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The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Wednesday, February 26, 2020

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

Prayers.

SENATORS' STATEMENTS

2020 ONTARIO WINTER GAMES

Hon. Gwen Boniface: Honourable senators, the Ontario Winter Games kicks off tomorrow in my home community of Orillia, which has the honour to host this event for the second time. Over the course of the next four days, more than 3,000 young athletes will compete in 27 different sports at venues in Barrie, Oro-Medonte, Rama and Severn.

These athletes, between the ages of 12 and 18, will compete in such events as biathlon, field hockey, karate, fencing, kick-boxing, sledge hockey and wheelchair curling to name a few.

It is an honour for Orillia to host this exciting sporting event and to have the opportunity to showcase our beautiful and vibrant community. The 2020 Ontario Winter Games will attract not only thousands of participants, coaches and officials, but an estimated 5,000 spectators from all over the province.

For the first time in its history, the games are projected to be at capacity. This is expected to have a tremendous impact on the local economy. It is anticipated that \$5 million will be generated.

The Games Organizing Committee, which is made up of community leaders, have been hard at work to make this year's games a reality. As with all large-scale events of this type, it would not be possible without the tremendous efforts of more than 800 volunteers. The theme of the 2020 games is "Inspired: The Road to Gold." Ontario Winter Games enthusiasts will recognize the mascot "Pachi," who has also been the head cheerleader for other games. He dons the colours red, green and blue, which represent inspiration, opportunity and community.

During the opening ceremony's festivities, the crowd will be entertained by performances from the Mnjikaning Kendaaswin Elementary School Choir, the Orillia Legion's Pipes & Drums, and local band The Free Label. A mural commissioned by a local artist will be unveiled, which will be permanently housed inside Orillia's new state-of-the-art recreation centre.

Honourable senators, please join me as I cheer on the province's young athletes and extend my best wishes for a successful event full of examples of sportsmanship, the pursuit of excellence and provincial pride. Thank you, *meegwetch*.

THE LATE ROBERT H. LEE, O.C., O.B.C.

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, we lost a great Canadian, a philanthropist, business leader and pioneer of Vancouver's Chinese community, namely, Robert Horne Lee. Robert Lee was born in Vancouver

on June 25, 1933, the sixth of seven children born to Ron Bick Lee and his wife King Choon. He spent his formative years in Vancouver's Chinatown. Senators, you will note that in 1933, the Chinese in Canada were deemed alien, not Canadian citizens, even if they were born in Canada.

This would change after World War II, in 1947, thanks to Canadian-born Chinese heroes like Douglas Jung, who went to war for Canada and became the first Chinese Canadian member of Parliament and who fought for the rights of all Asians across Canada to be Canadian citizens.

From humble beginnings, Robert Lee became a respected leader in the Vancouver business community, building companies such as Wall Financial and Prospero Realty. He was a generous philanthropist, supporting many projects and activities of the Chinese community in Metro Vancouver and other deserving causes, as evidenced by one such project, the Robert Lee YMCA Centre in downtown Vancouver.

Equally impressive was his support of the University of British Columbia, as a proud alumnus. He was Governor and later Chancellor of UBC and chairman of the UBC Foundation. His tremendous legacy is the UBC Properties Trust, which will secure UBC's future in the form of a \$1.7 billion endowment, expected to grow to \$4 billion. Former UBC President Martha Piper called him "Mr. UBC, the university's BFF." I, too, am a proud UBC alumna and honoured to be associated with Robert Lee and our alma mater.

His business leadership and commitment to community service have been recognized at the highest levels. He was awarded the Order of British Columbia, as well as the Order of Canada.

Honourable senators, the late Bob Lee leaves a great legacy of entrepreneurial success and philanthropy. He will be long remembered as we gather in the state-of-the-art architectural space of the Robert H. Lee Alumni Centre and by Sauder students who enroll in the Robert H. Lee Graduate School he inspired.

The late Robert Lee is a pioneer in the truest sense of the word. He dismantled barriers, achieved success in business, earned much respect through philanthropy and left a great legacy.

• (1410)

Honourable senators, please join me in remembering a model Canadian and expressing our sincere condolences to his beloved wife, Lily, and children Carol, Leslie, Derek and Graham.

Hon. Senators: Hear, hear.

THE LATE JAMES “JIM” GICZI

Hon. Pat Duncan: Honourable senators, I rise to pay tribute to a Yukoner — a Canadian who might have thought that what he did was ordinary in the course of his duties as an RCMP officer, ordinary in the role of a husband and father, ordinary for a member of the Oldtimers Hockey League, Jim Giczi was truly extraordinary.

September 6, 2019, was a gorgeous day in the Yukon. Sergeant Jim Giczi and friends went for a motorbike ride along the beautiful Klondike Highway.

En route home, Jim, alone on his bike behind his companions, suffered a medical event. Despite the best efforts of well-versed medical personnel who were relatively close by, Jim passed away.

Losses are always difficult, especially with someone who is only 56 and starting to think about retirement. Jim’s passing was especially hard for the Yukon community.

As I began to speak, I used the term “extraordinary.” Let me tell you why. My first encounter with Jim was when I served as a member of the Yukon Legislative Assembly. Giczi, as we knew him, appeared in my office in his shirt and shorts. Whenever and wherever you saw Jim, no matter what the temperature, he would be in shorts.

At that time, Jim was lobbying on behalf of the community of first responders for changes to legislation to require testing of blood samples of accused who had bit or spat upon a first responder, in order that, if necessary, they could start treatment.

Sergeant Jim Giczi, a 28-year member of the RCMP, was the head of the Forensic Identification Section in the “M” Division of the RCMP in Whitehorse. In 2007, in the course of an investigation, Jim could not match a tire track to the make and model of the tire. The software available to him did not come up with a match.

Jim made it a personal hobby — a passion — to create a new database that would enable police to match patterns to makes and models of tires. That personal hobby became the sole search database that the Canadian Police Information Centre uses to search any crime scene impressions found anywhere in Canada by any police department. Jim’s personal hobby was instrumental in catching former Colonel Russell Williams in 2010. In 2015, Jim was awarded a Meritorious Service Medal by the Governor General for his work.

Jim’s extraordinary service was not only through his work. A devoted husband to Tanis and father to Zach and Alex, he was that co-worker who was first in the door when someone returned from sick leave, the one to offer his support.

Jim was about the community as a whole, and the community remembered him in a rather out-of-the-ordinary way. We gathered in a large gym at a local school. There was an honour guard with the RCMP in their red serge. The rest of us, as per Tanis’s request — and probably Jim’s wishes — were in our shorts and hockey jerseys.

The Oldtimers Hockey League began their season shortly after the service with a small patch on their jersey with the initials “JG.” Hockey jerseys, shorts and music that included AC/DC — you can guess the song — we mourned the loss of a truly extraordinary member of our community. It helped us to know that it was the way Jim would have wanted it, and it reflected who he was — extraordinary. Thank you, senators. *Mahsi’cho*.

Hon. Senators: Hear, hear.

THE LATE NOEL BROWNE

Hon. Elizabeth Marshall: Honourable senators, I rise today to pay tribute to Noel Browne — psychologist, leader, mentor, colleague, supporter of the disadvantaged and a compassionate human being. Noel passed away on February 16 at the age of 73.

Noel spent the majority of his adult life working with, and advocating on behalf of, persons with special needs, the intellectually disabled and the underprivileged.

I first met Noel in 1988 when I joined the Department of Social Services in Newfoundland. At that time, he was leading the program within our province to deinstitutionalize persons with disabilities by supporting them to ensure they could live in the community, with their families, in individualized living arrangements or within group homes. Newfoundland was considered a leader in this area, and at that time many jurisdictions visited the department to see what Noel was doing.

Noel was able to bring together departmental staff, non-profit organizations, the community and families to ensure that individuals with special needs could live within, and contribute to, society. He was a force to be reckoned with. That being said, he had a gentle character and a great sense of humour. He touched many lives — not only those with disabilities and their families, but those Noel worked with and those who knew him. He left his mark wherever he went. We are richer for having known him.

Honourable senators, please join me in acknowledging Noel’s contribution to society and in extending condolences to his family.

WHALE SANCTUARY PROJECT

Hon. Patricia Bovey: Honourable senators, I rise to pay tribute to Dr. Lori Marino and the Whale Sanctuary Project, who announced on February 25, 2020, that a site has been chosen for the first seaside sanctuary in North America for whales being retired from entertainment parks.

I would like to congratulate the community of Port Hilford in the province of Nova Scotia for being selected as the ideal place for this sanctuary, after an exhaustive search involving hundreds of locations. The community is excited and honoured to have been chosen, and it has support from the Nova Scotia government as well.

This sanctuary will house belugas and teach a positive message to us all about whales and the relationship we have with them, as well as the respect we owe them as highly intelligent, emotionally sensitive and socially complex animals.

As one who has lived in two provinces with their oceans and whales, I would like to note that the genesis of this tremendous achievement began here in this chamber with the introduction of Bill S-203 by our former colleague Senator Wilfred Moore and the subsequent sponsorship of Senator Murray Sinclair, which passed in the other place last year. I would like to thank all those senators who supported this legislation and Canadian across this country who refused to take “no” for an answer when it comes to the captivity of these majestic animals. I look forward to the day when we see the first whale find its new home in the sea, and to furthering our more respectful relationship with our environment in the years to come. Thank you.

Some Hon. Senators: Hear, hear.

ROUTINE PROCEEDINGS

PARLIAMENTARY BUDGET OFFICER

SUPPLEMENTARY ESTIMATES (B) 2019-20—REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the report of the Office of the Parliamentary Budget Officer entitled *Supplementary Estimates (B) 2019-20*, pursuant to the *Parliament of Canada Act*, R.S.C. 1985, c. P-1, sbs. 79.2(2).

[*Translation*]

ADJOURNMENT

NOTICE OF MOTION

Hon. Raymonde Gagné (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 Tuesday, March 10, 2020, at 2 p.m.

[*English*]

INTER-PARLIAMENTARY UNION

ASSEMBLY AND RELATED MEETINGS, OCTOBER 11-17, 2019— REPORT TABLED

Hon. Salma Atallahjan: Honourable senators, I have the honour to table, in both official languages, the report of the Inter-Parliamentary Union concerning the One hundred and Forty-first Assembly and Related Meetings, held in Belgrade, Serbia, from October 11 to 17, 2019.

[*Translation*]

PARLAMERICAS

PLENARY ASSEMBLY AND MEETING OF THE BOARD OF DIRECTORS, OCTOBER 30-NOVEMBER 1, 2019— REPORT TABLED

Hon. Rosa Galvez: Honourable senators, I have the honour to table, in both official languages, the report of the ParlAmericas concerning the Sixteenth Plenary Assembly and Forty-ninth Meeting of the Board of Directors, held in Asunción, Paraguay, from October 30 to November 1, 2019.

• (1420)

[*English*]

THE SENATE

NOTICE OF MOTION TO URGE THE GOVERNMENT TO SUPPORT THE GENUINE AUTONOMY OF TIBET

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

That the Senate urge the Government of Canada to actively support the genuine autonomy of Tibet and, consequently, to also call for the People’s Republic of China to:

- (a) renew the Sino-Tibetan dialogue in good faith and based on the Middle Way Approach;
- (b) respect the religious rights of the Tibetan people and stop interference in the process of recognizing a successor or reincarnation of the 14th Dalai Lama;
- (c) respect the linguistic rights, freedom of movement, thought and conscience of the people in Tibet;
- (d) free all Tibetan political prisoners, including the youngest political prisoner Gendhun Choekyi Nyima (Panchen Lama), and cease all arbitrary detention of dissidents;

- (e) grant Canada reciprocal diplomatic access to Tibet without limitations; and
- (f) protect the Tibetan Plateau that serves as Asia's water tower, feeding over a billion lives in Asia; and

That the Senate urge the Government of Canada to raise Tibetan issues at every opportunity with China with a view to taking the additional steps necessary to deescalate tensions and restore peace and stability in Tibet.

QUESTION PERIOD

AGRICULTURE AND AGRI-FOOD

BLOCKADE PROTESTS—RULE OF LAW

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, my question is for the government leader in the Senate.

Leader, at a press conference yesterday, agricultural groups from across Canada, including representatives from the Canadian Federation of Agriculture, the Canadian Pork Council, the Chicken Farmers of Canada, Fertilizer Canada, the Agricultural Producers Association of Saskatchewan and Quebec's union of agricultural producers united together to show how the rail blockades are devastating our agricultural sector.

Mary Robinson, President of the Canadian Federation of Agriculture, pointed out that farmers cannot continue to have their livelihoods held hostage every time a group wants to put pressure on governments. She stated:

If these blockades continue, we will soon reach a point where we can no longer acquire propane to heat barns or feed for animals.

Leader, farmers in some regions have only six to nine days of propane reserves remaining. How much longer do our farmers have to wait for the rail blockades to end?

Hon. Marc Gold (Government Representative in the Senate): Thank you very much for your question, honourable senator. The situation that we're facing, as well as farmers and consumers, is really a serious one and the Government of Canada is seized with this issue. Senators know arrangements continue to be organized between the rail carriers and other modes of transportation in an attempt to minimize the impact on Canadians. I am advised the government is working diligently to try to resolve these issues in an appropriate and expeditious manner.

As I have been at pains to say on many occasions in this chamber, however, the underlying issues that are giving rise to these are difficult and intractable. It is impossible, regrettably, to offer a timeline as to when all of these may end or where others may not appear.

Senator Plett: On the subject of "working diligently," when our farmers work diligently they produce crops and they produce food, but they need propane. The Prime Minister saying "we are working diligently" just isn't cutting it, leader. One by-product of the rail blockades is the harm to Canada's reputation as a reliable business partner.

Again, Mary Robinson of the Canadian Federation of Agriculture stated:

If countries cannot rely on Canada to honour their agreements, they will soon seek out other, more consistent trading partners.

Shipping lines are diverting cargo from Halifax and into the United States. Apple farmers have been told by purchasers that they will be forced to source apples elsewhere.

Last week alone, leader, exports of wheat from Vancouver dropped a whopping 68%. The grain industry is losing \$9 million a day while we are working diligently doing nothing.

Leader, despite all this, we still don't see a sense of urgency at all from the Prime Minister. What concern does your government or the Prime Minister of Canada have, if any, on the long-term impact these blockades are having on our international trade?

Senator Gold: Thank you for your question. I think the activities and actions of this government in the sphere of international trade and concern for Canada's reputation and viability as a reliable trading partner can be underscored with reference to the international trade agreements that we've entered into and to many other initiatives. This government is seized with this issue and is concerned, as we all are, with the impact on Canadians.

It is impossible, however, to resist observing that there are many different forms of action. And when Canadians demonstrate peacefully and legally, however inconvenient that may be, in Canada our response is and should be to acknowledge and deal with that in an appropriate way. It is not an appropriate response, and the Government of Canada has not chosen to take the response of meeting legal and peaceful protest with inappropriate direction of police action.

Where blockades were illegal and injunctions sought, this government acted appropriately in seeking peaceful solutions and not overstepping its constitutional role in directing police as to how to do their job.

NATURAL RESOURCES

ENERGY SECTOR

Hon. Yonah Martin (Deputy Leader of the Opposition): Leader, I fail to understand how burning tires on tracks, as trains are passing, is legal.

In any event, you talk about Canada's relationship with the world. There is great concern with those relationships. Here at home, for instance, Frontier mine from Vancouver-based Teck Resources is one in a long list of projects cancelled since the

Liberals formed government in 2015, including Northern Gateway, Energy East, Pacific NorthWest LNG and Aurora LNG.

In the days before Teck withdrew its application, Minister of Environment Jonathan Wilkinson said that cabinet may choose to delay its decision on the project. This government has a history of death by delay; for example, in the case of the Pacific NorthWest LNG Project near Prince Rupert, a decision was delayed and the project eventually cancelled.

Senator Gold, the joint review panel submitted its report to your government last July, which confirmed that Frontier mine is in the public interest. That was seven months ago. Why didn't your government act quickly to make a decision and give Teck the certainty it needed to proceed with this project?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. To be clear, I was not making any reference or characterizing one form of protest or another as legal or illegal, so your comment, I think, was unnecessary.

As I stated in the chamber yesterday and as the CEO of Teck announced, they made a business decision based upon the overall framework within which these issues are being dealt with in Canada. They made a business decision for a number of reasons, including pressure from their investors to make sure that their activities were profitable, and also with regard to the framework in Canada, which is not the exclusive responsibility of one level of government but engages all levels of government, territories and Indigenous communities to make sure that there is a proper framework within which sustainable energy and resource development can work alongside our commitment and the necessity for reducing and transitioning to a lower-carbon economy. That was the decision made and announced by the CEO of Teck, and I have nothing more to add to that.

• (1430)

Senator Martin: Leader, there were months of delay, and I'm sure that is one of the main reasons the decision was made. This government's approval of the Frontier project would have helped restore confidence in our energy sector and the hundreds of thousands of jobs it provides for men and women all across the country.

Leader, if your government truly supports our energy sector, could you explain why Liberal caucus members in the other place spoke out publicly against the Frontier mine while it was still before cabinet for review? And if your government truly believes in the future of our energy sector, why was your government reportedly preparing a so-called aid package for the province of Alberta in the event that cabinet rejected the Frontier mine proposal?

Senator Gold: Thank you for your question. This government, by its actions, whether regarding Trans Mountain or other projects, clearly demonstrates its commitment to try to find a balance between sustainable and responsible resource development and the attainment of our goals with regard to climate change.

With regard to the reference to planning around providing assistance to those who are burdened, generally, by the downturn in the oil industry and others, it is the responsibility of government — indeed, the demand of provincial governments — for the federal government to come to the aid of their communities when circumstances so require. So it is the position of the government that it was a responsible position to start to make plans in the eventuality that decisions would have a negative impact on particular sectors within particular regions.

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

RIGHTS OF INDIGENOUS WOMEN

Hon. Mary Jane McCallum: Honourable senators, my question is for the Government Representative in the Senate and deals with concerns of the Wet'suwet'en hereditary chiefs regarding the Coastal GasLink project.

In issuing their permit in 2019, the Environmental Assessment Office failed to conduct an assessment of risks this project will pose to Indigenous women. As we know, the Charter of Rights and Freedoms applies to government laws and actions. This includes the actions of federal, provincial and municipal governments.

As the provincial government is equally beholden to upholding the Charter, why are they allowed to shirk their section 7 responsibility to provide "security of the person and the right not to be deprived thereof" for these women so that they are not subjected to violence through the presence of these manned camps? Also, what specific actions will the federal government take to uphold these section 7 Charter rights for these women, who exist under the insufficient actions of provincial jurisdiction?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your questions, senator. The role of the federal government in relation to matters within provincial jurisdiction is a rather complicated and controversial one. It's the position of this government that Charter rights need to be protected at all levels of government and in all respects of state and government action. However, it is not within the jurisdiction of the Government of Canada to intervene in matters that are within provincial jurisdiction, even where Charter rights are implicated.

DEMOCRATIC INSTITUTIONS

GENDER PARITY IN THE HOUSE OF COMMONS

Hon. Donna Dasko: Honourable senators, my question is directed to the Government Representative in the Senate.

A century after gaining the right to hold federal public office, women in Canada remain significantly under-represented in the House of Commons, holding only 29% of the seats after the 2019 federal election compared to women representing just over 50% of our population.

Back in 1981, Canada proudly ratified the United Nations Convention on the Elimination of All Forms of Discrimination Against Women. Article 7 of the convention commits Canada to ensuring that women have equality in political life, meaning equal representation in results, not just participation. Article 4 of the convention authorizes measures, including numerical goals and timetables, to achieve this.

The United Nations committee that oversees the convention known as CEDAW has pressed Canada from the very beginning to bridge the persistent representation gap to achieve equality. Canada is now due to file its tenth periodic report to CEDAW this fall.

My question is as follows: When will the federal government proceed with legislated, enforceable numerical goals and timetables to achieve equality between men and women elected to the House of Commons?

Hon. Marc Gold (Government Representative in the Senate): Senator, thank you for your question. It's hard not to be struck by the difference between representation of women in the other place and here in the Senate, where we benefit from not only an appointment process but a commitment to achieve gender parity and diversity in this chamber.

Our current electoral system in the House of Commons, which is first-past-the-post and otherwise an open democratic process, does not and cannot guarantee any particular result, either partisan or in terms of social or gender diversity. To the best of my knowledge, the current government does not have plans to change the electoral system to so prescribe.

ETHICS AND CONFLICT OF INTEREST FOR SENATORS

BUSINESS OF THE COMMITTEE

Hon. Pamela Wallin: Honourable senators, my question is for the chair of the Standing Committee on Ethics and Conflict of Interest for Senators.

Senator Sinclair, the Senate Ethics Committee's first report calls upon Senator Beyak to promptly comply with the terms of her suspension. I may have a second, follow-up question also, but my concern here —

The Hon. the Speaker: Senator Wallin, I'm sorry for interrupting you, but you have to be careful that you're not asking about the contents of the report but only the activities of the committee.

Senator Wallin: I am trying to get there regarding the activities of the committee, as reflected in the motion put forward by Senator Black yesterday that the committee reconsider this.

My concern is that the timelines and requirements for this whole process — and this is what I'm asking the committee to reconsider — be fair, realistic and clear. For example, the recommendation says that within 30 days after we vote in this chamber, the Senate Ethics Committee must develop and deliver a training program with outside expertise. There is no existing template or criteria for success.

I don't know whether this could be completed by Senator Beyak or the Senate Ethics Officer in such a narrow time window, without clarity —

The Hon. the Speaker: I'm sorry for interrupting you, Senator Wallin. You're now speaking about the report, and under rule 4-8, that's not permissible.

Senator Wallin: We are led to believe that a more fundamental problem may be that this is even outside the terms of reference for the Senate Ethics Officer, so would it be possible for the Senate Ethics Committee to reconvene, set more exact guidelines and a different timeline for the recommendations of this committee to be achieved?

Hon. Murray Sinclair: With all due respect, I interpret that question to be calling upon me to respond to the issue Senator Black raised with regard to his motion to reconsider, so I will decline to answer the question.

Senator Wallin: I have a supplementary question. Do you believe, Senator Sinclair, that everything that has been asked of the Senate Ethics Officer is within his mandate?

Senator Sinclair: I will take the same position with regard to that question as well.

NATURAL RESOURCES

REGULATORY FRAMEWORK

Hon. Larry W. Smith: Honourable senators, my question is for the government leader in the Senate.

• (1440)

Senator Gold, in your response to Senator Plett yesterday, you arbitrarily quoted a portion of the letter from Teck Resources Limited CEO Don Lindsay to the federal environment minister. You said:

... global capital markets are changing rapidly and investors and customers are increasingly looking for jurisdictions to have a framework in place that reconciles resource development and climate change, in order to produce the cleanest possible products.

Reading further would highlight Mr. Lindsay's concern over the lack of regulatory clarity around energy projects in Canada. The very next sentence from that portion of the letter reads:

This does not yet exist here. . .

In other words, there is no plan that exists in Canada at this present time. The letter continues:

... and unfortunately, the growing debate around this issue has placed Frontier and our company squarely at the nexus of much broader issues that need to be resolved.

He went on to say:

The promise of Canada's potential will not be realized until governments can reach agreement around how climate policy considerations will be addressed in the context of future responsible energy sector development. Without clarity on this critical question, the situation that has faced Frontier will be faced by future projects and it will be very difficult to attract future investment, either domestic or foreign.

As the senator mentioned earlier, many projects have been cancelled to the total of \$100 billion in the last four years.

Senator Gold, how do you respond to criticisms that your government does not have a plan that reconciles business investment and climate change? What message does this send to investors about the Canadian regulatory climate?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question, senator. It is the position of this government that it does have a framework within which, at least within its jurisdiction, it can properly accommodate resource development in a sustainable way in order to achieve climate goals.

In addition to the legislative framework that was passed in the last Parliament, the government is working with territories, premiers, stakeholders and rights holders in order to find the appropriate ways that we can accommodate the development of our resources in both a sustainable way and a way that respects the interests and rights of all of those who have a stake in those projects.

It is a fact, however, that resource projects such as Teck require a constellation of factors, not least of which is the price of oil and not least of which is the expectation of their investors. In the letter to which you referred and to which I referred yesterday and in the coverage of the press that is surrounding this issue, of which senators must surely be aware, those issues are highlighted as significant determinants as well of the decision of Teck.

Senator Smith: Just a couple of points, senator, please. Bill C-69 and Bill C-48 are the bills that are supposed to set up a regulatory framework. Bill C-69 actually does something that is questionable at this time because of the complexity of that legislation.

However, let's be honest. With Bill C-48, if you don't have the ability to get your oil on a ship and over to Asia, it's not going to get there. Let's be straight about trying to get a plan that is logical and balances the economic and climate change issues, and we can move forward. As the president in his letter said, it doesn't exist. By the way, you didn't mention that he said that in the letter because it would have given more clarity to your discussion with Senator Plett yesterday.

It's very important for us to flesh out these issues and get the straight goods from you and the government. I'm not trying to be partisan here. I'm trying to be logical as a business person

because those are the types of questions we used to ask with projects. What's the conclusion going to be? Is there a plan? Can you help me?

Senator Gold: Thank you. I thought that I was clear yesterday.

Some Hon. Senators: No.

Some Hon. Senators: Yes, you were.

Senator Gold: I thought that I was clear yesterday in describing the framework within which these decisions are made in Canada, but I also wish to underline some of the other considerations that enter into a business decision such as Teck was forced to take.

An analyst at Scotia Capital wrote in the *National Post* earlier this week that, given the lower market expectations for future oil prices, he described a very low probability to the chance of the Frontier mine being built and gave it zero value in its financial modelling.

As a former business person and investor myself, when I'm faced with the prospect of investing serious money over time, if an analyst with whom I have faith says there is a zero probability of making money, I owe it to my investors to look elsewhere. That's what Teck did as a responsible company to its shareholders.

DISCLOSURE OF INFORMATION

Hon. Leo Housakos: Honourable senators, that is the problem: When business leaders start to say that there's zero chance of having economic success in your country, we should look in the mirror and figure out what we need to do.

Government leader, my question is in regard to last week. The Minister of Natural Resources stood in the other place to explain the tabling of false information in a written answer to an Order Paper question. His department had initially claimed it had not granted any contracts to Pembina Institute, an anti-oil sands environmental group, which among other things, had advocated against Teck's recently cancelled Frontier mine. In fact, seven contracts totalling almost \$183,000 had been granted by Natural Resources Canada to this group. These contracts were awarded over a number of years, from February 2017 to October 2019. And we wonder, Senator Gold, why business leaders are having difficulty placing faith in your government.

Senator Gold, why did Natural Resources Canada hide this information from Parliament? And why, when it was accused of hiding this information, did the ministry and the minister double down, deny and mislead the other place?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. I'm afraid that I don't have the information to be able to answer your question as to the motivation for the actions that you are alleging. I will certainly make inquiries and report to the chamber.

Senator Housakos: Government leader, that's precisely why sage representatives of the government should be sitting around the cabinet table making sure that wise decisions are being taken.

Colleagues, we know there is a lack of transparency. There is a pattern of this government not being transparent to Parliament. As I mentioned earlier this month, this government is hiding the details of a writeoff of a loan to a company worth almost 200 million in taxpayer dollars. And as Senator Frum raised recently, Minister Marc Miller has not disclosed the list of donations and donors from an event he held in New York last year.

Senator Gold, where is the openness and transparency that this government promised Canadians in 2015, and why do we always have a government that says one thing but clearly always does another?

Senator Gold: Thank you for your question, Senator Housakos. Once again, I'm driven to say respectfully that the premise of your question is not well founded.

It's the position of this government that it continues to make efforts to increase transparency and accountability in government. In the last Parliament, we participated in and, indeed, played an important role in improving access to information legislation, which took a major step forward in enhancing transparency and accountability to Canadians.

With regard to your reference to Senator Frum's question, I am advised that all aspects of the law were faithfully adhered to, and any insinuation, implication or suspicions otherwise with regard to Minister Miller are wholly and utterly unfounded.

[Translation]

JUSTICE

SUPPORT FOR WOMEN WHO ARE VICTIMS OF VIOLENCE

The Hon. the Speaker: Senator Dupuis, you have two minutes for your question and answer.

Hon. Renée Dupuis: Honourable senators, my question is for the Government Representative in the Senate. Senator Gold, violence against women is a social scourge in any context, including spousal, family and workplace violence, and in any form, including harassment and abuse. It is a violation of women's right to equality, safety, life and dignity. The Standing Senate Committee on Legal and Constitutional Affairs in particular has heard many women's groups report that victims of violence are losing faith in the justice system.

• (1450)

However, the Canadian Charter of Rights and Freedoms, which we adopted in 1982, the new constitutional charter, provides for the passage of any:

. . . law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of . . . sex . . .

[Senator Housakos]

This section seeks to take the onus off of victims in order to change the system itself and adopt measures that support victims of violence.

What other initiatives has the federal government taken to support women who are victims of domestic and other types of violence since the Canadian Charter of Rights and Freedoms was adopted?

Hon. Marc Gold (Government Representative in the Senate): I thank the Honourable Senator Dupuis for her question. I was told that, at last week's briefing on Bill C-5, the Parliamentary Secretary to the Minister of Justice and Attorney General of Canada, Arif Virani, committed to sharing information on the progress of federal sexual assault legislation initiatives over the past decade to take into account recent measures and the context of the bill. Once we have received that information, it will be shared with senators.

[English]

ORDERS OF THE DAY

POINT OF ORDER

SPEAKER'S RULING RESERVED

The Hon. the Speaker: Honourable senators, I am now prepared to hear further new arguments in relation to the point of order raised by Senator Sinclair on February 6th concerning the possible application of the *sub judice* convention to motion 18 moved by Senator Boisvenu.

I want to repeat, though, honourable senators, as I said yesterday, I will only entertain matters that are new to the debate.

[Translation]

Hon. Pierre-Hugues Boisvenu: Mr. Speaker, honourable senators, I would like to thank the His Honour for giving me the opportunity to explain and clarify the motion I moved in this chamber on February 6, 2020.

With all due respect to the Honourable Senator Sinclair, I will elaborate on the points I already made, and I hope that will clarify why I want the Standing Senate Committee on National Security and Defence to do this study.

My motion calls for the Standing Senate Committee on National Security and Defence to be authorized to examine the decision-making rules and mechanisms of the correctional system and the Parole Board of Canada in order to identify shortcomings and suggest ways to fix them.

Again, I want to make it clear here that the purpose of my motion is not to investigate a case currently before the courts but to take a close look at the training board members and correctional officers get and the programs they administer.

Ultimately, I hope to make recommendations that will provide our correctional system with better tools so as to avoid such tragedies in the future.

My request is based on Report 6 of the Auditor General's 2018 reports, which covers community supervision, and on the fact that the federal government is responsible for the Correctional Service of Canada and the Parole Board.

I would like to quote a passage in the report about the Auditor General's findings regarding supervision of offenders:

We found that parole officers at Correctional Service Canada did not always meet with offenders as often as needed to manage their risk to society.

This point is crucial, because the observations noted by the Auditor General are consistent with what led to Marylène Levesque's murder. It is therefore urgent that we take a closer look at what is happening in terms of the programs offered and the supervised release of offenders when they reintegrate into the community. I'm not in any way trying to point fingers or blame the leadership at either organization, since I know that Parole Board members have a very difficult job, one that requires considerable judgment and a great deal of experience.

At the same time, however, I hope we can take a closer look at this issue, in order to provide those members with better tools to properly do their job, which is to protect Canadians.

I am also mindful of the press release issued on February 10, 2020, by the Union of Safety and Justice Employees. The union's statement on the Gallese case states the following:

In recent years, there has been an increasing emphasis on transitioning offenders quickly from federal prisons to the community. This is only appropriate if the community has sufficient resources to support the safe reintegration of offenders — which is frequently not the case. Parole officer caseloads are already very high in federal prisons and in the community which limits the opportunity for parole officers to directly interact with and understand the mindset and risk that some offenders may pose.

Honourable senators, the union is right to be concerned about public safety. Risk assessment has to be the cornerstone of the training that officers and board members undergo. In 2015, the average number of cases a board member had to review every day was three.

In 2018, they have to review eight cases a day. Add to that heavy caseload a record number of criminals being released in the past few years, the woefully waning skills of board members who have to grant these paroles, and the dwindling resources to ensure support in the community. This situation is explosive and could result in more victims. That, honourable senators, is what this chamber should be worried about.

The elements highlighted by the union confirm the findings of the Auditor General's Report 6. This is another key point that justifies the need for the Standing Senate Committee on National Security and Defence to undertake the study that I have requested.

I'm not trying in any way to obstruct or disrupt the judicial process in the Gallese case. I will repeat that I'm not asking for a study of the circumstances of the death of Marylène Levesque or of the criminal aspect of the Gallese case. I'm letting the judicial system do its job because I'm mindful of the separation of powers.

There's another important aspect that I'd like to highlight. The other place unanimously adopted the motion moved by Pierre Paul-Hus on February 5, 2020. This motion calls on the House of Commons to, and I quote:

(b) instruct the Standing Committee on Public Safety and National Security to conduct hearings into this matter . . .

This motion was adopted unanimously by the other place and by the Prime Minister and the Minister of Justice himself.

In my view, the other place considered that freedom of speech was necessary in this matter and that it didn't violate the rights of the individual on trial. Honourable senators, I recognize that the wording of a motion, as precise as it may be, can be improved.

If that is the reason for Senator Sinclair's point of order, I'm completely open to the idea working with him to see what corrections we could make.

Honourable senators, I hope that my arguments have convinced this chamber to hold a debate and a vote on this motion based on the principle of freedom of speech in this chamber and the safety of vulnerable women in Canada. Thank you.

[English]

Hon. Murray Sinclair: Honourable senators, since it was an issue that I raised and I didn't make much of a submission at the time, and Senator Boisvenu only replied with a less fulsome submission at that time as well, I have taken the opportunity to prepare some comments in relation to the onus that rests upon me. I recognize that I have the onus to justify the point of order and to, in effect, prevent the motion from going ahead.

• (1500)

Let me begin by indicating that, as I understood it in looking at the motion again, Senator Boisvenu's motion proposes that a study be conducted by the committee involved in relation to the tragic death of a young woman in Quebec City, and specifically the role that the correctional system and the Parole Board of Canada may have played in the matter of the release of the person who was accused of that.

I raise the point of order with regard to the *sub judice* convention surrounding the tragic event because there is currently a charge of first-degree murder pending against that named individual who is the subject of the Parole Board's decision.

My point of order concerns whether Senator Boisvenu's motion is out of order as this matter is currently before the courts, meaning the *sub judice* convention ought to apply in order to avoid prejudicing proceedings with this particular parliamentary process.

Because we have an opportunity today to make fuller submissions on the matter, I want to add a few points that I think may be helpful.

In the *Companion to the Rules of the Senate* of Canada at page 76, references to the Senate journals of May 5, 2009, state:

The general practice in Parliament has been to avoid discussing matters or proceedings currently before the courts or quasi-judicial inquiries. This is referred to as a *sub judice* convention.

While the convention has not been codified, procedural literature indicates that, although not binding, parliamentarians should be cautious about making reference to the proceedings, evidence, or findings of a commission before it reports.

O'Brien and Bosc's *House of Commons Procedure and Practice* states:

It is accepted practice that, in the interests of justice and fair play, certain restrictions should be placed on the freedom of Members of Parliament to make reference in the course of debate to matters awaiting judicial decisions, and that such matters should not be the subject of motions or questions in the House. Though loosely defined, the interpretation of this convention is left to the Speaker. The word "convention" is used as no rule exists to prevent Parliament from discussing a matter which is *sub judice*. The acceptance of a restriction is a voluntary restraint on the part of the House to protect an accused person or other party to a court action or judicial inquiry from suffering any prejudicial effect from public discussion of the issue. While certain precedents exist for the guidance of the Chair, no attempt has ever been made to codify the practice in the House of Commons.

They go on further to state:

. . . the interpretation of this convention is left to the Speaker. . . as no rule exists to prevent Parliament from discussing a matter which is *sub judice*.

There are some situations in which the application of the convention is fairly straightforward. The convention has been applied consistently to motions, to references and debates, to questions and supplementary questions and in all matters relating to criminal cases.

They also offer additional guidance on the role of the Speaker in this matter:

Since the *sub judice* convention is not codified and is voluntary, the jurisdiction of the Speaker . . . is somewhat difficult to outline. The Speaker's discretionary authority over matters *sub judice* derives from his or her role as guardian of free speech in the House. The Chair has the duty to balance the rights of the House with the rights and interests of the ordinary citizen undergoing trial. Indeed, the Speaker intervenes in exceptional cases only when it appears likely that to do otherwise would be harmful to specific individuals.

Chapter 20 of O'Brien and Bosc observes that this rule applies to committees as well as to the chamber.

Of relevance today, this authority also notes:

. . . a Member who calls for the suppression of discussion of a matter on grounds of *sub judice* should be obliged to demonstrate to the satisfaction of the Chair that he or she has reasonable grounds for fearing that prejudice might result.

On that note, I do wish to acknowledge that Senator Boisvenu's aim is to raise an important issue of public safety of justified concern to Canadians in relation to the decision-making process of the correctional system and the Parole Board. However, I fail to see how it would be possible for such an inquiry to be conducted and such a proceeding to be held without there being some evidence led before the committee as to what the actions of the Parole Board were and what would have justified any criticism or any suggestion of training and what kind of training would need to be offered to employees of the Parole Board without a consideration of what exactly it was that the accused person allegedly did.

I would add, for the chamber's consideration, if we do feel the Senate is the appropriate forum for such a study, I wonder why this matter may be examined generally and without reference to focus given to a specific case that is before the courts, therefore, as Your Honour might find that this aspect of Senator Boisvenu's motion is indeed out of order.

Specifically in this instance, *sub judice* would, in my view, apply because prejudice could arise in the discussion of all of the facts of the case, whether directly or indirectly relating to the release of the individual, his conduct while on parole and, in particular, his contact with respect to this particular victim or any other female with whom he came in contact while on parole.

Evidence could be examined related to the case without the legal rules of evidence applying and without other aspects of due process in application.

This country, of course, relies upon the principle that all people who are charged with an offence are deemed to be innocent until proven otherwise beyond a reasonable doubt. At this particular point in time, for there to be an inquiry conducted as to what it was that the Parole Board did and what the accused did while on parole, it could hardly be done without there being some infringement upon this accused's right to that principle. Thank you, Your Honour.

Hon. Donald Neil Plett (Leader of the Opposition): I would like to briefly add my voice to the discussion on Senator Sinclair's point of order. Let me apologize in advance, Your Honour, if I am repeating something that has been said. I was not in the chamber when it was discussed previously as I was tending to some of my duties that I have as the leader in my caucus.

I have studied it somewhat and I would just like to raise a few points, Your Honour.

Nowhere in Senator Boisvenu's motion is the name of the victim, the name of the accused or any identifying details related to any criminal matter currently before the courts.

Senator Boisvenu has simply used a recent, highly publicized case in his speech — not in his motion — to illustrate the need for an urgent examination of an ongoing case. Nothing about this motion seeks to discuss the details of the alleged murder, but rather the actions of the Parole Board, which have been a long-standing area of focus and interest for Senator Boisvenu. Inviting a committee to examine a system and the management of that system and requesting recommendations to prevent misogynistic violence and unnecessary tragedy is certainly perfectly appropriate.

According to the Senate procedures and practice, the purpose of the *sub judice* convention is:

. . . to ensure a reasonable balance between the right to a fair trial and parliamentarians' right to free speech. The convention has been generally applied in criminal cases before judgment has been rendered and during any appeal.

There is no criminal charge laid against any parole officer, commissioner or case worker associated with this incident. The details of the subsequent criminal case are irrelevant to the discussion that Senator Boisvenu is seeking to bring forward.

Regarding the discussion of how and why violent offenders are granted day parole and how the appropriate conditions are determined, according to the motion, the review would be very specific to the correctional system and to the Parole Board of Canada and what measures can be taken to improve the system.

A deep look into the systemic issues that may be present within the Parole Board and the consideration of additional training for commissioners will not in any capacity compromise the accused's right to a fair trial. Therefore, I do not believe that a point of order on the basis of the *sub judice* convention is legitimate.

[Translation]

Hon. Renée Dupuis: The motion before us seems to be calling for an investigation into:

• (1510)

[English]

[How] the Parole Board of Canada managed the case of an inmate accused of the murder of a young woman . . . to ensure another tragedy such as this never happens again . . .

[Translation]

In other words, there are two parts to this motion. One part has to do with the how, and in French it reads, and I quote:

. . . dont le système correctionnel et la Commission des libérations conditionnelles ont géré le détenu accusé de la mort d'une jeune femme alors qu'il était en semi-liberté en janvier de cette année . . .

This is about a very specific case. I do, however, want to point out that the French version mistakenly refers to examining the manner in which the correctional system and the Parole Board of Canada managed the inmate, when in fact it should refer to the

manner in which they managed the inmate's case. To me, this sounds like the French version is incorrect because we're talking about managing a person's case rather than managing a person. A person is not an object to be managed.

I leave it to your discretion to rule on this point of order. We should differentiate between two aspects of this motion. First is the part of the motion that deals with an identifiable inmate and that refers to specific elements, and the second has to do with the training programs and rehabilitation programs to be implemented. Thank you.

Hon. Claude Carignan: Naturally, I share the same opinion as Senators Boisvenu and Plett. But since you're talking about new matters, you should know that the media reported today that the person in question, Eustachio Gallese, intends to plead guilty to the charge of first-degree murder tomorrow, probably at the very moment that you will be issuing your ruling.

I urge you to monitor the new events as they unfold tomorrow. Obviously, what happens tomorrow could put an end to the debate and render the whole issue moot.

[English]

The Hon. the Speaker: I thank honourable senators for their input into this complicated and important question. I will take the matter under advisement.

THE SENATE

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

On the Order:

Resuming debate on the motion of the Honourable Senator Gagné, seconded by the Honourable Senator Gold, P.C.:

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

And on the motion in amendment of the Honourable Senator Housakos, seconded by the Honourable Senator Mockler:

That the motion be not now adopted, but that it be amended:

1. by replacing the words "the Senate invite any Minister of the Crown who is not a member of the Senate to enter the chamber during any future Question Period and" by the following:

“for the remainder of the current session, the Senate authorize the Leader of the Opposition in the Senate to make a short statement during any Question Period in order to designate Ministers of the Crown who are not members of the Senate to participate in Question Period;

That these ministers then be deemed invited to enter the chamber during Question Period at a future sitting to”;

2. by replacing the words “his or her” by the word “their”; and
3. by adding the following before the period:

“; and

That the Leader or Deputy Leader of the Government in the Senate advise the Senate of the date that any minister designated by the Leader of the Opposition will be in attendance by making a brief statement during Question Period no later than the fourth day the Senate sits before that date”.

Hon. Marc Gold (Government Representative in the Senate): Honourable senators, I rise to speak to the amendment that was proposed by Senator Housakos to Government Motion No. 7 on ministers’ Question Period. In short, the amendment proposes to give the Leader of the Opposition the authority to designate ministers of their choosing, in effect excluding nearly three quarters of the chamber from having the ability to participate meaningfully in the process.

Having ministers appear for Senate Question Period was an important innovation of the last Parliament and has generated a useful forum for ministers to engage with senators on their priorities. In the last Parliament, the motion introduced by Senator Gagné was brought forward by our colleague Senator Carignan, then Leader of the Opposition.

On December 9, 2015, Senator Carignan reflected on the usefulness of having ministers appear as part of Question Period:

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

A core responsibility of the Government Representative in the Senate is to ensure that the appropriate members of cabinet are making themselves available to appear before the Senate to answer questions about their ministerial portfolios.

In the last Parliament, working closely with other leaders, Senator Harder adopted a collaborative, consensus-based approach to the identification of ministers who would appear for

Question Period. In that regard, I hope I can speak for the leadership in this chamber in thanking Senator Harder for his good collaborative work and his ability to deliver.

The process followed may not be known to all honourable senators. The Government Representative Office, the GRO, seeks the views of the leadership of parties and groups with respect to priority ministers. Generally, there is overlap between the lists provided by the different groups, but when there is not — which is infrequent — the GRO has always been able to accommodate the different perspectives in a fair and balanced fashion.

One may ask, have the Leader of the Opposition’s priority ministers been consistently made available by my predecessor? The answer is yes. When specific issues have posed a challenge to the government, have the appropriate ministers been made available by my predecessor? Again, the answer is yes. For example, the Minister of Finance the Honourable Bill Morneau appeared on May 14, 2019, after the tabling of Budget 2019. He took questions on a range of economic issues including tax evasion, money laundering and the Trans Mountain Pipeline. The Honourable Chrystia Freeland as Minister of Foreign Affairs appeared on March 7, 2017, on a range of important foreign policy issues, including the treatment of Rohingya Muslims, the UN Security Council and women’s rights. The Honourable Jim Carr as Minister of Natural Resources appeared on October 17, 2017, on national energy policies, including the Energy East pipeline.

Colleagues, those are some examples of ministerial appearances from the last Parliament. In fact, the selection of ministers to appear at Question Period has never before been controversial. What is unfortunate is this: Canada is facing some serious issues, including the effects of railway blockages and the spread of the coronavirus. Yet this motion continues to be delayed, undermining the ability of all senators to ask important questions of the government.

The Senate may wish to ask questions of the Minister of Transport and the Minister of Public Safety with respect to the blockades, but we cannot. The Senate may wish to ask questions of the Minister of Health with respect to the coronavirus, but we cannot. The Senate may wish to ask questions of the Minister of Crown-Indigenous Relations with respect to the reconciliation agenda, but we cannot.

Again, the Senate may wish to seek to invite the first minister of the Crown, Prime Minister Justin Trudeau, to answer questions on any such issues, but again we cannot because this motion is stalled.

Since we have returned from the Christmas break, the GRO has consistently sought the views of all groups as to who they would like to appear for Question Period. This has been raised at scroll meetings as well as in leadership discussions. To date, my office has received suggestions of ministers from the Independent Senators Group, the Canadian Senators Group as well as the progressives. I have yet to receive any suggestions from my esteemed colleagues in the official opposition.

In the spirit of collaboration and to better align with best practices, I wish to put forward a sub-amendment.

MOTION IN SUBAMENDMENT

Hon. Marc Gold (Government Representative in the Senate): Therefore, honourable senators, in amendment, I move:

That the motion in amendment be not now adopted, but that it be amended:

1. by replacing the words “Opposition in the Senate to make a short statement during any Question Period” by the words “Government in the Senate, after consultation with the leaders and facilitators of all the recognized parties and recognized parliamentary groups, to make a short statement at the start of the Orders of the Day during any sitting”; and
2. by replacing the words “by the Leader of the Opposition will be in attendance by making a brief statement during Question Period” by the words “pursuant to this order will be in attendance by making a brief statement at the start of the Orders of the Day”.

To conclude, honourable senators, I leave you with the words of the former Leader of the Opposition Senator Carignan who also stated on December 9, 2015 —

[*Translation*]

Hon. Claude Carignan: I wish to raise a point of order.

When someone moves a motion in amendment or in subamendment, their speaking time is over once the subamendment is proposed. I heard the Leader of the Government in the Senate put forward a subamendment, and that brings his time to an end. He can't keep talking after proposing his subamendment.

• (1520)

[*English*]

Hon. Patricia Bovey (The Hon. the Acting Speaker): As a subamendment, it is moved by the Honourable Senator Gold, seconded by the Honourable Senator Gagné, that the motion in amendment be not now adopted but that it be amended: (1) by replacing the words, “Opposition in the Senate” — may I dispense?

Hon. Senators: Dispense.

The Hon. the Acting Speaker: On debate.

Hon. Leo Housakos: Thank you to the government leader for so quickly responding with a subamendment today to my amendment yesterday. It gives me an opportunity to get up and further express our concern with the process that the government has forced upon this institution.

It speaks volumes when your subamendment simply says, “The government will propose, in consultation with.” That is really what highlights the problem with your process, Senator Gold. Can you imagine any model of parliament anywhere in the world, particularly in our British parliamentary system, where the

government proposes to the opposition — not to their elected colleagues, not to their appointed colleagues, but to the opposition.

Don't roll your eyes, Senator Gold, because at the end of the day, when it's all said and done, this is an important principle. I can assure all of you who discard that principle today, because you're on a majority sitting in a majority footing with a government that has appointed you, the day will come — I guarantee each and every one of you — where you will want to sit and defend these principles to the umpteenth degree the way we are doing. It's just a matter of time. If you're here long enough — and I'm starting to be here long enough — you'll realize there's a back and forth in our democracy.

So, Senator Gold, when the government is forcing upon this institution — because of the majority situation that your government sits in — a situation where you dictate which ministers come here and when, that is what we find to be totally egregious.

I also want to go a step further and remind the public who are watching this debate, the whole notion of bringing the government to account in bringing ministers here, even in this chamber, is not another Senate reform process that Mr. Trudeau or Senator Harder invented. It's something that was actually called upon by the leadership of the government at the time, after the election in 2015, with Senator Carignan and Senator Cowan. Yes, we did consult and we provided a list to the government on the other side, and more often than not, they acquiesced. We have found that since that time, as time has progressed, our requests continue to be less and less heeded.

At the end of the day, we're simply saying that we want to continue to have the ability to hold the government to account. But I don't think it's unusual or extraordinary to simply say that the Leader of the Opposition, the official opposition in this chamber, which opposes the government more often than government-appointed senators — and that is factual. If you look at the vote record and debate in this place, it's only normal that government-appointed senators reflect the view of the government more often.

Despite that, yes, they have the opportunity to stand up. They are granted their independence by the fact that they are appointed on tenure, they're here until the age of 75 and the Prime Minister who appointed them cannot remove them. The Prime Minister, of course, in the House of Commons, where you have elected Liberal MPs, has to sign their nomination papers.

Just as it would be unheard of for the government in the House of Commons to say to the opposition, “We will determine for you which ministers we bring before you, and we will even determine what questions you're allowed to ask,” we think that's completely unacceptable. We think it thwarts the role of this chamber.

I think your subamendment is another attempt to reinforce the fact that the government can enforce things upon this chamber because they have a majority. We've seen it the last few days, and we will continue to see it going forward.

If you take away from the opposition our last tool, which is the ability to hold the government to account and to bring ministers here whom we want to hear from, depending on the issues that are important to the minority voices in this country, then at that particular point this place becomes an echo chamber. The government might as well determine what's on the agenda and when, and we will become a marginalized opposition in this place, which would be a sad day for our democracy.

Some Hon. Senators: Hear, hear!

Hon. Frances Lankin: Honourable senators, I appreciate having the opportunity to participate in this discussion. I thank Senator Housakos for the narrative he has put forward. It's one that I have often heard and frequently on a myriad of issues as the debate about modernization, reform and change of the Senate takes place.

Respectfully, understanding the direction we're going and the role of all senators, including senators who are part of the opposition caucus here, which is part of the official opposition national caucus — something that many of us think is not part of what a modern Senate should be, but it exists and we are respectful of that — I appreciate and have heard those comments before.

I would like to say what his motion, in fact, does. It takes away the right from every other senator to participate and to do their job for their regions in holding the government to account on a range of items that may be of concern to them and the people of their province — in my case it's a province, and in other cases it's a region of the country — and the right to represent those voices.

It sounded as though Senator Housakos was making an argument that something in the government representative's motion was taking away something the opposition had. We've had a process in place where there has been discussion and negotiation. I think from the record, as I have seen it, every attempt has been made to meet the requests of all senators, including the opposition — which will often speak with one voice through their leader — in terms of who they would like to see come forward. However, there are other voices that should be heard as well, and I believe that has been accommodated.

To the best of my understanding, when there has been a problem with respect to the scheduling commitments of ministers whom any senator in this chamber has put forward as a suggestion to be brought before us for Question Period, there has been an attempt to reschedule and/or to bring that minister forward as soon as is possible.

On behalf of your caucus, there is a daily presence of the opportunity to ask questions in the other place of the ministers. We all see the news and/or Hansard coverage of that.

In this place, there are 105 equal senators who should all have that opportunity. I think the system we had in place, which was collegial and appeared to work — I've heard no specific grievances or examples brought forward where it hasn't worked — serves the entirety of the chamber better.

Some Hon. Senators: Hear, hear!

Hon. Denise Batters: Honourable senators, I want to contribute a few points to this particular part of the debate and remind our honourable colleagues, many of whom weren't here yet at the particular time that this innovation was started by Senator Carignan when he was the opposition leader in the Senate, that the original reason for ministers' Question Period in the Senate arose because, for the first five months of the Trudeau government, there was no government leader in the Senate. There was no one to have Question Period with. That very important factor of accountability in the other chamber of Parliament — not just the House of Commons but also the Senate — could not happen without anybody to ask questions to. That was why the original innovation occurred.

Initially how it went, for the first year and a half or two years, was that the opposition Senate leader provided the government with a list of a few ministers that the opposition wanted to hear from in ministers' Question Period, and then arrangements were made to have those particular ministers appear in the next few weeks. That went quite well.

Then, unfortunately, this process morphed in the last two years, in the last Parliament, to a process where the Trudeau government leader told the opposition which ministers would come to ministerial Question Period over the course of the next six or seven weeks. Minister so-and-so this week, morphing from a period of six or seven weeks. By then, you were no longer able to discern what might be topical issues for that period of time, and it took away the very principle of Question Period. Question Period is supposed to be an accountability session for the government, and it's supposed to be on demand, without notice.

• (1530)

Having some notice allows the government to ensure the availability of ministers. However, providing the government with reasonable notice — perhaps a week or two, not six — is not intended to be a period of time where the government tells the opposition who is going to come to Question Period. That is not acceptable. That is simply yet another way the Trudeau government is trying to silence opposition and ensure that we can't do our jobs properly to get accountability and represent our regions.

Earlier today, Senator Gold indicated there was a collaborative consensus-based approach by the government leader in the Senate. What I've just explained casts doubt on that. I submit that the process outlined by Senator Gold in his Trudeau government subamendment gets so far away from that accountability process and also the fact that it's supposed to be on demand, without notice. That is what we need to have. That is what I think Senator Housakos's motion gets closer to. Thank you very much.

Some Hon. Senators: Hear, hear.

Hon. Peter Harder: Honourable senators, I was happy to hear the Government Representative in the Senate provide a more eloquent articulation of concerns with respect to Senator Housakos's motion, but I feel bound to rise to do a fact check on Senator Housakos's speech.

I don't speak to defend myself as former government representative on the issue of attendance at cabinet, the conduct of Question Period or Senator Gold's role, but I do rise to defend the leadership of the Conservative Party in the Senate.

Senator Carignan was referenced by omission in Senator Housakos's eloquent nostalgic reprise of Senator Marjory LeBreton, who was the last government leader to sit in cabinet, as many senators will know. When Senator Carignan was appointed as Government Leader in the Senate, he was sworn into the Privy Council, of course, and like me, he attended cabinet, as appropriate, but he was not a member of cabinet. Somehow that got lost in the recollection of this nostalgic age.

If you want a bit of nostalgia around that, I invite you to read the last 20 pages of Justice Vaillancourt's judgment, which tells you a lot about the independence displayed by the previous executive toward the Senate, but I digress.

Let me speak directly to Senate Question Period. Absolutely, it is a tribute to Senator Carignan. I invite you to look at the speech of February 24, 2016, where he eloquently describes why it is important for this chamber to hear from ministers directly. That is, of course, what was put in place. The movement in that direction was adopted on February 24, I believe. I arrived on March 23. I think that's less than five months, but you never know.

In my first meeting with leaders, we discussed how best to have a consensus on how we should proceed. Everyone will know that Senator Carignan, Senator Smith and certainly Senator Plett are very shy to express their points of view, but I was able to coax out of them their priorities, and I sought to identify the ministers to come for Senate Question Period. Other leaders were also invited to suggest names. Often, there were many parallels there, because the issues of the day, to determine in a very obvious way senators' desire to have ministerial attendance.

That is the history of the experience. Not once — and I should be clear not to reflect on the leadership discussions — but there was never a discussion to which I was a party over my four years regarding discomfort among any of the leaders with respect to this. My office did get a letter from the staff of the Leader of the Opposition, who suggested we should do away with ministerial Question Period. I properly ignored that, and it was never raised with me by any leader.

However, it's important for us to build on the experience of the last four years and to bring this innovation back to the Senate promptly so we can hear from ministers and hold the government to account, as is our proper role.

Some Hon. Senators: Hear, hear.

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, sometimes the debate inspires more debate, and I wanted to speak at this time.

When I first came into this chamber over a decade ago, we were in government and the Liberal opposition sat on this side. I remember Question Period in those days.

Senator Plett: Those were good days.

Senator Martin: During Question Period, our leader — Senator Marjory LeBreton and then Senator Claude Carignan for a time, and I was his deputy in government — expected to be pummeled by the opposition with question after question. Most of Question Period was taken up by questions to the government leader. The government leader was expected to respond to any type of question. They had very thick binders, with notes on a range of issues. They were prepared for those times.

I know those days are gone, and we are here. In the last four years, the frustration has built up. The opposition is feeling this frustration because proportionality is one of the main principles on which we decide upon seats in committees and other things. In Question Period, where the opposition should be able to hold the government to account, the number of questions we're asking has been reduced, based on proportionality. I'm not saying other senators in this chamber do not have a right to ask questions; however, I'm simply saying that the frustration is building because that's how Question Period has transformed.

The opposition has a duty to question the government, to put the government's feet to the fire and ask those questions. Because there isn't a government leader, per se, we have decided, as we have explained, that we have Question Period with our ministers.

I recall the first few ministers being in the middle of our chamber rather than sitting on the government side, because then it showed the independence of this chamber. It showed the Trudeau-appointed senators also asking questions of the ministers of the government of the day. However, I think we had some sound or technical issues, and that's when we decided to move the minister to the government side. These are some of the developments that have caused the frustration.

With all due respect to the Leader of the Government in the Senate, your subamendment further aggravates our sense of frustration regarding what we'd like to see. That said, I understand we'll work toward it. We have seen changes in Question Period, but the right of the opposition to be able to hold the government to account is a very important piece. I hope all senators will consider that in their decisions on the subamendment.

Some Hon. Senators: Hear, hear.

[*Translation*]

Senator Carignan: I would like to correct something Senator Harder said, specifically, that I was not a member of cabinet. I sat on a number of cabinet committees, including the communications committee and the committee responsible for operations. I was a full member of cabinet, unlike him who was not. He was a guest. I, on the other hand, was not a guest. I was a full cabinet member. I wanted to clarify that.

Second, I cannot accept the government's subamendment, since its objective, as many others have indicated, is to receive a minister who will address current issues. It is a question of holding the government to account for its actions. It is important that the Leader of the Opposition play an active role in choosing the ministers who appear in the Senate over the next few weeks.

• (1540)

We therefore need to ensure that the minister who appears before the Senate addresses current issues that we want to draw attention to or ask questions about.

For example, we don't want a repeat of the situation that happened this week, where the issues that were all over the news had to do with Indigenous affairs, natural resources and transport, and the government decided to send the Minister of Sport to appear before the Senate. In a case like that, there weren't as many current issues that we wanted to ask the minister about.

That's why the Leader of the Opposition must play an active role in choosing the minister.

Although the existing or previous iteration of the motion doesn't contain a more specific framework, there was still good collaboration on the part of the Leader of the Government in the other place. We were aware of the context of accountability and we chose a minister that respected both the opposition's positions and the ministers' very busy schedules. There was some negotiation that took place, since the opposition leader's role is fundamental in choosing a minister in the interests of transparency and keeping the government accountable for its actions.

[English]

Hon. Yuen Pau Woo: Honourable senators, the matter before us is, in some ways, a foreshadowing of the motion I hoped to speak to that is under consideration because of the point of order.

It boils down to the issue, colleagues, of whether the opposition has special rights and privileges that other senators do not have. This is the essence of the amendment that Senator Housakos has put before us — that the opposition has the special privilege of naming and calling ministers. Even if the rest of us constitute the large majority of the Senate, we do not have that same privilege.

Senator Gold's subamendment does, in effect, the same thing that my motion seeks to do, which is to create the equality of senators and Senate groups.

I ask you to consider the question of Senator Housakos's amendment in that context. Do you or do you not believe in the equality of senators? And do you or do you not believe in the equality of Senate groups?

Colleagues, let me give you one other reason why it is so important to consider the views of all senators and groups in the determination of ministerial Question Period rather than leaving it just to the opposition, insofar as the opposition characterizes itself proudly as part of the Conservative caucus that is in the house.

I'm glad to hear the confirmation that our colleagues in the Conservative caucus believe it to be an intrinsic part of the Conservative Party in the house because it means that the Question Period we have here, coming from the Conservative opposition, is going to be the same —

An Hon. Senator: No, it doesn't at all.

[Senator Carignan]

Senator Woo: — as the Question Period in the House. You only have to look at Hansard to see that the same or similar questions are posed in Question Period there —

Senator Plett: Blockades!

Senator Woo: — and Question Period here, which is exactly why we need other senators representing other interests — non-partisan senators, the Canadian Senators Group, progressive senators — asking questions that are not necessarily tied to the interests of colleagues in the House of Commons.

That is how we distinguish the Senate as a body that is different from the House of Commons. That is how we distinguish ourselves not as an echo chamber but as a complementary chamber of sober second thought.

Hon. Lillian Eva Dyck: Senator Woo, would you take a question?

Senator Woo: Yes.

Senator Dyck: I was listening to your speech, and I was thinking that I don't feel equal. I am not an equal senator when it comes to getting up and making statements or asking questions because I belong to a progressive Senate group who are below the magic number of nine. We have an unaffiliated group between 10 and 12, but where are we in terms of proportionality and equality?

Your speech was based on being a recognized group. Therefore, we don't always get the same opportunity because our numbers as the progressives are not at that magic number nine.

Senator Woo: You raise a point that goes beyond the matter we are currently discussing — and we cannot go into negotiations that are ongoing — but your leader will know that I believe, and my group believes, that all senators deserve a seat on committees based roughly on their proportions in the chamber. I'm hoping I will get validation of that assurance I've given. That's as far as I can go at this time.

Senator Plett: Point of order.

The Hon. the Speaker: Senator Plett, are you rising on a point of order?

Senator Plett: Yes, I am. Your Honour, we are having a leader of 55 independents sharing things that are being discussed at a committee where he is telling the exact opposite of what he said at that committee. When he says something here that is false, that's a point of order.

He did not want to give the progressives seats on any committee.

The Hon. the Speaker: Senator Plett, your comments are obviously meant as argument, but I don't see a point of order.

Senator Plett: Fair enough. I'll argue as soon as he's done answering.

Senator Woo: Well, it's not often you are accused of lying.

• (1550)

Senator Plett: Then don't.

Senator Lankin: Oh, please.

Senator Woo: I will not raise a point of privilege, but I can say that there are those in the room who know the conversations I have had, and I will leave them to speak should they see fit.

I will conclude on the point that this matter is fundamentally about equality of senators and Senate groups. As we deliberate the subamendment, I hope we will fall on the side of the equality of Senate groups rather than the duopoly of the government and the opposition.

The Hon. the Speaker: Were you going to ask a question, Senator Plett?

Senator Plett: No, I was not.

The Hon. the Speaker: Senator Housakos has been trying to ask a question; I will recognize him.

Senator Housakos: Would Senator Woo take a question?

Senator Woo: Yes, of course.

Senator Housakos: In your speech, you talked about the Senate being different than the House of Commons. I don't know how many times I have reminded colleagues that under section 18 of the Constitution Act, when the forefathers created this hybrid upper chamber, it was created with the same privileges, immunities and the rights of the House of Commons in Westminster. Keep that in mind.

Second, Senator Dyck is absolutely right. There is no such thing as equality. Any Westminster model has a government side with immunities, privileges and rights; an opposition with unique rights and privileges; a third party with their rights and privileges; and independent parliamentarians with their rights and privileges.

If we read the rules and the precedents of all the Westminster parliamentary models, those are the facts.

Senator Woo, when you take all those elements under consideration and you look at the House of Commons — which we're modelled on, by the way, on the other side — can you tell me if the majority there are not equal just because they don't dictate and are the driving force at Question Period in the House of Commons?

Senator Woo: There was a question in there, but let me start by addressing the false assertion about the Senate vis-à-vis the House of Commons. I won't give honourable senators, as Senator Housakos did, my personal interpretation of the difference. I will give you the Supreme Court 2014 reference:

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

There is no need to say more than that. I read directly from the Supreme Court reference, and it clearly distinguishes the work of the Senate from that of the House of Commons and why we should continually try to find ways to distinguish ourselves, including in Question Period. And if we have found a model that works for us, the model that Senator Gold described, the model that Senator Harder implemented — which, by the way, I can confirm without divulging any secrets from leaders' meetings, that it was cordial, it was collegial and it worked with the full participation of all the members around the room most of the time; I can confirm all of that — why would we not continue with that practice, particularly if it helps us distinguish how the Senate is different, how it makes a contribution above and beyond the House of Commons? Do we really want to be just like the House of Commons, to have a Question Period that's like the House of Commons? We want more than that. Yes, we can have that, too. Yes, we can ask and we should ask Senator Gold tough questions, but we should have more than that too.

Colleagues, I hope again to reiterate my point. This is not only a matter of Question Period; it is also a matter of the equality of Senate groups. It is a matter that we have in our power to make happen. It's within our power — nothing to do with a statute, nothing to do with the Constitution. It is within our power. We are masters of our domain, and we should take that opportunity.

[*Translation*]

Senator Carignan: Senator Woo, aren't you confusing things? Aren't you confusing your role as a senator with different positions that exist in the Senate, such as the Speaker of the Senate, the government leader and the opposition leader, who all play roles recognized in the Parliament of Canada Act and the *Rules of the Senate*? I understand that all senators are equal, but they don't all play the same role in the Senate, so they don't all have the same powers and duties. I think you're confusing things.

[*English*]

Senator Woo: I'm not confusing things. The reality of what we might call the “multipolar Senate” is not something that happened yesterday. It has been with us since 2015. The Modernization Committee studied the issue and made numerous recommendations about what needs to change. In fact, their

report recommended changes that were implemented, that recognized the reality of groups other than a government and an opposition.

The reality is that we have senators who belong to groups other than a government or opposition in committees. That is a recognition of the new reality. That new reality, colleagues, is one that we need to see reflected in our rules. We should not allow that reality to be thwarted by an amendment of the sort that has been put forward by Senator Housakos. If that amendment goes through, the effect of the amendment is to undo all of the good work that was started three or four years ago in recognizing the new reality, recognizing the existence of other groups and giving them the measure of rights and privileges that they deserve as senators in this upper chamber.

Senator Plett: Senator Woo, can you answer this question: Do you not agree that when we met in your office to consider the makeup of committees and the numbers on committees that your suggestion, Senator Woo — one that we almost settled on — was that on committees of 15 members, the ISG would get 9, the Conservatives 4, the CSG 2. On committees of 12, the ISG would get 8, the Conservatives 3 and the CSG 1. On committees of 9, the ISG would get 5, the Conservatives 3 and the CSG 1. And in no instance was the progressive group or the non-affiliated included. In fact, we agreed that after the committees would be constituted, if we couldn't fill a spot and Senator Dyck or Senator Dawson wanted a committee spot, they could come to any one of those groups and ask — I'm talking to you, Senator Woo — they could ask any one of us to fill a spot. Is that not correct, Senator Woo? Is that not what we decided, or did we decide to include the progressives in the proportionality?

Senator Woo: It would be a breach of protocol and good manners to respond to the question because as we all know — and, by the way, Senator Plett has previously filed a point of order on me for allegedly divulging material from a private leaders' meeting. I'm not going to make the same mistake again. I've learned my lesson. Thank you very much. I have not gone into any details, and certainly I'm not going to respond to that very specific question about the details of what we may or may not have discussed.

Senator Housakos: Senator Woo, would you take a last question? I'm glad you referred to the Supreme Court decision because the Supreme Court decision, when it talks about independence, makes it clear that the big difference of why we're so independent compared to the House is we're not liable to elections as members of the House are. That's where we get our independence from.

Having said that, the Supreme Court of Canada in that same decision made it abundantly clear that no fundamental changes to the role of the upper chamber could be made strictly by a motion or an act of Parliament but would require reform of the Parliament of Canada Act or a reform of the Constitution. Would you agree that that's the case in that Supreme Court decision?

[Senator Woo]

The Hon. the Speaker: Honourable senators, it being 4 p.m., this matter will stand adjourned in the name of Senator Woo for the balance of his time, should he wish to use it.

Senators, I must interrupt the proceedings. Pursuant to rule 9-6, the bells will ring to call in the senators for the taking of a deferred vote at 4:15 p.m. on the motion of Senator Black (Ontario).

Call in the senators.

• (1610)

ETHICS AND CONFLICT OF INTEREST FOR SENATORS

FIRST REPORT OF COMMITTEE—MOTION TO REFER REPORT
BACK TO COMMITTEE NEGATIVED

On the Order:

Resuming debate on the motion of the Honourable Senator Sinclair, seconded by the Honourable Senator Patterson, for the adoption of the first report (interim) of the Standing Committee on Ethics and Conflict of Interest for Senators, entitled *Developments and actions in relation to the committee's fifth report regarding Senator Beyak*, deposited with the Clerk of the Senate on January 31, 2020.

And on the motion of the Honourable Senator Black (Ontario), seconded by the Honourable Senator Richards:

That, pursuant to rules 5-7(b) and 12-30(3), the first report of the Standing Committee on Ethics and Conflict of Interest for Senators be referred back to the committee for further consideration.

The Hon. the Speaker: Honourable senators, the question is as follows: It was moved by the Honourable Senator Black (Ontario), seconded by the Honourable Senator Richards:

That, pursuant to rules 5-7(b) and 12-30(3), the first report of the Standing Committee on Ethics and Conflict of Interest for Senators be referred back to the committee for further consideration.

Motion negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Ataullahjan	Marshall
Batters	Martin
Black (<i>Ontario</i>)	Mockler
Boisvenu	Ngo
Carignan	Plett
Dagenais	Poirier
Duffy	Richards
Greene	Seidman
Griffin	Smith
Housakos	Verner
MacDonald	Wallin
Manning	Wells—24

NAYS
THE HONOURABLE SENATORS

Anderson	Jaffer
Bellemare	Keating
Bernard	Klyne
Boehm	Kutcher
Boniface	LaBoucane-Benson
Bovey	Lankin
Cordy	Loffreda

Cormier	Lovelace Nicholas
Cotter	Marwah
Coyle	Massicotte
Dalphond	McCallum
Dasko	Mégie
Dawson	Mitchell
Deacon (<i>Ontario</i>)	Moncion
Dean	Omidvar
Duncan	Pate
Dupuis	Petitclerc
Dyck	Ravalia
Forest	Ringuette
Forest-Niesing	Saint-Germain
Francis	Simons
Gagné	Sinclair
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THE HONOURABLE SENATORS

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Downe	

(At 4:21 p.m., pursuant to the order adopted by the Senate on February 5, 2020, the Senate adjourned until 1:30 p.m., tomorrow.)

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