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(HANSARD)

Wednesday, April 13, 2016

The Honourable GEORGE J. FUREY
Speaker

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THE SENATE

Wednesday, April 13, 2016

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

Prayers.

[*Translation*]

SENATORS' STATEMENTS

ENERGY EAST PIPELINE

Hon. Percy Mockler: Honourable senators, our country is facing a number of major challenges, both in the economic sphere, where we need to create wealth and good jobs, and in our health care system, where we have to maintain our social programs despite the considerable challenge that comes with having an aging population.

[*English*]

Honourable senators, I am pleased to continue advocating for the important nation-building project that is the Energy East Pipeline.

Before I continue, honourable senators, I want to warmly welcome our seven new colleagues to the Senate Chamber. I look forward to working with them as they undertake their vital responsibilities as parliamentarians for all of Canada.

With all the challenges facing our great country economically and socially, we must act now. As a New Brunswicker, I too often witness the migration of our people, both young and middle-aged. The young leave to gain a job and the middle-aged leave to garner a better income. For years, Alberta has been a bastion for them, and now that province faces massive layoffs, which affects the entire country, and we see it every day in Atlantic Canada.

Building the Energy East Pipeline is a pan-Canadian economic solution that has two primary benefits. First, it provides access to tidewater for Canada's energy products. This improved market access is needed to help strengthen our country's energy sector and create jobs. Second, the construction phase will provide a substantial number of jobs and also jobs in the long-term maintenance of this pipeline.

[*Translation*]

Honourable senators, Canada has the third-largest oil reserve in the world. Despite this abundance, we are spending billions of dollars every year buying oil from other countries. We have a duty to focus on our domestic product and act now and locally. Why buy elsewhere what we can produce here in our own country?

I invite you to consider oil in a broader context than the products that contain it. Oil is not just used as fuel. Oil is in the glasses we wear and the household products we use every day.

[*English*]

We must ensure that public confidence is maintained. This begins with indigenous peoples being meaningfully consulted and engaged during every step of the way, and our decision must be based on scientific facts.

2016 CIS UNIVERSITY CUP MEN'S HOCKEY CHAMPIONSHIP

CONGRATULATIONS TO UNIVERSITY OF NEW BRUNSWICK VARSITY REDS

Hon. Joseph A. Day: Honourable senators, the University of New Brunswick Varsity Reds hockey team has done it again. What can I say?

On March 20, the Varsity Reds won the fifth gold medal in the past 10 years at the annual Canadian Interuniversity Sport men's hockey championship.

The Varsity Reds defeated the St. Francis Xavier X-Men, and third place was secured by the Saint Mary's Huskies team from Nova Scotia when they defeated the Saskatchewan Huskies.

The final game of the season was played in Halifax. That's where the championship took place. What a remarkable record and what an historic result, having all three top tournament university hockey championship winners from the Maritime provinces. This is the first time that university teams from Atlantic Canada have ever swept all three top positions in the final tournament for Canada.

The final game in Halifax was a record-breaking event that hosted 43,513 fans at the Scotiabank Centre.

The University of New Brunswick has a long and proud history of competitive excellence in sports. Inter-class and inter-club hockey contests began at UNB in 1880. The first recorded competitive game was in 1897, when the hockey team at UNB challenged the team of the Fredericton detachment of the Royal Regiment of Canada.

In 1906, UNB was a founding member of the Maritime Intercollegiate Hockey League, which was succeeded in 1910 by the Maritime Intercollegiate Athletic Association. UNB won its first intercollegiate interuniversity hockey championship in 1998 and has been winning gold and silver ever since.

Of particular note for UNB is that the University of New Brunswick student Lesley Reddon was the very first female goaltender to play on a men's hockey team in Atlantic Canada — she played at the Atlantic universities hockey conference — and perhaps the first female goaltender ever in Canadian interuniversity sports competition.

Congratulations and best wishes to the players and coaches at the University of New Brunswick.

Hon. Senators: Hear, hear!

• (1410)

PAKISTAN

ACTS OF TERRORISM

Hon. Salma Ataullahjan: Honourable senators, I debated whether or not to rise and share with you the unspeakable horrors that have taken place in Pakistan this year. I thought long and hard about whether I should speak in the chamber once more about death, destruction and loss, but then I realized that this has been the experience of my people for the past 36 years.

As you know, the city of Lahore was recently the victim of an attack which killed more than 70 people, Christians and Muslims alike, and left at least 300 people injured. What made this attack particularly deplorable was that it specifically targeted Christian families celebrating Easter, and the majority of victims were women and children.

In response to the attack, we saw the unity of the people of Pakistan, be they Muslim or Christian. When they heard that blood was needed, citizens arrived at hospitals in such large numbers that many had to be sent home.

In January, the Bacha Khan University in Charsadda was also the victim of a violent attack. This attack targeted students attending a school named after my great-grand-uncle, the leader of a non-violence movement. I visited the site after the attack as I was only 20 miles away when it happened. The horror that I saw, the still wet blood on the ground, will stay with me for the rest of my life.

The war on terror began in 2001, with Operation Enduring Freedom in Afghanistan, placing the Pukhtuns, a people who were still rebuilding from the destruction caused by the Soviet invasion in 1979, on the front lines of a battle that would grip our world for the next 15 years. I salute the continued compassion and resilience of the Pukhtuns and all the people of Pakistan.

In memory of the victims of the attack in Lahore, the Parliament of Canada lowered its flag to half mast, demonstrating once again compassion and solidarity with the people of Pakistan. It is my hope that the next time I rise to speak to you about Pakistan, it will be with joyous news. Thank you.

TRIBUTE

THE HONOURABLE MARIA CHAPUT

Hon. Mobina S. B. Jaffer: Honourable senators, before I give my statement, I would like to also take an opportunity to welcome the seven new senators into our chamber.

Senator Harder, you and I have worked over many years, many times on different sides. This time, I look forward to working with you on the same side.

I also would like to take the opportunity to welcome Senators Omidvar, Gagné, Sinclair, Pratte, Lankin and Petitclerc. This is going to be an amazing journey for you. We welcome you, and we will take this journey with you.

[*Translation*]

Honourable senators, I know that I am a little late in giving my speech on Senator Chaput, but I would nevertheless like to share my appreciation of my friend Senator Chaput.

I am very proud to pay tribute to a friend and a woman of integrity who loves this country's culture and languages: Senator Maria Chaput.

I would like to begin my speech by thanking you. Thank you for your dedication, your respect for others, the trust you placed in me and, above all, your friendship. You have been an inspiration and a role model. You grasped the role of the Senate, which is, above all, to speak for those who cannot speak for themselves.

I would like to share Senator Chaput's views on this role, which were published in a Manitoba newspaper:

> We must remember the purpose of the Senate: it is a chamber of Parliament that provides better representation of Canada's regions and minorities. After all, it is the Senate that enables each region to have a more equitable number of seats. It is also the Senate that better represents women, indigenous peoples and minority groups.

Having grasped the importance of this role, you were the voice of francophones outside Quebec. You instilled in us your pride in the French language and made us understand the importance of linguistic minorities across Canada.

As time passed and we worked together on various committees, we became friends. To my mind, you were like a big sister. I learned a great deal from you, and you made me understand the importance of properly defending our point of view.

We did not always see things the same way, but you would convince me that you were right. Why?

It was because the cause was close to your heart.

You guided me and advised me on a number of subjects and issues during my years in the Senate, and I am very grateful to you for that.

Senator Chaput, your departure from this chamber leaves a big void and you will be missed, but please know that the work you have done in recent years will continue to have an impact on Canadians.

We will miss you, my friend.

[*English*]

NEWFOUNDLAND AND LABRADOR

FIRE AT QUINLAN BROTHERS FISH PROCESSING PLANT—BAY DE VERDE

Hon. Fabian Manning: Honourable senators, may I also take the opportunity to congratulate and welcome our seven new senators to the chamber. I look forward to working with each and every one of you over the years ahead on behalf of all Canadians.

Honourable senators, the small fishing community of Bay de Verde in Newfoundland and Labrador received a crushing economic blow earlier this week.

In the early hours of Monday morning, a dramatic fire broke out at the local fish processing plant, and by the end of the day the facility was completely destroyed.

This particular fish processing plant is the largest in our province. Honourable senators, 17.5 million pounds of crab were processed there last year and several million pounds of shrimp. While the population of the small community of Bay de Verde is approximately 400 people, the plant employed 700 men and women from all across our province and even had employees from as far away as Thailand. Needless to say, the people of our province are still in shock, and the people of Bay de Verde are devastated. The crab season has just begun, and all these people were looking forward to another productive year working at the plant.

Having had the honour and privilege to represent the fine people of Bay de Verde and surrounding communities as their member of Parliament for several years, I can attest to the pride in their community, the hard work, the determination and resilience of the people of this region and their belief that the fishery is still a wonderful and fruitful way of life.

Watching the news reports from the town during the last few days have been heart-wrenching to say the least. Listening to a husband and wife team who have worked at the plant for over 30 years, or listening to Mayor Murphy of the town talking about the incredible setback this will be to the town and area, has been very difficult. With God's blessing there were no injuries or loss of life, and the owners of the plant, the Quinlan brothers, have vowed to rebuild and reopen the fish plant, which I'm sure is welcome news for all the people concerned. But this will take time and patience.

In the meantime, I ask all senators to support my request today that all levels of government, municipal, provincial and federal, come together as quickly as possible to assist these hard-working people as they pick up the pieces of their life's work and struggle to find their way forward. I have faith that this will be done.

Also, I ask my colleagues here to keep the fine people of Bay de Verde and surrounding communities in your thoughts and prayers in the days ahead. As usual, even in Newfoundland and Labrador on the cloudiest day we have, there is always a ray of sunshine and hope for a better tomorrow.

• (1420)

[*Translation*]

THE LATE MARIE-CLAIRE KIRKLAND, C.M., C.Q.

Hon. Diane Bellemare: Honourable senators, the past few weeks have been difficult for Quebec, which lost four well-known public figures. The Honourable Jean Lapierre died tragically in a plane crash. Mr. Lapierre was part of the family in most Quebec households. He leaves a great void in Quebec media.

Actress Rita Lafontaine, another prominent Quebecer, passed away too soon. She touched us all with her portrayals of Michel Tremblay's characters.

Writer and playwright Marcel Dubé lived a very full life and guided many young Quebecers of my generation through their teen years.

We also lost the Honourable Marie-Claire Kirkland, better known as Claire Kirkland-Casgrain, on March 24. She lived a very active life. I would like to take a few minutes to pay tribute to Marie-Claire Kirkland, a pioneer for women's rights.

I could talk about the fact that she was the first woman to be elected as a member of the Quebec National Assembly, the first woman to be appointed to cabinet, the first woman to be appointed acting premier, and the first female judge in the Court of Quebec. All of this would be enough on its own.

However, her achievements went far beyond these firsts. She opened the door to economic independence for a whole generation of Quebec women when, on July 1, 1964, she helped pass Bill 16, a bill that was close to her heart.

This bill made major changes to the Quebec Civil Code regarding a married woman's legal capacity to have a career and manage her own property. The bill put an end to the legal

incapacity of married women by giving them the right to sign leases and open bank accounts without their husband's written permission.

In 1969, she was responsible for the passage of a bill on matrimonial property rights and the establishment of the partnership of acquests, the equal division of property between spouses upon divorce.

There can be no doubt that these two laws went a long way toward eradicating the notion that a married woman is bound to obey her husband. Today, we can hardly imagine the impact that these laws had on the lives of Quebec women, whom the Church and the law sought to confine to the home.

The new legislation helped give many married women the courage to enter the labour market and find paid employment. It changed the lives of many couples and helped set the stage for egalitarian relationships between two people bound by marriage.

Marie-Claire Kirkland's political activity resulted in a more just and equitable society. I will close by saying that Marie-Claire Kirkland is truly a trailblazer, even in death: she was the first Quebec woman to be given a national funeral.

Hon. Senators: Hear, hear!

[*English*]

ROUTINE PROCEEDINGS

CANADIAN HERITAGE

PUBLIC SERVICE STAFFING TRIBUNAL—2014-15 ANNUAL REPORT TABLED

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the Annual Report of the Public Service Staffing Tribunal for 2014-15.

BUDGET 2016

NOTICE OF INQUIRY

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I give notice that, two days hence:

> I will call the attention of the Senate to the budget entitled *Growing the Middle Class*, tabled in the House of Commons on March 22, 2016, by the Minister of Finance, the Honourable Bill Morneau, P.C., M.P., and in the Senate on March 24, 2016.

CANADA PROMPT PAYMENT BILL

FIRST READING

Hon. Donald Neil Plett introduced Bill S-224, An Act respecting payments made under construction contracts.

(Bill read first time.)

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

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

CONTROLLED DRUGS AND SUBSTANCES ACT

BILL TO AMEND—FIRST READING

Hon. Vernon White introduced Bill S-225, An Act to amend the Controlled Drugs and Substances Act (substances used in the production of fentanyl).

(Bill read first time.)

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

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

PARLAMERICAS

PLENARY ASSEMBLY, SEPTEMBER 4-5, 2015—REPORT TABLED

Hon. Percy E. Downe: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the ParlAmericas respecting its participation at the Twelfth Plenary Assembly, held in Panama City, Panama, from September 4 to 5, 2015.

CANADIAN NATO PARLIAMENTARY ASSOCIATION

SPRING SESSION, MAY 15-18, 2015—REPORT TABLED

Hon. A. Raynell Andreychuk: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canadian NATO Parliamentary Association respecting its participation at the 2015 Spring Session, held in Budapest, Hungary, from May 15 to 18, 2015.

HUMAN RIGHTS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY THE STEPS BEING TAKEN TO FACILITATE THE INTEGRATION OF NEWLY-ARRIVED SYRIAN REFUGEES AND TO ADDRESS THE CHALLENGES THEY ARE FACING

Hon. Jim Munson: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That the Standing Senate Committee on Human Rights study and report on steps being taken to facilitate the integration of newly-arrived Syrian refugees and to address the challenges they are facing, including by the various levels of government, private sponsors and non-governmental organizations.
>
> That the committee submit its final report no later than October 31, 2016 and that the committee retain all powers necessary to publicize its findings for 180 days after the tabling of the final report.

FISHERIES AND OCEANS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY MARITIME SEARCH AND RESCUE ACTIVITIES

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

> That the Standing Senate Committee on Fisheries and Oceans be authorized to examine and report on Maritime Search and Rescue activities, including current challenges and opportunities; and
>
> That the Committee report from time to time to the Senate, but no later than November 30, 2017, and that the Committee retain all powers necessary to publicize its findings for 180 days after the tabling of the final report.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

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

Hon. Richard Neufeld: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That the Standing Senate Committee on Energy, the Environment and Natural Resources has the power to sit on Tuesday, April 19, 2016, at 5 p.m., even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

• (1430)

ORDERS OF THE DAY

GENETIC NON-DISCRIMINATION BILL

THIRD READING—DEBATE ADJOURNED

Hon. James S. Cowan (Leader of the Senate Liberals) moved third reading of Bill S-201, An Act to prohibit and prevent genetic discrimination, as amended.

He said: Colleagues, I'm pleased to launch third reading of my private member's bill to prohibit and prevent genetic discrimination.

In 1837 Alfred, Lord Tennyson wrote in his famous poem *Locksley Hall*:

> Science moves, but slowly, slowly, creeping on from point to point.

Who could imagine writing those words today? Where once science may very well have crept forward, today it rockets into space, with men and women living on a space station, and produces telescopes to photograph galaxies millions of light years away. Quantum physics is taking us deep within the atom, shattering long-held ideas and discovering new, ever-smaller particles. Computers, the Internet — who in 1837 would have even imagined the transformations that have taken place just in the past few decades?

And science has also as never before penetrated the human body, deciphering the code that forms the stuff of our very lives: our genes.

It wasn't long after Tennyson's poem, in 1865, that Gregor Mendel, an Augustinian monk, began his gardening experiments that revealed for the first time how traits are passed down from parent to child — the beginning of the field we now know as genetics. Almost 100 years later, in 1953, James Watson and Francis Crick discovered the now-iconic shape instantly recognized the world over: the distinctive double helix twist we know as DNA, the strands that store the genes that determine those traits that combine to make us who we are.

In 2003, scientists mapped the entire human genome — a feat once relegated to the imaginative world of science fiction, became scientific fact, and at a pace faster than anyone had previously thought possible. The genome is composed of 3 billion chemical "bases" of information, and each of us carries our entire genome, all 3 billion chemical bases, in every one of our trillions of cells.

Those numbers give us some insight into the magnitude of the task in mapping the genome. We should not be surprised that scientists' understanding of our genes is still in the early stages. Dr. Stephen Scherer, a leading geneticist and Director of the

Centre for Applied Genomics at Toronto's SickKids Hospital, has said that we are "literally in the pioneering days" of understanding our genetic information. But Dr. Scherer also has commented on just how fast genetic science is advancing. He told our Senate Committee on Human Rights:

> It's unbelievable how fast it is moving. Somebody will know Moore's law of computation that there is a doubling of the ability to store and process information every year that outstrips any type of technical law. Sequencing [our genetic code] has exceeded that 10-fold.

So much for the slow, creeping science of Lord Tennyson.

Humanity is already benefitting tremendously from this scientific revolution. From the beginning, genetics gave hope that as scientists unlocked the keys to our genetic code, they would begin to understand the causes of certain diseases, and with that understanding would come the possibilities of treatments, cures and perhaps even ways to prevent the diseases developing in the first place.

Well, colleagues, that hope is being realized. Scientists have identified genetic mutations associated with diseases from ALS, to polycystic kidney disease, to certain heart diseases, breast and ovarian cancers, prostate cancer, colon cancer, cystic fibrosis — and the list goes on.

In 2003, when scientists completed the mapping of the human genome, there were some 100 genetic tests available for genetic mutations associated with particular diseases or conditions. By 2013, when I first spoke about this issue in this chamber, that number had jumped to 2,000. Today, colleagues, three years later, there are over 33,660 genetic tests for some 10,000 conditions, and the number of tests keeps growing daily.

And colleagues, these are just with respect to 5,000 genes — 4,752 to be exact. We have 25,000 genes in our genome. Truly, we are in the pioneering stage of this field.

In the vast majority of cases, having a genetic mutation that is associated with a particular disease or condition does not mean that a person will develop the disease or condition, only that they might. And of course, not everyone who develops a disease or condition has the genetic mutation that scientists have associated with it. But knowing that one has a genetic predisposition to develop a particular disease or condition is power. It can enable one to take active steps to actually reduce the likelihood that the disease or condition ever develops in the first place or, if it does develop, that it is caught early and treated.

The most famous example is Angelina Jolie. I have told her story here before, but for the benefit of our new colleagues, I will repeat it briefly. Several years ago, Ms. Jolie learned that she carries the BRCA1 gene, which is associated with a higher incidence of breast and ovarian cancer. She did not have cancer, but having lost her mother to the disease, she decided to undergo preventive surgery. By doing so, she reduced her chances of developing breast cancer from 87 per cent to under 5 per cent. She wrote in *The New York Times*: "I can tell my children that they don't need to fear they will lose me to breast cancer."

Preventive surgery is an option available in some situations, but there are often other, less drastic measures that individuals can take to reduce their chance of developing a particular disease or condition. These could include simple lifestyle changes of diet and exercise, or getting targeted medical screenings, or taking particular prescription drugs. There may be a range of options open once one knows that one has a particular genetic predisposition.

Knowledge is power, and having access to that genetic knowledge is good for everyone. And of course, with a publicly funded healthcare system, there are very concrete benefits to preventing a disease or condition rather than just treating it.

Genetic testing is becoming a critical tool of medical science. Doctors increasingly find that diagnosing a patient's problem or designing the right treatment plan requires genetic testing.

Personalized medicine, sometimes called "precision medicine" or "individualized medicine," is considered by some to be the future of medical care. Traditionally, doctors have treated each patient with the approach that has been found to work in the average case, for the average person — usually, by the way, it's the average man. But, of course, people are individuals. It's the rare person who fits the mold of the average person.

Personalized medicine treats the actual person at issue with his or her unique combination of genes and lifestyle. It prescribes drugs designed for the genetic composition of the actual disease in that particular patient.

Let me refer again to the testimony that Dr. Scherer gave before our Human Rights Committee. He said:

> We talk a lot about genetics having a role in medicine, but, in fact, genetics will drive how medicine is implemented going forward across all different disorders, conditions and diseases.

• (1440)

That is what I keep hearing from doctors and scientists: Genetics is becoming a critical tool for medical science. And it all starts with a genetic test — a simple blood test or even a cheek swab.

The problem, colleagues, is that our laws in Canada have not kept pace with science. In Canada, unlike the vast majority of other Western nations, if one has a genetic test, there is no law, either at the federal or at provincial level, that provides protection against a third party demanding access to the genetic test results and then using those results, often to one's detriment. That is what is called genetic discrimination.

Dr. Yvonne Bombard is a researcher and scientist at St. Michael's Hospital in Toronto who is internationally recognized for her expertise in genetic discrimination. She has documented numerous instances of genetic discrimination in Canada, including Canadians who have been sidelined at work, forced into early retirement or placed under increased surveillance

by employers, not because of an actual health condition or disease but because their employer learned the results of the employee's genetic test.

Canadians have been forced to pay high, even exorbitant, rates for insurance, or even been denied insurance altogether, again, not because of an actual disease or condition but because of something that may happen one day in the future, according to their genes.

The problems are not limited to insurance or employment. Canadians have encountered problems in other areas, as well, such as being denied custody or access to children in cases of marital breakdown — and even being denied the ability to adopt a baby.

Colleagues who were here for my speech at second reading will recall the story of the 24-year-old man who was fired from his job as a video editor when his employer found out he tested positive for the Huntington's genetic mutation. This young man won't develop the disease or show any symptoms for decades. Huntington's is a terrible disease when it develops, but genetic discrimination takes a disease and magnifies its power so that it casts a dark shadow over the years when one is healthy and disease-free.

Fear of genetic discrimination is causing many Canadians to reluctantly decide not to proceed with genetic testing that their doctors believe would help with their health care.

Colleagues, there are many reasons why a person may decide not to have a genetic test. The decision to find out about a genetic predisposition is, and in my opinion should be, a very personal one. There are many factors a person weighs in deciding to take a test: the medical options available if one tests positive for a particular genetic mutation; the emotional impact on one's family members, who themselves may worry if they too carry the gene; and the emotional impact on oneself, thinking about the impact on one's future.

But fear of discrimination because of the results of the test should not be a factor that anyone should need to consider in making such a decision about one's health care. Discrimination should never be allowed to wield such power.

That is the problem that Bill S-201 is designed to address. It is in three parts. The heart of the bill is the proposed new law, the Genetic Non-Discrimination Bill. That law would prohibit service providers from demanding someone take a genetic test or demanding that someone disclose the results of a prior genetic test in order to obtain a good or service. It would also prohibit service providers from collecting, using or disclosing someone's genetic test results without that person's prior written consent.

Contravention of the prohibitions would carry potential penalties of a fine of up to $1 million, imprisonment up to five years or both. These penalties are hopefully severe enough to serve as an effective deterrent, since preventing genetic discrimination is the real goal of the new law. But they are not out of line with penalties available under other statutes.

Many colleagues will recall former Bill C-28, the anti-spam legislation introduced by the previous government and passed by the Senate in December 2010. That legislation imposed penalties up to $1 million for an individual and $10 million for a corporation for sending unwanted email. If those fines were considered proportionate when someone sends an unwanted email, then I'm comfortable imposing significantly lower maximum fines for someone gaining unwanted access to information about a person's DNA.

Several senators have asked about the proposed maximum five-year term of imprisonment. I believe that it is proportionate when viewed in the context of the Criminal Code. For example, section 402.2 of the code makes it an offence to knowingly obtain or possess another person's "identity information," in circumstances giving rise to a reasonable inference that the information is intended to be used to commit particular indictable offences. "Identity information" is defined in section 402.1 to include a person's DNA profile. Section 402.2 carries a maximum sentence of up to five years' imprisonment.

Many sections in the Criminal Code provide for sentences of imprisonment up to five years, some of which are rather surprising; for example, defacing a brand or mark on cattle; entering into an agreement to receive a criminal rate of interest; sending a message under a false name; defacing or injuring a register of births, baptisms, marriages, deaths or burials — there is a long list.

Other offences can carry even higher penalties. My personal favourite is subsection 376(1), which makes mutilating a postage stamp an offence, liable to 14 years of imprisonment. So I am quite comfortable providing a maximum possible sentence of imprisonment for five years for crimes under Bill S-201.

And I do think it's time for the Criminal Code to be looked at.

Bill S-201 sets out exceptions for physicians, pharmacists and other health care practitioners for persons under their care. There is also an exception for medical or pharmaceutical research with respect to persons participating in that research.

The second part of Bill S-201 contains amendments to the Canada Labour Code that would provide a complaint procedure for federal employees facing disciplinary action because of genetic testing. The third part of this bill contains proposed changes to the Canadian Human Rights Act to add "genetic characteristics" as a prohibited ground of discrimination under that act.

But as I have said, the heart of the bill is what is contained in the first part of it, namely, the Genetic Non-Discrimination Bill.

Since its original introduction in April 2013, this proposal to end genetic discrimination has been receiving ever-increasing support. When she testified on February 24 of this year, Commissioner Marie-Claude Landry of the Canadian Human Rights Commission was unequivocal about the need for legislation such as Bill S-201. This is what she said:

> Genetic information about our genetic makeup is deeply personal. We have heard that some individuals choose to avoid genetic testing out of fear that the very tests meant to

> help may one day be used against them. They fear they could be discriminated against by employers, perhaps, or in service contracts because of what their genes say about them.
>
> And who can blame them? Our rights in this area are not clear. Genetic discrimination is an emerging area of law that remains virtually untested. Canadian jurisprudence in this area is almost non-existent.

She concluded her opening statement as follows:

> In conclusion, the [Canadian Human Rights] Commission supports Bill S-201.We believe that genetic tests are meant to help you. Without these protections, genetic information could actually be used to make your life more difficult. Taking a test that could help save your life should not have to be a calculated risk.

During the question-and-answer period with senators, the commissioner said this:

> I want to add that Canada is actually the only country among the G7 not to have this kind of rule to deal with genetic discrimination. I think it is now time to do so — Canada is not in advance in this matter; we are late.

The Privacy Commissioner of Canada was also strong in his support of the bill. He said of the prohibitions in the Genetic Non-Discrimination Bill that they:

> . . . represent a good and balanced way of respecting the wishes of those who want to share their genetic test results and those who would prefer not to.

Doctors and scientists have expressed both the urgent need for the protections contained in Bill S-201 and their strong support for the bill. Dr. Ronald Cohn is the Co-Director of the Centre for Genetic Medicine at the SickKids Hospital in Toronto. He has come to Ottawa twice to testify in support of this bill. That is how important he considers it for his patients. Last week, the SickKids Hospital announced that, after an extensive international search, Dr. Cohn has been appointed Chief of Paediatrics at the hospital. His work here at the Senate advocating for this bill was cited in the official announcement of his appointment.

• (1450)

Dr. Cohn treats children, many very seriously ill with complicated problems. He told our committee of a 14-year-old boy with significant medical issues. His family had been trying to get a diagnosis for their son literally since he was born. They have travelled outside Canada to the United States and the United Kingdom, but without success.

The genetic testing that Dr. Cohn proposed had, as Dr. Cohn told them, a high likelihood of giving them the answer they had been looking for. The mother's response was, understandably, very emotional. She told Dr. Cohn that this was the first time anyone had given her hope to find an answer to even one of the questions she had been asking for 14 years.

But when they went through the consent process, the issue of genetic discrimination had to be raised, as did the fact that there would be a risk not only for the 14-year-old and his future, but also for the family and the extended family, as the answers could raise issues for others, as well.

After discussing everything with her husband, the mother telephoned Dr. Cohn and, crying on the phone, she said, "I can't do it. No matter how much I am looking for an answer, I can't do it."

Dr. Cohn gave us a number of other examples from his practice, all heartbreaking.

Colleagues, it is one thing to have to take a decision not to have a test that your doctor recommends for yourself, but to put parents in the agonizing position of having to choose between a critical test for their sick child, or possible genetic discrimination that could affect everyone in their family — that's a terrible choice that no one should have to make.

Dr. Cohn told us that he had recently been asked by a journalist how he felt. He said this:

> The best term to describe it is that it is paralyzing. It is paralyzing for me as a clinician that I can't offer the best, optimal care to the patients and families I see in my clinic, because we are dealing with a lack of protection against genetic discrimination.

Colleagues, I've spoken to doctors and scientists across Canada. I've heard many similar stories. The week before last, I met with Dr. Francois Bernier, the head of the Department of Medical Genetics at the University of Calgary. He told me that the problem of genetic discrimination comes up all the time in his practice and those of his colleagues. After our meeting, he emailed some of his colleagues, asking for their input. Within 24 hours, he received pages of emails describing situations faced by various patients. One colleague estimated that among their adult patients, more than 90 per cent are worried about genetic discrimination. Dr. Bernier had given me the same estimate during our meeting, and he added that he thinks the remaining 10 per cent worry about it, as well.

Dr. Bernier and his colleagues are very anxious for Bill S-201 to pass so that their patients may be free to make decisions about their medical care for the right reasons, without fear of genetic discrimination.

As I've noted, there is widespread support for Bill S-201 across the medical and scientific community, health organizations, genetic counsellors, privacy and human rights advocates, and individual Canadians, as well.

The main group opposed to this bill is the insurance industry. The Canadian insurance industry, unlike their counterparts in many countries around the world, has been able to demand that insurance applicants hand over genetic test results, and they are understandably loathe to give that up.

The industry has made a number of arguments, which I will try to address as briefly as I can.

First of all, they say one of the fundamental principles of insurance is that the insurer has access to all information that an applicant has about his or her health, and that they have a right to use genetic test results to charge higher premiums and, indeed, to deny some applicants insurance altogether. They say that if they do not have that information, then premiums will skyrocket for all Canadians, and many will find insurance out of reach.

However, colleagues, there are many countries where insurance companies are no longer allowed to have access to genetic test results, and insurance policies continue to be issued; premiums have not skyrocketed; insurance has not become unaffordable for citizens; the world has continued; and the insurance industry, as far as I am aware, has continued to do just fine.

Indeed, insurers have not been able to access genetic test results in Britain, except with respect to Huntington's, since 2001. Far from going up, premiums actually fell by some 25 per cent in the decade following. I'm not suggesting that the premiums fell because of the ban regarding genetic test results, but certainly the introduction of the ban did not cause them to rise.

To be clear, nothing in my bill would prevent an insurer from continuing to inquire about the applicant's health or family health history. Information about actual health issues would continue to be accessible.

And as I have explained, genetic test results don't say what will happen but only what might happen. And even for those very few conditions, such as Huntington's, where a certain genetic mutation will accurately predict that at some point in your life you will develop a particular disease or condition, the genetic test does not tell you when the disease or condition will develop. It may not develop for decades — long after one has retired from the workforce — or one may die from another cause before it even develops.

There is one more point I would like to make on this. As I said at the beginning of these remarks, we each have some 25,000 genes in our genome. Scientists have some knowledge about fewer than 5,000 of those genes, and I am told that the knowledge in some cases is quite sketchy. So how fair is it to allow someone to single out a person for special — worse — treatment because they tested positive for one of the 5,000 genetic mutations scientists have identified as linked to a particular condition, when another person may well have a genetic mutation that leads to a far worse condition, but it's one of the 20,000 genes that scientists have not yet identified? That seems wrong to me.

Another issue raised by the insurance industry concerns the constitutionality of the Genetic Non-Discrimination Bill. A number of our colleagues have entirely appropriate concerns about this, which we tried to address. They say the proposed law is really a disguised attempt to regulate the insurance industry, and the regulation of the insurance industry is a matter of provincial jurisdiction.

Colleagues, I and all of us here, I'm sure, take issues of constitutionality very seriously. The Genetic Non-Discrimination Bill does not seek to regulate the insurance industry or indeed any industry. It simply prohibits conduct that is unacceptable, whoever engages in that conduct. It relies on the criminal law power, which everyone — even the insurance industry — acknowledges is a valid area of federal jurisdiction.

This issue was explored quite extensively by the Human Rights Committee. One of those who testified was Professor Bruce Ryder, who has taught constitutional law at Osgoode Hall Law School for almost 30 years. His area of specialty is the division of powers under the Constitution. After providing a detailed analysis of the relevant constitutional principles and case law from the Supreme Court of Canada, he told the committee this:

> I am the sort of person who will say that it is one of your most important responsibilities to ensure that the legislation you vote in favour of is constitutional. I want to say, in this case, that I am very confident, and I believe it would be the consensus view of other constitutional experts, as well, that this bill is constitutional. That doesn't mean that there aren't other issues; there are all kinds of other important issues to discuss. However, I don't think you should be too concerned about the risk of unconstitutionality, because this seems to me to be very solidly within Parliament's jurisdiction.
>
> That doesn't mean there is no risk. I could be wrong. I don't think I have ever been wrong before, but maybe there will be a first time. There will always be legal debate — we don't work in the realm of certainty — but I think you can work within the realm of confidence here.

• (1500)

Professor Ryder was not alone in his opinion. Professor Pierre Thibault, a constitutional law professor at the University of Ottawa, wrote to the committee. He had raised questions in 2014 with respect to an earlier version of the bill. This time, he was unequivocal. He wrote that he reviewed the new version of Bill S-201 and believes that the bill "is constitutionally valid."

Senator Nancy Ruth asked the Senate Law Clerk and Parliamentary Counsel, Michel Patrice, about the constitutionality of the bill last year, when questions were first raised. He too was very clear, telling her that the bill was a valid exercise of the federal criminal law power.

The only opinion to the contrary came from the law firm Torys, which had been hired by the insurance industry to provide an opinion as to constitutionality. Curiously, the opinion sent to the committee was not signed. Evidently, no lawyer was prepared to affix his or her name to it.

I am not surprised that the insurance industry found lawyers prepared to challenge the constitutionality of the bill. That is how our system works, and properly so. As Professor Ryder testified, "There will always be legal debate — we don't work in the realm of certainty . . . ." It isn't for us as legislators to try to avoid any possible challenge to bills that we pass. That would set the bar impossibly high. Our job, as Professor Ryder said, is "to exercise care and not pass unconstitutional statutes." I am satisfied by the rigour and thoroughness of Professor Ryder's expert opinion, among others, that, as he told us, the proposed genetic non-discrimination act falls very solidly within Parliament's jurisdiction.

By the way, all provinces and territories are aware of Bill S-201, and not one has raised an issue with its constitutionality. Last December and January, I wrote to all the provinces and territories enclosing a copy of the bill. The committee clerk then separately wrote to all the provinces and territories, inviting representations on the bill. In total, nine provinces and territories replied to our letters. Not one raised an issue about the bill's constitutionality or suggested in any way that we were venturing into an area of provincial or territorial jurisdiction.

Colleagues, the insurance industry is stridently opposed to this bill. I am not persuaded that their dire predictions of the future of the industry will come to pass. I take great comfort in the experience in many countries that have prohibitions in place like those contained in Bill S-201; and the world has not come to an end, and the insurance industry seems to have survived just fine.

The Office of the Privacy Commissioner of Canada has studied this issue extensively for a number of years. They commissioned two studies of the anticipated impact on the insurance industry of provisions such as those contained in the bill. The conclusion reached by the studies was:

> . . . at the present time and in the near future, the impact of a ban on the use of genetic test results by the life and health insurance industry would not have a significant impact on insurers or the efficient operation of insurance markets.

When he testified before our committee in February, I asked the Privacy Commissioner, Mr. Therrien, if that is still the view of his office. He said that it is.

Frankly, I am not at all convinced that this bill will have the dire impact that the insurance industry predicts it will have on their business. But should I be wrong and should unintended consequences begin to emerge, Parliament can quickly revisit the issue. Nothing is written in stone here. We can always come back and amend legislation that we pass in light of what we learn in the future.

Colleagues, one rarely finds unanimous support for any initiative. That is simply the reality in a large, diverse nation such as ours. The challenge we face as legislators is to assess the competing interests from the perspective of the public interest and then come to a conclusion. For me, when I balance the concerns of the insurance industry against the potential health benefits for Canadians of genetic testing without fear of discrimination, my choice is clear.

This issue is affecting more and more Canadians as the science and applications of genetic testing advance, as is happening at a truly staggering pace. Every time I speak about Bill S-201, I hear another story.

Following an article that appeared last week in the press about this bill, I received an email from someone in Halifax whom I have known for over 10 years. She has agreed that I may use her name. It is Dr. Martha Crago, a highly accomplished academic and researcher who is now the Vice-President of Research at Dalhousie University. We have worked together for years on issues related to post-secondary education. But the revelations in her email were completely new to me. Here is what Martha wrote to me last week:

> I read about your work on the Genetic Non-Discrimination Act in the paper today and I wanted to thank you profoundly. I come from a BRCA1 family that has lost generations of women - mothers, aunts, nieces, and for me, my 3 sisters. It was an enormous relief for me to know that I did not carry the gene. I tracked down the gene for over 20 years and did the testing knowing it might impact on others. It was a terrible decision to have to make. And it should not have had to be such a decision.

Colleagues, medical science is far from perfect, but we know that there are steps that can be taken to reduce the chances that a woman with the BRCA1 gene will develop breast cancer. A family like Martha Crago's should not have to lose generations of women. They should be able to get testing if they wish without fear of the implications for themselves or others in their families.

Earlier, I mentioned personalized medicine. Part of that is targeting treatments to a patient's genetic makeup. A friend of someone in my office shared her story, which demonstrates why that can be critically important. This woman was diagnosed with breast cancer. Indeed, she is worried that she may have the BRCA gene, but that is not her immediate issue. She was treated for breast cancer and then, like many women after treatment for breast cancer, was placed on tamoxifen. After several months, she suffered a pulmonary embolism — a blood clot that entered her lungs through her heart, which is a life-threatening condition. It turned out that she has a genetic mutation known to carry this risk with tamoxifen. As she explained, people with this condition should not take any hormone-based medications and need to take extra precautions after injuries or surgeries.

This woman has three daughters. They were anxious to get tested. However, when they consulted their doctor, she advised them against it. She warned them that a positive test could render them uninsurable. So to avoid genetic discrimination, these three young women are living as though they carry the mutation. This has significant repercussions on their lives, but it is the only safe option without testing. Meanwhile, the woman's mother, now in her late eighties, was tested and found that she too carries the mutation; but it has never caused her any problem.

There are so many stories, but I will restrict myself to one last one. This too came to me in an email I received recently from a young woman. For obvious reasons, I won't reveal her name, but she has agreed that I may share her story. Here is what she wrote to me:

> My mother, now facing cancer for the third time in her life, recently tested positive for the BRCA1 genetic mutation. I had already been approved for life insurance when she received her test results and immediately chose to undergo testing myself. I moved quickly as I am expecting my second child any day now. Unfortunately, when I mentioned this to my insurance broker, he insisted on informing the insurance company that had approved my coverage, arguing that the policy had not yet been delivered and therefore was not in force. You can probably guess what happened next. The

> insurance company indicated it would not deliver the policy until it saw the results of the testing and would reserve the right to adjust its offer. I chose to cancel my application. Although I have yet to receive the results, as you can imagine, I am very nervous. If I test positive, I worry I will not be able to secure affordable life insurance to protect my family just when I would need it the most. Hopefully, my test will be negative and this will prove a non-issue for me personally, but my heart aches for the many Canadians who must find themselves in similar situations and the dire consequences and difficult choices they would be faced with.

• (1510)

Colleagues, I have related several stories that I heard recently that concerned women with breast cancer. I could tell you so many stories of so many Canadians with so many different health issues — of five generations in one family, men and women, with Lynch syndrome, a rare genetic condition that can cause several types of cancer, all treatable if diagnosed early, but that requires genetic testing. I could tell you about families with genetic heart disease, again treatable if the genetic predisposition is known. The stories go on and on.

Each of these stories speaks of the hope that genetic science is bringing to so many Canadians, that they may be able to take action to improve their health and quality of life and, of often greater urgency, that of their children. But they also speak of the terrible anguish facing Canadians in deciding whether to take the genetic test, not because of medical or personal reasons but because of concern that third parties would gain access to the results and use it against them and their families.

Genetic discrimination, in any form, is wrong. It is bad for individuals. It threatens their security, health and well-being, and it is against the public interest as well.

Colleagues, this is not a partisan issue. The Liberal Party of Canada, including the president of the party and the now Minister of Finance, made several strong commitments on this issue during the recent election. The previous Conservative government promised, in their last Speech from the Throne, to take action to prevent insurers and employers from discriminating against Canadians on the basis of genetic testing. Indeed, the previous government, in June of last year, introduced a bill, which, of course, did not proceed and died on the Order Paper. Members of the NDP have put forward bills in the other place to address it. Several riding associations, in advance of the recent NDP convention, put forward resolutions calling on the party to take action against genetic discrimination. The NDP Quebec section called on the NDP to "request that the government adopt legislation prohibiting genetic discrimination in order to protect citizens from any form of discrimination (employability, access to insurance, et cetera) after undergoing a genetic test."

Colleagues, this is not a matter of politics; it's a matter of helping Canadians to access the best health care for themselves and their families, putting legal protections in place so that Canadians no longer find themselves having to make critical medical decisions on the basis of non-medical reasons. Fear of discrimination simply should not enter into the calculation.

This is a matter that affects all Canadians. None of us has perfect genes. Canadians doctors are working to provide the best in medical care. Now, we need to do our part.

In 1837, science moved, as I said, "but slowly, creeping on from point to point." Our laws could move slowly then as well. Today, the fact that our laws have not kept pace with science is hurting Canadians. I believe we have a responsibility to act, and to act expeditiously.

Colleagues, I hope you will join with me and the many Canadians who are anxiously waiting for protection against genetic discrimination and vote in favour of Bill S-201.

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

Senator Cowan: Absolutely.

Senator Fraser: I support your bill unreservedly, and I'd like to place on the record my admiration of your tenacity for pursuing it. We are all hopeful that it will very soon leave this place and go to the other place, where I hope it will be appropriately received and passed.

I'm not asking a question with evil intent, but one small portion of your very eloquent speech caught my attention. Since I expect you will continue your work on this bill across the country, I'd like to ask you to make one small adjustment in your remarks. This has to do with your reference to the discoverers of the structure of the DNA molecule, Watson and Crick. Watson and Crick got the Nobel Prize for that work, and they get credit always and everywhere for it. Very rarely is credit given to Rosalind Franklin, who, before them, was well on her way to discovering the structure of the molecule. They were beavering away in Cambridge, and she was working at the University of London. She was using a different technique from theirs. She was doing X-ray diffraction imaging involving crystals, I believe — hence, the diffraction. Well before her work was complete but while it was well advanced, somebody, without her knowledge or consent, showed one of her images to I believe it was Watson, and it was that image that enabled Watson and Crick to pin down the structure of the molecule, work for which they eventually received the Nobel Prize.

At the time, hardly anybody had ever heard of Rosalind Franklin. If you read Watson's book, *The Double Helix*, the reference to her is so unclear that, when I read the book, I thought I must be crazy to conclude — could Senator Cowan have five more minutes?

The Hon. the Speaker: Is it agreed?

Hon. Senators: Agreed.

Senator Fraser: When I read *The Double Helix*, I thought there must be something wrong with me because I read this book and thought, "They stole her work," but nobody else was saying that at the time. Now we know. Perhaps the word "stole" is too strong, but they certainly appropriated the core elements of her work.

In recent years, she has begun to get the credit she deserves, but as you go around explaining to Canadians how vitally important this bill is, if you refer to Watson and Crick, may I ask you also to refer to Rosalind Franklin? Women will be grateful, and women scientists in particular will be grateful.

Senator Cowan: Colleagues will understand that there are benefits and perils to sitting next to the former editor of the *Montreal Gazette*.

I take your point. I was not aware of that, and I will amend my talks accordingly.

Hon. Linda Frum: Honourable senators, I rise today to speak to Senator Cowan's Bill S-201, An Act to prohibit and prevent genetic discrimination. Senator Cowan is to be congratulated for his persistence in developing a legislative response to a truly 21st century problem — the real and disturbing potential for discrimination against individuals based on their genetic characteristics as revealed by genetic testing.

There is, as Senator Cowan has repeatedly said, a gap in our laws with respect to this potential.

Many Canadians carry genes connected with heritable diseases and conditions. Some will eventually develop these conditions and diseases; others will not. Some people avoid genetic testing for themselves or their family members because they fear that the results, if revealed or required to be revealed to others, might be used against them. Others who have already had genetic tests done have similar concerns.

Canadians have an expectation of privacy around something as elemental and personal as their genetic makeup, and I agree with them on that.

This is the third time a bill devoted to this issue has been debated in the Senate but the first time it has reached third reading. The impediment to adopting previous iterations of this bill lay in concerns about its constitutionality. Changes made to the current bill have attempted to allay those concerns.

For example, whereas a previous version of Bill S-201 exempted higher value contracts of insurance from its prohibitions under certain conditions, this bill contains no such clause.

• (1520)

Senator Cowan says omission of that proviso, that reference to contracts of insurance and "applicable provincial enactments," indicates that the bill is not out to target a specific industry but, rather, specific conduct: discrimination on the basis of an individual's genetic characteristics. This, he says, should allay any constitutional jurisdictional concerns.

The bill's prohibitions now speak in more general terms about "goods and services" and "contracts and agreements."

Despite these nevertheless being matters within provincial jurisdiction, this change has apparently allayed the concerns of constitutional law expert Pierre Thibault, Assistant Dean of the Civil Law Section at the University of Ottawa, who has reversed his opposition on constitutional grounds to Bill S-201.

As a witness at the Senate Human Rights Committee in December 2014, Professor Thibault cautioned that the bill then under consideration was dubious constitutionally on the grounds that its "pith and substance" could be deemed an intrusion into an area of provincial constitutional jurisdiction.

He testified:

> . . . it would seem that the purpose of Bill S-201 is to prohibit an insurance contract that would require a genetic test.

He continued:

> Hence, the pith and substance of Bill S-201 is the regulation of insurance, an area provided for in section 92(13) of the Constitution Act, 1867, governing property and civil rights in the province.

As regards this bill before us, however, Professor Thibault wrote in a brief submitted to the Human Rights Committee dated December 8, 2015:

> Deleting clause 6, which exempted high-value insurance contracts, makes Bill S-201 constitutionally valid.

Professor Thibault also cited the so-called ancillary powers theory or doctrine, contending that this allows federal legislation to encroach upon areas of exclusive provincial jurisdictions:

> . . . as long as the provisions in question are ancillary and required for the implementation of the Act.

He quoted Chief Justice McLaughlin, writing for the majority in the Supreme Court of Canada's 2010 ruling in Lacombe:

> The ancillary powers doctrine applies where . . . a provision is, in pith and substance, outside the competence of its enacting body. The potentially invalid provision will be saved where it is an important part of a broader legislative scheme that is within the competence of the enacting body.

Constitutional law professor Bruce Ryder of Osgoode Hall Law School testified that Bill S-201 is a valid exercise of the federal criminal law power. He cited the 1949 Supreme Court ruling in the Margarine Reference, which he described as the leading interpretation of that power.

The ruling affirmed that Parliament could enact prohibitions if they served a public purpose related to criminal law. The court ruled that the ordinary ends, or public purpose, served by the criminal law include health, as well as public peace, order, security and morality, and the court said that these were not the "exclusive ends served by that law."

This interpretation of the federal criminal law power, said Professor Ryder, has consistently been upheld by the Supreme Court over the years. The high court, he told the Senate committee:

> . . . has repeatedly emphasized that this is the broadest and most flexible of Parliament's powers.

Professor Ryder's conclusion:

> Even when it's addressing areas that overlap with provincial jurisdiction, Parliament can take a leadership role through the criminal law power.

As the opposition critic of Bill S-201, the constitutionality of the bill, rather than its social intent, has been my main concern.

I would like to note that due to this concern around jurisdiction and constitutionality, our committee offered the provinces and the territories an opportunity to comment on the bill before its adoption at committee. Our Senate Human Rights Committee sent letters to the governments of all 10 provinces and three territories and received no clear provincial position related to this bill.

In writing to thank the committee for its invitation, British Columbia's Attorney General and Minister of Justice, Suzanne Anton, wrote that B.C. would not be submitting a brief but added, "We will be following the debate on this bill as it moves forward and providing comments to the Government of Canada through the Continuing Committee of Officials on Human Rights."

The Northwest Territories also thanked the committee and also said it had no submission to make, although it "will continue to monitor this legislation as it moves forward."

P.E.I.'s Deputy Minister of Justice and Attorney General wrote simply: "Please be advised that Prince Edward Island will not be making a submission."

I expect that during their own deliberations our colleagues in the other place will also be attentive to this crucial question: Is this bill, in pith and substance, an attempt to regulate matters which fall under provincial jurisdiction, or does Bill S-201 limit itself to matters which fall under the federal criminal power? No matter what conclusion our colleagues in the other place arrive at, it must be noted that even if Bill S-201 becomes law, there is still the matter of how provincial governments intend to enact measures to prohibit and prevent genetic discrimination in the areas that do fall within their jurisdictions.

In closing, I should like to draw attention to the observations in the report on Bill S-201, observations provided by Conservatives on the committee but agreed to unanimously. These include urging that the Government of Canada engage the various national stakeholders in this important issue, urging that representatives of the Government of Canada meet with their provincial and territorial counterparts to address genetic discrimination in their respective jurisdictions, and inviting the Government of Canada to state its position on genetic discrimination as soon as possible.

Having studied this issue in the Senate three times, I know the members of the Senate Human Rights Committee, and especially Senator Cowan, the sponsor, and indeed the champion of this bill, will be watching with interest to see how the Trudeau government responds, not only to Bill S-201 itself, but to the unanimous recommendations of the committee that this government needs to seize itself with the issue of genetic discrimination with immediacy, urgency and action.

(On motion of Senator Martin, for Senator Wells, debate adjourned.)

BUSINESS OF THE SENATE

The Hon. the Speaker: It now being 3:30, honourable senators, we shall revert to Question Period.

I have just received a message that Minister Garneau was in a vote in the house and will be briefly delayed. If you wish, senators, with leave, we could suspend with a five-minute bell and return as soon as Mr. Garneau arrives.

Is that agreed, honourable senators?

Hon. Senators: Agreed.

• (1530)

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, pursuant to the order adopted yesterday, the Senate will proceed to Question Period.

We'll ask Minister Garneau to please take a seat.

Honourable senators, I wish to advise you that pursuant to the order adopted on December 10, 2015, the Honourable Marc Garneau, P.C., M.P., Minister of Transport, is with us today to take part in proceedings by responding to questions relating to his ministerial responsibilities. As was the case in past weeks, I would ask colleagues to limit themselves to one question and, if necessary, at most one supplementary question. This will allow us to get in as many questions as possible.

Welcome to the Senate of Canada, Minister Garneau.

[*Translation*]

QUESTION PERIOD

Pursuant to the order adopted by the Senate on December 10, 2015, to receive a Minister of the Crown, the Honourable Marc Garneau, Minister of Transport, appeared before Honourable senators during Question Period.

TRANSPORT

DANGEROUS RAILWAY CROSSINGS

Hon. Claude Carignan (Leader of the Opposition): Good afternoon, minister, and welcome to this chamber.

My first question, Minister Garneau, has to do with level crossings. You probably saw the CBC news story this morning that reveals that your department, Transport Canada, prepared a list of the 500 most dangerous level crossings in Canada. This information was apparently never shared with municipal, local or provincial authorities, who in fact could have intervened to minimize or mitigate the risk of accidents. Since 2000, there have been 3,524 accidents at level crossings, 30 per cent of which resulted in death or serious injury. We also learned that last week two women were killed when the vehicle they were travelling in was struck by a VIA Rail passenger train. The level crossing where the accident happened was ranked as the fourth most dangerous crossing out of the 500 listed.

Minister Garneau, my question is pretty simple: When are you going to release this list of dangerous level crossings to the public? When are you going to inform the local authorities and our municipalities about the most dangerous level crossings, so that they can take measures to minimize the risks?

• (1540)

Hon. Marc Garneau, C.P., M.P., Minister of Transport: Thank you, senator and Mr. Speaker. Before answering your question, I want to thank you for inviting me here today to answer your questions. I am honoured. I recently had the privilege of appearing before the Standing Senate Committee on Transport and Communications, and I am quite pleased about that. I am pleased to appear before you again in the Senate. I want to take this opportunity to welcome the seven new senators who took their place here yesterday.

As for your question, I want to begin by saying that railway safety is very important to me. It figures in the mandate letter that the Prime Minister sent to me. I take this issue very seriously. I have taken part in roundtable discussions all around the country. As you know, the budget we brought down recently allocates an additional $143 million for railway safety and the transportation of dangerous goods.

The list you are talking about is part of a database that is indispensable to Transport Canada. Our inspectors use it to get more details about every level crossing across Canada. There are 14,000 public and 9,000 private crossings. We are prepared to share this tool with the municipalities. In two weeks' time, I will be meeting with the Federation of Canadian Municipalities to discuss railway safety. We are going to continue to use this tool because it is important. As you mentioned, there are statistics on some unfortunate incidents. We are going to keep working on optimizing this computer-based tool and allow the municipalities to access this data.

Senator Carignan: Are we to understand that the list will be made public in the next two weeks?

Mr. Garneau: I will be meeting with the Federation of Canadian Municipalities in the near future to inform it that any municipality will be able to obtain information on the level crossings in the area. The list is a risk assessment. The risk depends on the frequency of trains, their speed, the measures that are in place, barriers, lights, etc. It is important to remember that just because there is a risk does not mean that a crossing is dangerous. The level of risk is based on the frequency and speed of trains, as well as the number of deaths. I would like to specify that deaths are caused by various factors. Without getting into too much detail, no differentiation is made between the causes of death. This is all part of the risk assessment. However, it is quite possible that stronger measures have been put in place at a level crossing in order to keep people safe. That means there is less danger. We need to understand the difference between the two.

[*English*]

DRONE TECHNOLOGY

Hon. James S. Cowan (Leader of the Senate Liberals): Welcome, Minister Garneau.

My question has to do with drones. With the rapidly developing technology and increasing sales, there are privacy and safety concerns. Can you tell us when your department will be making public the new regulations that govern the use of these vehicles? This is of great concern to many Canadians. Surely it's time we had some regulation, presumably from your department.

Hon. Marc Garneau, P.C., M.P., Minister of Transport: Thank you, Senator Cowan. I share with you the urgency of coming up with all the regulations that will govern the use of drones, which is a new and disruptive technology now with us. It has arrived with a vengeance. We were told that there were somewhere close to 1 million drones under Christmas trees in the United States last year as presents for children. Many of these are recreational drones, quite apart from the larger drones for more serious purposes, such as inspecting pipelines and those kinds of things.

There are more and more drones in Canada. Being at Transport Canada, I'm informed every day of the sightings of drones by pilots as they are either taking off or landing. We have said that there should not be drones within nine kilometres of airports; and they shouldn't go above 90 metres. The small ones should never be out of sight because then you can't control them.

We have some serious work to do to, and I'm also talking about an education campaign. The regulations have got to follow so that Canadians understand that drones may have a very

utilitarian or recreational role, but these devices are potentially very hazardous if they are not used carefully as they can interfere in our airspace with aircraft. If they go out of control because they're beyond the line of sight, they can land in the middle of the highway or in somebody's house or on somebody.

We are seized with this matter. I have spoken numerous times about it. We also have to conduct a very muscular education campaign as well.

[*Translation*]

LASER TECHNOLOGY

Hon. Dennis Dawson: I was wondering if the same question applies to lasers. We are seeing more and more laser pens, lasers that are pointed at pilots around airports across Canada. They are very dangerous. Once again, the regulations have not kept up with technological advances. I would like to know if you intend to take action in that regard.

Hon. Marc Garneau, P.C., M.P., Minister of Transport: I think this is an urgent situation. In this case, it is not a matter of proposing regulations similar to those that apply to certain vehicles. We need to raise awareness of the catastrophic effects of using lasers when an aircraft is about to land or take off. I have brought this issue up with my department on a number of occasions so that we can try to make Canadians more aware of it.

There are already measures in place to punish anyone who engages in this activity. It is a crime that is punishable by up to five years in prison. Anyone who is caught pointing a laser may have to pay a fine of up to $100,000. That sentence currently exists. However, it is very difficult to apprehend the offenders. Airports and local police forces are working closely together to identify offenders. They have a general idea of where these people are when they are pointing their lasers.

However, it is important to continue to raise awareness. People need to know that these lasers can blind pilots when they are in the final stages of landing the aircraft, endangering the lives of passengers. Some people are not aware of the catastrophic effects that using lasers can have. I believe they think that they are just playing a joke.

[*English*]

AIR CANADA—MAINTENANCE WORKERS

Hon. Donald Neil Plett: Minister, in 2012 Quebec launched a lawsuit against Air Canada for failing to comply with the 1988 Air Canada Public Participation Act, which requires them to maintain maintenance centres in Montreal and in Winnipeg, resulting in a loss of over 2,400 jobs. The province recently dropped this suit after Air Canada agreed to buy 75 Bombardier C Series planes. Minister, these planes will not be purchased until at least 2020, and any maintenance jobs created in Canada will total a mere 40 per cent of the jobs that were lost. Now we see that the government, through Bill C-10, is allowing Air Canada to shift the bulk of its maintenance out of the country.

• (1550)

Here we have another Liberal government jeopardizing Canadian jobs at a time when Canadians need us to focus on job creation. Minister, how can you and your government justify leaving Canadian aerospace workers, workers from my province — the province of Manitoba — and from Quebec, out in the cold, giving their jobs away to people in Europe, China and the United States?

Hon. Marc Garneau, P.C., M.P., Minister of Transport: Thank you, senator.

Of course, the situation has evolved considerably. Bill C-10, which I tabled on March 24, is an amendment to the Air Canada Public Participation Act. What it does is it says that Air Canada must provide jobs in Manitoba, in Quebec and in Ontario. It doesn't specify that those are the only places, and it doesn't specify the volume of those jobs.

As you know, that measure was put in place in 1989, with this act that we're talking about. It also included putting the headquarters for Air Canada in Montreal. It obliged Air Canada to work with the Official Languages Act, and it also limited foreign ownership of the airline to 25 per cent, which is the same for all airlines.

Those conditions were imposed on Air Canada at that time, despite the fact that the Mulroney government at that time said, "We're privatizing you. Go out there and compete." But those strings remained attached.

The situation that has occurred is one that we feel is part of the evolution. By the way, only the measures dealing with where maintenance is done are being changed. The others are still in place.

Air Canada has made a significant decision to invest in purchasing between 45 and 75 C Series aircraft and has said that they will do the maintenance of these aircraft, for at least 20 years, in the province of Quebec. They are also contributing to the setting up of a centre of excellence for this truly remarkable aircraft.

In Manitoba, Air Canada engaged in discussions with the premier and with the Province of Manitoba, and they have come to an agreement for the creation of at least 150 jobs, hopefully more in the future. For that reason, both Quebec and Manitoba, as governments, decided to drop the case against Air Canada, the litigation that had been going on, and have decided to move forward.

As a result of that, that gives us, in the federal government, the opportunity to clarify the act, especially with respect to the issue of maintenance, and also to recognize that Air Canada is expected to compete nationally and internationally on the world stage and that this creates a little bit more of a level playing field for that airline.

AIRPORT SECURITY—FACIAL RECOGNITION TECHNOLOGY

Hon. Bob Runciman: Minister, last month, following the horrific bombings in Brussels, Belgian officials released photos of the suspected bombers, who were known persons of interest, entering the airport. That prompted me to think about technology that could possibly prevent attacks like the one in Brussels. Specifically, I'm referring to the use of face recognition biometric lookout systems that draw on known terrorist databases. I'm advised that as of the end of 2015, 10 major U.S. airports are utilizing some form of facial recognition technology.

Minister, given that ISIS has named Canada as a terrorist target and that this technology is routinely used at Canadian casinos to screen criminals and cheats, can you advise this chamber if facial recognition technology is being used at major Canadian airports, and, if not, why not?

Hon. Marc Garneau, P.C., M.P., Minister of Transport: Thank you for your question, senator. It is a question that I would defer to my colleague, the Minister of Public Safety.

Yes, I have a responsibility with CATSA, at our airports, to make sure that for those who are going to be passengers and, I should add, those who are not passengers but who work in supporting the preparation of these aircraft, we ensure that the airlines are safe for passengers. We are, at the same time, always vigilant with respect to the issue of security. I would add, as well, on top of that, we're also looking at the issue of how long it takes for people to go through, because Canadians have also made it clear to us that there are other airports in the world where people are passed through security at a higher rate, and that is part of the satisfaction associated with flying.

So there are two aspects here. One is the very legitimate aspect of security. You've brought up a specific example dealing with facial recognition. I can't help but add that I did my PhD on facial recognition, but that's an aside. But the other issue is also how quickly we can put people through so that they can take their flights.

We are looking at it. I am always working with my colleague Minister Goodale on these kinds of issues.

UNACCOMPANIED TRAVELLING MINORS

Hon. Mobina S. B. Jaffer: Thank you very much, Mr. Minister, for being here. Congratulations on being appointed Minister of Transport.

Minister, I have a short statement and then a quick question. As you're aware, in my province this past week a Greyhound bus left two young teenage girls overnight at a very small bus depot. They were unaccompanied minors. Since then, I and many people in British Columbia have been very upset about how these two young girls were left at this depot all night. I would like you to kindly look at your policies, especially when it comes to unaccompanied minors flying across the country. When you have developed a policy or if you have a policy, I would appreciate if you would forward that to us.

TRANSPORT EFFICIENCY

Hon. Mobina S. B. Jaffer: Minister, my question to you is more on what's happening in my province. I know you visit my province a lot. We have a terrible circulation or transport problem within the Lower Mainland, especially in Surrey. I'm interested in knowing what your plans are to help our province and our municipalities deal with the issue of light transportation in the area of Surrey.

Hon. Marc Garneau, P.C., M.P., Minister of Transport: Thank you, senator.

Without being necessarily specific about Surrey, I will say in general that our government has pledged unprecedented amounts of money to address the issue of public transportation. As you know, in the election we said that we would add $60 billion to current infrastructure programs, $20 billion of which would be for public transit, $20 billion for social infrastructure — and I'm talking about affordable housing — and $20 billion for green infrastructure.

That $20 billion for public transit will be spent over the course of the next 10 years. In the budget itself, $3.4 billion is initially identified for the next two years. That is to address public transit issues in the provinces that can be addressed immediately. Phase 2 will be the remaining monies in the following eight years.

There are a lot of important projects that will want to have access to those funds, some of which are in the Greater Vancouver Area. Some of them are in my own city of Montreal. I know some are in places like Toronto and Calgary and others. Of course, the funding will be there, and the federal government will cover part of it. There will also be a financial contribution from provinces and municipalities as well. So I think we're making unprecedented investments.

If I may, I would like to also talk about something that concerns me more. I don't say it concerns me more, but it's more within my responsibilities, and that is the corridor infrastructure, which is extremely important in the Vancouver area because the Port of Vancouver is by far the largest port in this country. It passes through 140 million tonnes. The second biggest port has 30 million tonnes. Vancouver is really the giant there.

In fact, last week I was in Vancouver. I crossed the New Westminster railway bridge on a special truck. I went through the Burnaby tunnel — that was an experience — and then came out at the Second Narrows rail bridge. Then we made our way to the North Shore of Burrard Inlet. A huge amount of transportation infrastructure has to work efficiently with the minimum number of bottlenecks. Some of those bottlenecks are at rail crossings, and some of them have been addressed by the previous government, but that causes a lot of traffic problems.

• (1600)

Therefore, where possible, we are using what we call "de-bottlenecking," where one can have a vertical separation between the railroads that are going through the Vancouver area

— and in other cities, as well — and important traffic arteries. We can solve a lot of problems, because that creates a huge amount of traffic slowdown.

Those are things that I'm doing for the reasons of efficiency of the transport corridors — the Asia-Pacific Gateway, if you like — and the same on the eastern side. But I think it will have an indirect benefit as well for those who have to drive through the cities.

[*Translation*]

MARITIME INFRASTRUCTURE STRATEGY

Hon. Michel Rivard: Mr. Minister, your mandate letter says that you are responsible for ports and bridges together with your colleague, the Minister of Infrastructure and Communities.

During the election campaign, the leaders of all three parties met with Régis Labeaume, the Mayor of Quebec City, where you were born and raised, and he presented them with a list of priorities.

We know that the government wants to waste no time investing in infrastructure, particularly when it comes to projects that are ready to roll. I'm not sure if you're familiar with the project to expand the Port of Québec at a cost of $200 million and to expand the cruise ship terminal, which is currently inadequate.

About 50 cruise ships dock at the Port of Québec every year, and more and more cruise ship companies are making Quebec City their departure or arrival port. Those are two projects that could be completed fairly quickly.

Mr. Minister, you were supposed to come see us three weeks ago, but circumstances forced us to reschedule for today. Nevertheless, I will ask my question in light of a new development reported in this morning's papers that has to do with painting the Quebec Bridge.

This matter has been stalled for a decade because of the astronomical costs. You will recall that there were supposed to be consultations with the municipalities about this project, which was estimated to cost $200 million at the time. This morning, we learned that the cost has gone up to $400 million, which is the same price tag as the new Quebec City arena. That's what it would cost to repaint the bridge today.

The previous government had proposed an envelope of $75 million, thinking that it was a $200 million project. Now Quebec is stuck with a bridge that is falling apart, and the cost to repair it could be as high as $400 million.

The Hon. the Speaker: Your question, please.

Senator Rivard: Does your government plan to reopen the discussions in order to take action on this file?

Hon. Marc Garneau, P.C., M.P., Minister of Transport: Thank you for the question, which covers several topics. Of course, the Port of Québec is crucial and is part of the maritime infrastructure. I am preparing for a meeting with the Province of Quebec, which has developed an important maritime strategy.

I recognize the importance of bulk commodities for the Port of Québec, and I know a request was submitted before our government was elected. We will therefore continue to examine this matter closely.

As for the Quebec Bridge, I had a meeting with the minister, Jean-Yves Duclos, and two provincial ministers, Mr. Poëti, the transport minister, and Mr. Hamad, the minister for the Quebec City region, as well as Mayor Labeaume and Mayor Lehouillier.

At that meeting, we all agreed on one thing: the bridge is safe. It may be an eyesore, but it is safe. I am telling you this because CN, which owns the bridge, needs to use it every day. Considering the 32,000 vehicles, eight VIA Rail trains and four CN freight trains that use it, it is definitely safe.

CN spends millions of dollars a year on maintaining that bridge, because it is responsible for its safety. Since some people seem to think that the bridge is rusting and about to crumble into the St. Lawrence, I must point out that that is not the case. It just needs a paint job.

The second step is to look at the cost. Minister Lebel had said that the work would cost $200 million. However, CN told us that it and Roche, the company it had hired to conduct an assessment, estimated the cost of the work at between $350 million and $400 million.

You and I both know that it's not as simple as painting the bridge. For environmental reasons, we must ensure that none of the existing paint falls into the St. Lawrence. We're currently conducting a study to ensure that this estimate represents the true costs, but it's rather surprising that the project is costing nearly twice what the Conservatives had originally said.

We're pursuing this matter and we're committed to making a decision by June 3, 2016.

[*English*]

TRANSPORTATION OF GRAIN

Hon. Michael L. MacDonald: Mr. Garneau, it's good to see you again.

Minister, the Emerson Report, which reviewed the Canadian Transportation Act, was delivered to your government in December of last year. The Fair Rail for Grain Farmers Act created regulations to protect farmers, which includes setting minimum amounts of grain to be transported; a requirement for CP and CN to report on grain movement; and extending the interswitching distances in Saskatchewan, Alberta and Manitoba to 160 kilometres from 30 kilometres for all commodities.

But these measures will sunset in August of this year unless this Parliament adopts resolutions extending these protections. Given that your government has had this report since December, will the Trudeau government commit to extending these regulations for the protection of grain farmers in Western Canada?

Hon. Marc Garneau, P.C., M.P., Minister of Transport: Thank you for the question, senator. I received the report on December 21. I had until April 12 to table it. I tabled it on February 25, specifically because I wanted people to see it as quickly as possible.

You raise a very valid question. There's an important focus on grain transportation, as there is on all transportation, but there's a special emphasis on that which was given by my predecessor, Minister Raitt, when she was the Minister of Transport.

We have not made a decision yet on Bill C-30 — that's the bill to which you referred — regarding whether to let it expire or to renew it. Certainly, we're aware of it, but we have not taken a decision at this point.

But I can assure you that we are hunched over the CTA report. We understand that this is a consideration within the whole process of deciding. Among the 60 recommendations that Mr. Emerson has provided us on marine, rail, air and road, we know that this is something that we will have to make a decision on at some point.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, the time for Question Period has expired.

I am certain you will want to join me in thanking Minister Garneau for being here today. Hopefully, Mr. Garneau, you will come and join us again at some time and encourage your colleagues to come, as well. Thank you very much.

Hon. Marc Garneau, P.C., M.P., Minister of Transport: Thank you.

(The Senate adjourned until Thursday, April 14, 2016, at 1:30 p.m.)

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