether they are looking at important models and care facilities like the George Derby Centre? If more funding is needed, that is exactly what veterans deserve.

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for her question. I would be happy to bring to the attention of the honourable minister the concerns that have been raised.

### DELAYED ANSWER TO ORAL QUESTION

**Hon. Peter Harder (Government Representative in the Senate):** Honourable senators, I have the honour to table, in both official languages, a revised answer to the oral question asked by the Honourable Senator Poirier on April 14, 2016, concerning linguistic duality.

### OFFICIAL LANGUAGES

#### LINGUISTIC DUALITY—REVISED ANSWER TABLED

*(Revised response to question raised by the Honourable Rose-May Poirier on April 14, 2016)*

The Government proposes to return the age range of those required to meet language and knowledge requirements for citizenship back to where it was before 2015 — to those aged 18-54 from the current larger age range of 14-64. This will remove a potential barrier to citizenship for applicants in both the younger and older age groups. For minor applicants, learning English or French and having an adequate knowledge of Canada is already achieved through schooling in Canada. For the older age group (55-64), language acquisition and knowledge of Canada will continue to be supported through a wide variety of integration services available to them.

## ORDERS OF THE DAY

### CRIMINAL CODE

#### BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Runciman, seconded by the Honourable Senator Patterson, for the second reading of Bill S-217, An Act to amend the Criminal Code (detention in custody).

**Hon. Wilfred P. Moore:** Honourable senators, I rise today to speak to Bill S-217, An Act to amend the Criminal Code (detention in custody).

This bill is a response to a tragic event which occurred in St. Albert, Alberta, in 2015. RCMP Constable David Wynn was killed in the line of duty by an individual who should not have

been on the streets due to a lifelong history of crime. As Senator Runciman pointed out, this person was well-known to law enforcement.

He had been previously convicted for assault, assault with a weapon, drug possession, possession of prohibited firearms, breaking and entering, theft and possession of stolen property. He had served two jail terms as an adult.

On the day he took his own life, this individual was facing some 30 charges dealing with four separate offences which included fraud, resisting a peace officer, escaping custody, failure to appear in court, and multiple charges for breaching bail conditions.

With all of these outstanding charges, this person was still granted bail on September 4, 2014, in provincial court in Edmonton. As Senator Runciman has noted, there was no mention of his previous record and his flight risk as demonstrated by his past actions.

Bill S-217 proposes amending the Criminal Code to require the Crown prosecutor to lead evidence of an accused's criminal record and, second, such additional criteria that a judge should consider when granting bail.

Third, Bill S-217 would amend the sentencing provisions to ensure that the court takes into account the reasons the accused was not granted bail when granting credit for time served. This provision was not included in a similar bill introduced in the other place in June 2015.

If these provisions would prevent incidents like the tragic death of Constable Wynn, then I am sure we can come together on a bill such as this. I would like to extend our sympathies to Constable Wynn's family, his wife Shelly and their three sons, Matt, Nathan and Alex. I look forward to hearing the results of our study at committee stage.

(Bill read second time).

REFERRED TO COMMITTEE

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

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

• (1510)

### INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

#### THIRD REPORT OF COMMITTEE—SPEAKER'S STATEMENT—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Housakos, seconded by the Honourable Senator Maltais, for the adoption of the third report of

the Standing Committee on Internal Economy, Budgets and Administration (*Senate budget for 2016-2017*), presented in the Senate on February 25, 2016.

And on the motion in amendment of the Honourable Senator Ringuette, seconded by the Honourable Senator McCoy:

That the Senate postpone debate on the third report of the Standing Committee on Internal Economy, Budgets and Administration (Senate budget for 2016-17) until the full itemized budget has been tabled and distributed to Senators, as well as the detailed Senate expenses for 2015-16, and, five sitting days after it has been distributed, the Senate sit as Committee of the Whole for questions and that the Committee of the Whole sit until all questions by Senators have been answered.

**The Hon. the Speaker:** Honourable senators, I have reviewed yesterday's debates, and I note that Senator Ringuette indicated that a sufficient explanation had been provided by Senator Wells. As such, I consider the point of order resolved, and I thank all honourable senators for their participation.

(Order stands.)

## HUMAN RIGHTS ABUSES IN IRAN

### INQUIRY—DEBATE CONCLUDED

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.

**The Hon. the Speaker:** I wish to inform all honourable senators that if Senator Frum speaks now, her speech will have the effect of closing debate on this matter.

**Hon. Senators:** Agreed.

**Hon. Linda Frum:** Honourable senators, I rise today to close the Senate's 2016 inquiry into the plight of unlawfully detained political prisoners in Iran.

As has been stated by honourable senators repeatedly over the course of this inquiry, the egregious human rights abuses that occur inside Iran's prisons every day must end.

I wish to thank all honourable senators who spoke to this inquiry on behalf of the political prisoners, dissidents, journalists, artists, labour activists, religious and sexual minorities whose cases demand justice. Thank you, honourable senators, for speaking out and for describing in detail the plight of those suffering some of Iran's worst cases of human rights abuses.

I also owe a debt of thanks to Maryam Nayeb Yazdi, a dedicated human rights activist based in Toronto, who has devoted much of her own young life to promoting justice for oppressed people in Iran. Her assistance on this inquiry was invaluable.

As was stated during our inquiry — the promotion of justice for the Iranian people is an issue that unites Canadians and the Senate of Canada.

We here in the Senate of Canada are of one mind and one voice when we denounce the judicially sanctioned and politically motivated jailing, rape, torture, flogging and murder of Iranian dissidents. We here in the Senate of Canada are united and of one mind and one voice when we demand the release of Iran's unlawfully incarcerated political prisoners. We are of one mind and one voice when we say to the families and to the prisoners themselves: You are not forgotten. Your names are known and recorded for the record in the Senate of Canada. Your humanity, your human rights, your courage, your suffering is recognized. We stand in solidarity with you while expressing our outrage and disgust at your corrupt judiciary and despotic government.

The Senate of Canada stands with you. You are not forgotten. Thank you.

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

(Debate concluded.)

## THE SENATE

### ROLE IN THE PROTECTION OF REGIONAL AND MINORITY REPRESENTATION—INQUIRY— DEBATE ADJOURNED

**Hon. Judith Seidman** rose pursuant to notice of May 10, 2016:

That she will call the attention of the Senate to its role in the protection of regional and minority representation.

She said: Honourable senators, in 1864, our predecessors gathered in Charlottetown and Quebec to consider proposals for a union of the British North American colonies. During these conferences, the Fathers of Confederation drafted, debated and negotiated the constitutional resolutions that would lead to Confederation in 1867. Casual students of Canadian history may be surprised to learn that it was the issue of the upper chamber — the Senate — that dominated these discussions. During the Quebec conference, 6 days out of 14 were devoted to discussing the second chamber.

Our founders considered the purpose of the upper chamber to be of critical importance to the parliamentary structure they envisioned. Achieving consensus was complicated and generated substantial debate.

The result, as we know, is a Constitution which gives the Senate two distinct tasks: The first is to act as a counterbalance or check for the cabinet and Commons. Our founders recognized the importance of protecting the right to political dissent from possible attacks by a majority embodied in the House of Commons. The second is to represent the regions of Canada at the federal level.

It was the second element — regional representation — that ultimately formed the cornerstone of the agreement during the Confederation debates. The Senate was structured to counter the effect of representation by population in the lower house, which gave Quebec and Ontario significant political advantage. During debate, legislators from the Atlantic regions, and later from British Columbia, argued that their provinces would be reduced to “quasi-colonial status” under a representation-by-population system.

- (1520)

**Senator Moore:** They are always right.

**Senator Seidman:** The Senate and the promise of an equal, regional upper house alleviated these concerns.

It is worth repeating that regional second chambers are the norm among mature democracies, especially among federations. Of the 24 contemporary federations, only two are without regional second chambers. A primary function of the majority of second chambers is legislative review, and the number of chambers that perform reviews is on the increase. A second major role for second chambers is to represent regional interests at the federal level.

The American Senate offers an interesting comparison on this point. Each state is allowed two senators, regardless of population, giving underpopulated states an advantage. We know that the Fathers of Confederation looked to the American Senate as an example. However, they made a significant distinction: The Quebec Resolutions of 1864 allocated seats by region, not by province.

This distinction, and the concept of regional and minority representation, will be the focus of my remarks. I thank the late Senator Nolin for not only laying the groundwork in debate so far, but for encouraging us to engage in our history and, in so doing, to reflect upon the role of this place — and our place — in the Parliament of Canada.

Honourable senators, the words of George Brown illustrate the notion of the Senate as the linchpin of Confederation:

. . . the very essence of our compact is that the union shall be federal and not legislative. Our Lower Canada friends have agreed to . . . representation by population in the Lower House, on the express condition that they shall have equality

in the Upper House. On no other condition could we have advanced a step; and for my part, I am quite willing that they should have it.

The Quebec Resolutions defined three regions of the new union: Upper Canada, Lower Canada and the Maritime provinces, assigning each 24 senators. To reflect new additions to Confederation, 33 Senate seats were added for the West, Prince Edward Island, Newfoundland and Labrador, and the territories between 1867 and 1999.

The Fathers of Confederation made a conscious choice not to replicate the American Senate’s allocation of seats by state. Scholar David E. Smith explains:

For their part, the Fathers of Confederation did not envision the Senate acting as a House of the Provinces. . . . appointed for life by the governor-in-council, Canadian senators were in a position to be independent of provincial governments, of the people of the provinces, and of public opinion in the country.

How, then, did the Fathers of Confederation come to agree on this vision of the Senate as a regional body rather than a provincial one?

We can start with the fact that Canada’s founding legislators were well-versed in the constitutional history and theoretical texts of their time. They were particularly familiar with the British parliamentary tradition, as we know. They read British newspapers and accounts of debate in British Parliament. However, they also looked carefully at the American example and understood well the benefits of their position of hindsight.

John A. Macdonald had this to say about the American system:

We are happily situated in having had the opportunity of watching its operation, seeing its working from its infancy till now. It was in the main formed on the model of the Constitution of Great Britain, adapted to the circumstances of a new country, and was perhaps the only practicable system that could have been adopted under the circumstances existing at the time of its formation. We can now take advantage of the experience of the last seventy-eight years during which that Constitution has existed, and I am strongly in the belief that we have in a great measure avoided in this system which we propose for the adoption of the people of Canada the defects which time and events have shown to exist in the American Constitution.

One of these “defects,” as Macdonald saw it, was the fact that each state entered into the American union as a separate colony, with no connection to each other and only a cursory connection to the centre. Macdonald said:

Ever since the Union was formed the difficulty of what is called “State Rights” has existed, and this had much to do in bringing on the present unhappy war in the United States.

He was referring, of course, to the Civil War, which would end in May of that year, 1865.

John A. Macdonald saw the American Constitution as an incredible achievement, but that did not prevent him from seeing the vulnerabilities of a federation stymied by state interests. The Canadian proposal, he argued, would be less prone to conflict:

We thereby strengthen the central parliament and make the confederation one people and one government, instead of five peoples and five governments with merely a point of authority connecting us to a limited and insufficient extent.

The central Parliament would be made strong, because it would be responsible for “all the great subjects of legislation,” while the “local interests and local laws of each section are preserved intact and entrusted to the care of local bodies.”

It then comes as no surprise to learn that the Senate was not meant to be a “house of the provinces,” but rather one house of federal Parliament, occupied by members who contribute a perspective that is at once regional and national.

Macdonald — ever the champion of a united Canada — thought that this fine balance between region and federation, minority and majority, was the pinnacle of success. With the agreement of Confederation, he said:

We have . . . avoided that great source of weakness which has been the cause of the disruption of the United States. We have avoided all conflict of jurisdiction and authority . . . .

It is important to consider the effort behind these words: The Fathers of Confederation were determined to find a middle ground to ensure that diverse interests were protected within a strong central government. The House of Commons, for all its democratic legitimacy, could not, for reasons of representation by population, truly reflect the diversity of the country. Instead, the Senate was entrusted to contribute a unique perspective that considers both regional and national interests.

Honourable senators, the legitimacy of the Senate as a regional body was called into question soon after Confederation. Some have argued that the Senate would have been better equipped to represent the regions if the provincial governments appointed senators. As we know, there is a long history of provincial representatives calling for increased influence over the selection process. Some argued that other institutions provide a stronger regional voice on the national stage, making the Senate obsolete.

In November 2013, Saskatchewan Premier Brad Wall argued that “the provinces have filled a vacuum left by a senate,” and that “the de facto balance to a federal government is the provincial governments of this country.”

Premier Wall’s interpretation of regional representation contrasts with the vision for the Senate the Fathers of Confederation had. Regions and provinces are not the same,

nor do they represent the same interests. Former Quebec politician and professor, Gil Rémillard, explains:

The Fathers wanted to assign the Senate the important function ensuring that minorities, originally the Anglophone population of Quebec and Francophone minorities in other provinces, would be represented in the Senate.

In Quebec, there are 24 electoral districts and a number were chosen “for the Anglophone minority that composed them.”

Rémillard concludes:

Results enabled senators to be representative of the minorities and to speak in that capacity in the debates and proceedings of the Senate.

Honourable senators, as we all know, Canada is a vast country, with variations in culture, language and identity. The Fathers of Confederation recognized a fundamental need to accommodate for differences within a federation. In 1865, George Brown identified the need to recognize a “diversity of interests” by way of an upper chamber. The recognition of diversity of interests extends not only to units of the federation, the provinces, but also to differing interests within each province. Brown explained:

In maintaining the existing sectional boundaries and handing over the control of local matters to local bodies, we recognize, to a certain extent, a diversity of interests; and it is quite natural that the protection for those interests, by equality in the Upper Chamber, should be demanded by the less numerous provinces.

• (1530)

An example of differing interests within each province can be found in the English-speaking communities of Quebec. The largely urban English-speaking minorities, which number approximately one million, have a reduced chance at representation in provincial government. The Senate, built to protect a diversity of interests, offers the opportunity through the appointment process to provide English-speaking minority communities with representation at the federal level. The very same protection applies for the roughly one million French-speaking people in minority communities across every region of Canada.

Premiers are elected by a majority in their province and may be less able to play the role of protecting a diversity of interests. Instead, they are champions of the essential interests of their province, and they do not possess dual vision: the opportunity to consider both provincial and national interests. Professor Janet Ajzenstat identified the strength of dual vision when she explained:

. . . the local interest cannot be neglected, but neither can the responsibility to consider local interests in the context of the national good. Note that there is no similar dilemma for the premiers in their role as provincial champions.

Honourable senators, for those who argue that the Senate has not done its due diligence as a regional body and representative of minorities, I would remind them of a recent study conducted in 2010 by the Standing Senate Committee on Official Languages of the realities of English-speaking communities in Quebec, particularly the various aspects affecting their development and vitality. The result is a report subtitled *From Myth to Reality*, which reflects the unique social, political, economic and cultural perspective of English-speaking minorities in Quebec and offers the federal government recommendations on how best to serve one of our official minority language communities. This study is the embodiment of the representation and validation of regional minority communities at the federal level.

Our founders considered the role of the upper chamber to be of critical importance in protecting the diversity of interests.

**The Hon. the Speaker:** Excuse me, Senator Seidman. Your time has expired. Are you seeking leave for five more minutes?

**Senator Seidman:** Yes.

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

**Hon. Senators:** Agreed.

**Senator Seidman:** To review their debates is to understand the complexity of their deliberations. The Senate, as envisioned by our predecessors 152 years ago, must continue to fulfill its duty as intended by the Fathers of Confederation.

**Hon. Pierrette Ringuette:** Would the honourable senator please answer a few questions?

**Senator Seidman:** Yes.

**Senator Ringuette:** I listened to your speech with regard to regional minorities, and you indicated the anglophone community in Quebec. How do you see the 24 senatorial ridings allocated in the Constitution for Quebec being played out with regard to the issue of minority language rights?

**Senator Seidman:** Thank you for the question, senator. I believe it was Professor Gil Rémillard who used that as the example of the important role of the Senate. I quote him in my speech saying that, originally, the 24 electoral districts created in Quebec had as their intent that several of those districts would represent the English-speaking minorities in Quebec. As well, of course, the various representatives from the other regions of the country would be used to represent the francophone minorities in those regions.

**Senator Ringuette:** Are you implying that if senators from Quebec in each of those senatorial regions have an issue if they are to represent that senatorial region, then maybe the issue is more than having \$4,000 worth of land?

**Senator Seidman:** Senator, I'm not sure I really understand the question as far as it concerns \$4,000 worth of land. The issue has to do with representation at the federal level, which was the whole point. The point was that representation by population and election to the House of Commons, an elected body, would not necessarily ensure that a small minority in Quebec, one million people who speak English, would be represented in the House of Commons. But there was a certain degree of assurance in creating the Senate that there was a special role to represent minorities in the Senate.

(On motion of Senator Fraser, debate adjourned.)

(The Senate adjourned until Thursday, May 19, 2016, at 1:30 p.m.)

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