SENATE SÉNAT

CANADA

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OFFICIAL REPORT
(HANSARD)

Tuesday, February 28, 2017

The Honourable GEORGE J. FUREY
Speaker

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

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# THE SENATE

**Tuesday, February 28, 2017**

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

Prayers.

## SENATORS' STATEMENTS

### REMARKS OF SENATOR

**Hon. Marilou McPhedran:** Your Honour, I want to thank you for your guidance when you issued your ruling on a point of order on Thursday, February 16. I had stepped out of the chamber, so I was not present when you delivered your ruling.

This is my first opportunity to clarify that it was never my intention to use unparliamentary language.

Today, I stand to withdraw any of my words considered to be unparliamentary on that occasion. I repeat: It was never my intention to introduce unparliamentary language or to make a personal accusation against another senator, and I can assure you that I have learned from this experience. I wish to express my sincere appreciation for this environment as a place where civil discourse allows for a range of views to be heard.

I will do my utmost to uphold the parliamentary principles embedded in this tradition and in this institution in constructive and respectful terms, to promote and protect human rights and justice. Thank you. Merci. Meegwetch.

[*Translation*]

### CANADA-U.S. RELATIONS

**Hon. Percy Mockler:** Honourable senators, last week, Atlantic Canada's premiers gathered in Steady Brook, Newfoundland and Labrador, to address an important matter that affects all our regions, especially the Atlantic region, and that is the agenda of the new Trump administration. It was reassuring to see our premiers collectively tell their officials to get ready to go to the United States to ensure that Atlantic Canada is at the centre of any trade negotiations with our partners in New England.

[*English*]

As a senator of New Brunswick, I applaud the premiers' enthusiasm and encourage even more gusto within our friendship. This is exactly what the people of New Brunswick need to hear and see from our leaders. New Brunswick has some of the most innovative industries and scholarship in all of Canada — and, with our aging population, some of this country's most complex economic challenges. Infrastructure spending, if it is done correctly, can help, but what is needed is a sustained long-term strategy with all our partners.

[*Translation*]

Honourable senators, for years I have been calling for a renewed effort in creating stronger, more sustainable international relations. We must encourage our parliamentarians to develop programs to promote exchanges between citizens, businesses, and the Atlantic Provinces and New England states.

I want to commend the Premier of New Brunswick, Mr. Gallant, on his commitment to expanding cultural ties and economic opportunities. I look forward to working with him on advancing issues that matter to my province.

[*English*]

As I conclude, I also want to recognize and congratulate Ministers Marc Garneau and Lawrence MacAulay, with Mr. Gerald Butts, chief of staff of the Prime Minister of Canada, for reaching out to former Prime Minister Brian Mulroney in advising Prime Minister Justin Trudeau and his government in order to protect our relationship between the U.S. and Canada, especially with NAFTA. There is no doubt in my mind that we will achieve our goals in NAFTA because we have a culture of can-do.

Thank you, honourable senators.

[*Translation*]

### VISITOR IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw to your attention the presence in our gallery of Sergeant Major Raymond Blouin (ret'd) of the Canadian Armed Forces. He is the guest of the Honourable Senator Maltais.

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

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

### SERGEANT MAJOR RAYMOND BLOUIN (RET'D)

**Hon. Ghislain Maltais:** Honourable senators, I am very honoured to spend a few minutes talking to you about Sergeant Major Raymond Blouin, a man who spent 34 years of his life in the Canadian Armed Forces. He began his career in Canada, of course, as a trainer with various regiments in a number of Canadian cities, acquiring expertise in military training, especially with young recruits. He also served in Cyprus, Norway and New Zealand, and, twice, in Bosnia and in combat zones in Afghanistan.

Sergeant Major Raymond Blouin could have retired earlier, but he decided to take what he learned during his many tours abroad and pass it on to the next generation. He served as Regimental

Sergeant Major with the 62nd Field Artillery Regiment of Shawinigan.

• (1410)

As the Honorary Colonel of this regiment, I have had the privilege of working very closely with Mr. Blouin and have seen his approach to training young recruits. I have also come to realize that he strongly believes in our country. He has served the Canadian Armed Forces with pride and represented Canada with distinction in all the regions where he has been deployed. He devoted 34 years of his life to the army, which he cherished so.

Some may say that there are many people like him in Canada. However, few of them decide, at the end of their careers, to share their experience with young reservists who one day may become officers in the Canadian army.

On behalf of all Canadians, Mr. Blouin, I wish you all the best in your retirement. I thank you very much for all you have done for the Canadian Armed Forces and especially for the 62nd Field Artillery Regiment of Shawinigan. It was a great privilege for me to work with you. I wish you a long and happy retirement.

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

[*English*]

## THE LATE EDMOND CHATER

**Hon. Terry M. Mercer:** Honourable senators, I rise today to pay tribute to a kind community leader from the small village I live in in Nova Scotia, Mount Uniacke. Edmond Chater, owner of Eddy's Variety just up the road from where I live, passed away late in January from a long battle with cancer.

Born in Lebanon in 1966, Eddy emigrated to Canada in 1990, where he started a small deli and later a hardware store. Then he opened Eddy's Variety, a staple in our small community, where everyone knew him.

Eddy was a caring, warm individual who was kind to everyone who came into his store and was very supportive of every community event. Eddy welcomed everyone into his store with a smile and made every customer feel like a true friend. He was always supportive and encouraging to everyone he met and was always interested in what was happening in your life.

Honourable senators, I attended a memorial service at the Mount Uniacke Legion in early February. You couldn't move in the place, as everyone who could be there showed up to pay their respects to Eddy and to the impact he had on them and the community. There was so little room downstairs that they had to open the upstairs as well. I know Eddy would have been embarrassed, but also very proud.

He is survived in Lebanon by his parents, Yousseff George Al-Chater and Souad Fouad Nasser, by his sisters Layla and Hala, brother Nabil and many nieces, nephews, aunts and uncles. In Nova Scotia he is survived by his brother Raymond El Chater and wife Margueriita, nieces Christina and Rebecca and many aunts, uncles and cousins as well.

Eddy's life was a true testament to the values we hold dear in this country. His is one of the countless stories of how immigrants who come here have such a vast impact on our communities, both large and small. Our community has lost a quiet leader and I have lost a friend. Rest in peace, my friend.

## SOPHIE BROCHU

### RESPONSIBLE CAPITALISM

**Hon. André Pratte:** Honourable senators, it's rare for a CEO to suggest that companies and investors should agree to reduce profits. That's just what Sophie Brochu, president of Quebec corporation Gaz Métro, did when she spoke to the Canadian Club of Montreal two weeks ago. That's why I would like to draw your attention to her remarkable speech.

Let me begin by saying a few words about the company Ms. Brochu is heading. Gaz Métro is the largest distributor of natural gas in Quebec and Vermont, with sales of $2.5 billion. An economist by training, Sophie Brochu has been managing Gaz Métro for 10 years now. In short, Ms. Brochu is an important businesswoman in Quebec; when she speaks, people listen.

[*Translation*]

She is not the first business person to deplore the crisis of confidence in governments and institutions. However, she is definitely one of the first in Canada to publicly push the debate this far. In her opinion, the main problem stems from the changes caused by modernization: income inequality and job losses in developed countries; citizens' loss of control over their lives; the impression that governments take better care of corporate citizens than individuals. I will quote Ms. Brochu, who said:

> That has a ripple effect. If my government can't do anything to help me, then what good is my vote? It is bad for democracy. Cynicism is spreading. As inequality grows, so does exclusion, which breeds all forms of extremism. When the majority feels isolated, minorities are seen as a threat.

The President and CEO of Gaz Métro doesn't expect politicians to solve the problem. She believes businesses have a leading role to play in addressing this crisis because they control two vital levers: money and jobs. Ms. Brochu also said the following:

> Money is key to a peaceful society. Those who have it should then work toward the betterment of individuals and communities.

[*English*]

This crisis will not be solved by extreme protectionism, she says. The solution is a more egalitarian and conscious world and a more humane form of capitalism.

I quote Ms. Brochu again:

> Companies and their investors must be willing to forego a few basis points of yield. This is not an easy thing to do, but I think we need to give it serious consideration. The goal

should be reasonable profits rather than maximum profits. We must look for profits that are fair compensation for a job well done rather than trying to achieve an artificial goal that is based on a minimum stock market value.

Honourable senators, it took a lot of courage for the President of Gaz Métro to tell this to her business colleagues at the Canadian Club of Montreal. I hope that her message has been heard and will get business leaders thinking. They must not ignore their responsibilities in the face of the current crisis of confidence.

### TAYA NABUURS

**Hon. Elizabeth Hubley (Deputy Leader of the Senate Liberals):** Honourable senators, it is my pleasure today to rise and feature Taya Nabuurs, another exemplary young Islander. Taya is a third year arts student majoring in political science at the University of Prince Edward Island from Stratford, P.E.I., and is passionate about issues facing youth.

Taya has found that being involved in the community allows her to represent youth and engage relevant stakeholders, particularly on increased youth participation in the political process. She has been selected by Equal Voice to represent P.E.I.'s Cardigan riding as a delegate for the Daughters of the Vote leadership conference in Ottawa next week. Equal Voice is bringing 338 young women, one from each federal riding across Canada, to the conference to learn about our political institutions and communicate their vision for their country.

She also serves her fellow students in her role as Director of Communications for the UPEI Student Union, the Student Union's advocacy team. In her spare time, you will find her volunteering as a writer for *The Cadre*, UPEI's student newspaper, volunteering with international students with the UPEI International Buddy Program and in a leadership role with the UPEI political science student society.

Taya is one of the leading youth on P.E.I. advocating for increased youth participation in the political process. She was involved in the Get Out The Vote campaign during both provincial and federal elections. She also worked with Elections PEI as a public education officer during the lead-up to the provincial plebiscite held in 2016 on electoral reform. She serves on the P.E.I. Youth Futures Council, a province-wide youth advisory body established by the provincial government to enhance programs, policies, strategies and resources for youth.

Taya is passionate about eliminating gender-based violence, improving women's and girls' access to education, particularly in conflict-stricken areas of the world, and reforming electoral processes and regulations to encourage participation by women and minorities.

We thank Taya for her passion and dedication in representing youth. You are paving the way for others to stand up and take their place in society.

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• (1420)

## ROUTINE PROCEEDINGS

### PUBLIC SECTOR INTEGRITY COMMISSIONER

CANADIAN FOOD INSPECTION AGENCY—
CASE REPORT OF FINDINGS IN THE
MATTER OF AN INVESTIGATION
INTO ALLEGATIONS OF
WRONGDOING TABLED

**The Hon. the Speaker:** Honourable senators, I have the honour to table, in both official languages, the case Report of Findings of the Office of the Public Sector Integrity Commissioner of Canada in the Matter of an Investigation into Allegations of Wrongdoing (Canadian Food Inspection Agency), pursuant to subsection 38(3.3) of the Public Servants Disclosure Protection Act.

[*Translation*]

### THE ESTIMATES, 2017-18

PARTS I AND II TABLED

**Hon. Peter Harder (Government Representative in the Senate):** Honourable senators, I have the honour to table, in both official languages, the Main Estimates for the year 2017-18, Parts I and II: The Government Expenditure Plan and Main Estimates.

### STUDY ON THE DESIGN AND DELIVERY OF THE FEDERAL GOVERNMENT'S MULTI-BILLION DOLLAR INFRASTRUCTURE FUNDING PROGRAM

TWELFTH REPORT OF NATIONAL FINANCE
COMMITTEE TABLED WITH CLERK
DURING ADJOURNMENT
OF THE SENATE

**Hon. Larry W. Smith:** Honourable senators, I have the honour to inform the Senate that, pursuant to the order of reference adopted on Tuesday, February 23, 2016, and to the order adopted by the Senate on February 16, 2017, the Standing Senate Committee on National Finance deposited with the Clerk of the Senate on Tuesday, February 28, 2017, its twelfth report (interim) entitled *Smarter Planning, Smarter Spending: Achieving infrastructure success*.

[*English*]

We had a press conference this morning and we are very happy with the results.

[*Translation*]

I move that the report be placed on the Orders of the Day for consideration at the next sitting.

[*English*]

I hope that we can get some feedback from the government in terms of our efforts.

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

## THE SENATE

### MOTION TO AFFECT TODAY AND TOMORROW'S QUESTION PERIOD ADOPTED

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

> That the provisions of the order adopted on February 16, 2017, governing Question Period be applied instead to Question Period tomorrow, Wednesday, March 1, 2017, except that Question Period begin at 3:10 p.m.; and
>
> That Question Period today be held at its normal time.

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

**Hon. Senators:** Agreed.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

[*Translation*]

## THE ESTIMATES, 2017-18

### NOTICE OF MOTION TO AUTHORIZE NATIONAL FINANCE COMMITTEE TO STUDY THE MAIN ESTIMATES

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

> That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Main Estimates for the fiscal year ending March 31, 2018, with the exception of Library of Parliament Vote 1; and
>
> That, for the purpose of this study, the committee have the power to sit, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

[ Senator Smith ]

[*English*]

### NOTICE OF MOTION TO AUTHORIZE THE JOINT COMMITTEE ON THE LIBRARY OF PARLIAMENT TO STUDY VOTE 1 OF THE MAIN ESTIMATES

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

> That the Standing Joint Committee on the Library of Parliament be authorized to examine and report upon the expenditures set out in Library of Parliament Vote 1 of the Main Estimates for the fiscal year ending March 31, 2018; and
>
> That a message be sent to the House of Commons to acquaint that House accordingly.

[*Translation*]

## ROUGE NATIONAL URBAN PARK ACT PARKS CANADA AGENCY ACT CANADA NATIONAL PARKS ACT

### BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-18, An Act to amend the Rouge National Urban Park Act, the Parks Canada Agency Act and the Canada National Parks Act.

(Bill read first time.)

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

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

[*English*]

## LEGAL AND CONSTITUTIONAL AFFAIRS

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

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

> That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to meet on Thursday, March 9, 2017, even though the Senate may then be sitting,

and that the application of rule 12-18(1) be suspended in relation thereto.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF THE REPORTS OF THE CHIEF ELECTORAL OFFICER ON THE FORTY-SECOND GENERAL ELECTION

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

That, notwithstanding the order of the Senate adopted on Tuesday, December 13, 2016, the date for the final report of the Standing Senate Committee on Legal and Constitutional Affairs in relation to its study on the reports of the Chief Electoral Officer on the 42nd General Election of October 19, 2015 and associated matters dealing with Elections Canada's conduct of the election be extended from March 31, 2017 to June 30, 2017.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF MATTERS PERTAINING TO DELAYS IN CANADA'S CRIMINAL JUSTICE SYSTEM AND REVIEW THE ROLES OF THE GOVERNMENT OF CANADA AND PARLIAMENT IN ADDRESSING SUCH DELAYS

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

That, notwithstanding the order of the Senate adopted on Thursday, January 28, 2016, the date for the final report of the Standing Senate Committee on Legal and Constitutional Affairs in relation to its study on matters pertaining to delays in Canada's criminal justice system be extended from March 31, 2017 to June 30, 2017.

## THE SENATE

NOTICE OF MOTION TO AMEND RULE 4 OF THE *RULES OF THE SENATE*

**Hon. Tobias C. Enverga, Jr.:** Honourable senators, pursuant to rule 5-6(1)(a), I give notice that, two days hence, I will move:

That the *Rules of the Senate* be amended by replacing rule 4 by the following:

"Prayers and National Anthem

**4-1.(1)** The Speaker shall proceed to Prayers as soon as a quorum is seen, and, on a Tuesday, shall then call upon a Senator or guests to lead in singing the bilingual version of O Canada.

Guest singers

**4-1.(2)** The Speaker may invite guests to enter the galleries to lead in singing the National Anthem."

[*Translation*]

## AGRICULTURE AND FORESTRY

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

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

That the Standing Senate Committee on Agriculture and Forestry have the power to meet on Tuesday, March 7, 2017, at 5 p.m., even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

[*English*]

## FISHERIES AND OCEANS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

**Hon. Fabian Manning:** Honourable senators, with leave of the Senate and notwithstanding rule 5-5(a), I move:

That the Standing Senate Committee on Fisheries and Oceans have the power to meet on Tuesday, February 28, 2017, at 5 p.m., even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

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

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** On debate, Senator Manning.

**Senator Manning:** Very quickly, we're beginning the study on Senator Wilfred Moore's bill this evening. Senator Moore has travelled to Ottawa today to participate in that 5 o'clock meeting, so I want to make sure we can accommodate him.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

• (1430)

[*Translation*]

# QUESTION PERIOD

## JUSTICE

### PRELIMINARY HEARINGS

**Hon. Claude Carignan (Leader of the Opposition):** Honourable senators, my question is for the Leader of the Government in the Senate and concerns an issue that we have often discussed and that the Standing Senate Committee on Legal and Constitutional Affairs is currently studying: the implications of last year's Supreme Court ruling in *Jordan*.

The decision states:

> And Parliament may wish to consider the value of preliminary inquiries in light of expanded disclosure obligations.

The Attorney General of Ontario wrote to the Minister of Justice to ask her to eliminate preliminary inquiries in all but the most serious cases. The chief justices and the Minister of Justice for Manitoba also sent a similar request to Minister Wilson-Raybould.

In fact, Manitoba's justice minister stated that at a federal-provincial meeting last October, her Province had raised the possibility of restricting the use of preliminary inquiries.

Minister Wilson-Raybould says that she is keeping an open mind on this issue. She stated that she would respond in due course. The minister's actions in the wake of the *Jordan* ruling did not convey a sense of urgency, even though this decision has recently led to the stay of proceedings in serious cases across the country.

My question for the Leader of the Government in the Senate is the following. When will the Minister of Justice make a decision about the use of preliminary inquiries? Can we expect a decision this year on this issue?

[*English*]

**Hon. Peter Harder (Government Representative in the Senate):** Again, I thank the honourable senator for his question. This is an issue that, as he correctly points out, we've discussed in this chamber before, both amongst senators and with ministers that have appeared here. The announcements made by provincial Attorneys General reflect their views on this issue. I will enquire of the minister when we can expect her response, as the senator has requested.

[*Translation*]

### JUDICIAL APPOINTMENT PROCESS

**Hon. Claude Carignan (Leader of the Opposition):** We are already two months into 2017 and the Minister of Justice has yet to make a single judicial appointment. Keep in mind that in Canada, there are currently 60 Superior Court vacancies.

There is also the preliminary hearings request, where the Attorney General of Ontario also asked the minister to call a meeting of federal and provincial attorneys general to discuss an appropriate response to the ruling in *Jordan*.

Will the Minister of Justice at least agree to meet her provincial counterparts as soon as possible?

[*English*]

**Hon. Peter Harder (Government Representative in the Senate):** Again, I thank the honourable senator for his question and want to assure all senators that the Minister of Justice, the Attorney General of Canada, is giving high priority to the refurbishment of the Judicial Advisory Committee process. That is, as senators will know, a significant change in its representation and its mandate for diversity, and the appointments made thus far reflect that. There is ongoing urgency to make further appointments, and I will inquire of the minister when we can expect the next series of appointments.

I am stimulated by the question because, when the honourable senator last asked, it was within 24 hours that new lists of nominations were made, so perhaps he knows something I don't know and we can anticipate announcements very soon.

## PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

### CHILDREN IN IMMIGRATION DETENTION

**Hon. Victor Oh:** My question is for the Leader of the Government in the Senate. It is a follow up on the request I made last October that has gone unanswered.

Through access-to-information requests, the International Human Rights Program at the University of Toronto found that an average of 242 Canadian children were held in the Toronto Immigration Holding Centre between 2011 and 2015.

Since data was incomplete and only accounted for this facility, the total number of citizen children in detention centres across the country is likely higher. The Government of Canada has yet to make public statistics on the number of children in immigration detention across the country. This is simply unacceptable. Canadians have the right to know what the government is doing to address the serious human rights violations of some of the most vulnerable members of our society.

My question to the government leader is the following: When will the Government of Canada stop subjecting Canadian children to immigration detention and commit to immediately adopting viable alternatives and publishing complete statistics?

**Hon. Peter Harder (Government Representative in the Senate):** Again, I thank the honourable senator for his question and will make inquiries of the minister responsible.

**Hon. Mobina S. B. Jaffer:** Senator Harder, thank you for your response. Leader, you are aware that Minister Goodale was at the Defence Committee, where he agreed that the situation was not acceptable. He said he would look into this. I think — I could be

wrong — that it's almost a year since then. I have asked you the question twice, the same kind that Senator Oh is asking, and may I ask that you let the minister's office know that the time has come when he has to make the decision?

We cannot any longer say, "We welcome refugees, but we detain refugee children." That is unacceptable.

**Senator Harder:** I thank the honourable senator for her question and will indeed ask, in the respectful tone of urgency in which the question has been posed.

## FOREIGN AFFAIRS

### CANADA-U.S. RELATIONS—ROLE OF CANADA IN SYRIA

**Hon. Joseph A. Day (Leader of the Senate Liberals):** My question is for the Representative of the Government in the Senate.

Mr. Representative, as you are aware, when our group became an independent Liberal caucus here in the Senate, one of the initiatives that we introduced was to invite the citizens of Canada to send in questions that they would like to see posed directly to a representative of the government. My question is in that light.

The question comes from Mr. Paul King, of Innerkip, Ontario. Mr. King would like to know:

> When Prime Minister Trudeau met President Trump, was there any talk about augmenting Canadian military activity with the Americans on Syrian soil?

**Hon. Peter Harder (Government Representative in the Senate):** I thank Mr. King, from Innerkip, for the question, and I thank the honourable senator for the innovation of the independent Senate Liberal caucus of allowing citizens to pose their questions through the voice of Senate leadership.

I will take that question under advisement but would, in the context of the question, remind all senators that the Government of Canada is not anxious to participate in a military endeavour in Syria with boots on the ground.

**Senator Day:** Thank you, Your Honour.

I think that behind this question is a concern that the new President of the United States is suggesting that there are many nations of the world that are not carrying their own weight with respect to international obligations for peace and security, and, if that is the case, I think it's important that we remind Canadians and the world that Canada was deeply involved in Afghanistan, Poland and currently in the Ukraine in training, as well as in Iraq — we're doing a tremendous amount in Iraq, in Northern Iraq, with the Kurds — and the commitment to help with respect to one of the four formations in Eastern Europe, in Latvia, to help there, under NATO, and the work we've done with the French in Africa.

• (1440)

Can the Government Representative in the Senate assure us that the new U.S. president is being made aware of the considerable contribution that Canada is making and has made internationally?

**Senator Harder:** I can assure the honourable senator, and through him, as well as Mr. King, if in fact that's the background to his question, that the points he has made have been raised directly with the president and other senior administration personnel, as well as prospective and ongoing Canadian commitments to the alliance.

As honourable senators will know, the Minister of National Defence has been in the United States meeting with his counterpart and is also part of the Prime Minister's delegation. The parliamentary secretary to the Minister of Foreign Affairs, who is not unacquainted with some of the military commitments of the past, has retained strong relationships with persons of influence in the administration and was there as recently as the weekend again to reiterate Canada's ongoing collaboration with the United States and with our alliances that we share. These are important elements of Canada to remind the new administration of the ways in which we have worked together over many years with many administrations.

## JUSTICE

### REVIEW OF CASE OF WILL BAKER

**Hon. Paul E. McIntyre:** Honourable senators, my question is for the Government Representative in the Senate. Canadians were horrified in 2008 when Vincent Li beheaded and cannibalized a passenger on a Greyhound bus in Manitoba.

Tim McLean was just 22 years old when he met this terrifying end, and our thoughts remain with his family. Vincent Li was charged with first-degree murder, and following a psychiatric evaluation was found fit to stand trial but not criminally responsible on account of mental disorder. He was first remanded to a psychiatric facility and was later granted a discharge subject to conditions by the Manitoba Criminal Code Review Board.

Two weeks ago, he was granted an absolute discharge by the same board. He is not subject to any conditions or monitoring to ensure he continues to take medication. My understanding is that Vincent Li has also legally changed his name to Will Baker and he will be living not too far away from his victim's mother. Canadians are rightfully disturbed by this. Could the Government Representative in the Senate tell us if the federal Department of Justice has any plans to review the particulars of this case, including the decision to grant an absolute discharge, in an effort to ensure victims' rights are respected by our justice system?

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

First, along with all honourable senators, I share the tragedy and the circumstances that the senator has described for the victim and the victim's family.

Second, I would underscore, as the senator has in his question, that these decisions were made with a board under provincial jurisdiction.

Third, as the senator has asked, I will enquire of the minister with respect to any action that the minister may or may not be contemplating.

**Senator McIntyre:** Pursuant to the provisions of the code, parties to the proceedings, including Crown prosecutor officials, have two options. Either they accept the decision of the Manitoba Criminal Code Review Board or file an appeal to the Manitoba Court of Appeal.

In speaking with the minister, could you inform us which option the federal government intends to pursue?

**Senator Harder:** I will indeed.

## INTERNATIONAL DEVELOPMENT

### PROGRAMS AND INITIATIVES

**Hon. Mobina S. B. Jaffer:** My question is to the Leader of the Government in the Senate. As you know, the Trump administration's new global gag rule prohibits aid to non-governmental organizations around the world that perform or discuss abortion or family planning options.

This freeze stands to affect as much as $600 million in funding to NGOs that support reproductive health efforts in other countries. Now that the biggest global funder of NGOs will no longer be present, there is a significant amount that needs to be made up. Many governments, including the Netherlands and other European governments, are stepping up to help the people who need it most. Preventable child and maternal deaths, fighting the HIV/AIDS epidemic and protecting communities from infectious diseases that could affect reproductive health, all are essential services that are used around the world.

According to the United Nations Population Fund, 225 million women who want to avoid pregnancy are not using safe and effective family planning methods for reasons ranging from lack of access to information or services, or plainly just resources.

On February 27, Minister Bibeau stated that Canada "will definitely increase the proportion of our international assistance budget to sexual and reproductive health rights and the full range of services." With that said, the government has not proposed any actual action that it would take or actual funds that it would commit to accomplish the goals that Minister Bibeau has set out. Could you tell us what steps the government will take?

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for the question and for the sentiment of her question, in particular to encourage governments around the world to pick up the gap that is being created by the decisions of the United States.

Minister Bibeau was in Europe last week to meet with her counterparts and in the process of that meeting, she restated Canada's commitment and undertook to make an announcement very soon with respect to precisely how the Government of Canada will augment its contribution in this area to be part of the coalition of countries to fill this important need.

**Senator Jaffer:** Leader, can you convey to the minister that we are watching her carefully, and we respect and appreciate all the steps she has taken, not just in this work but all the work she does in international development? She has made Canada's presence known in the places where help is really needed.

I have another question for you. Isabella Lövin, Sweden's deputy prime minister, indicated today that Canada has expressed interest in joining the global fund to finance family planning. Is this true?

**Senator Harder:** I believe the minister, in the course of her European meetings, met with a number of her counterparts and made some indicative announcements with respect to Canada's commitment in this area. I would need to confirm the particular reference that the question poses, but it is in conformity with the minister's stated intention of utilizing this break week in the other house to meet with her counterparts internationally and ensure that Canada steps up where others are retreating.

## IMMIGRATION, REFUGEES AND CITIZENSHIP

### REFUGEE CLAIMS

**Hon. Tobias C. Enverga, Jr.:** My question is for the Government Representative in the Senate. We are seeing quite an increase in media reports about illegal border crossings made by refugee claimants crossing our southern land border, at great risk for their own safety.

On December 15, I asked a question about the potential increase in Mexican refugee claimants due to policies in the United States of America and the recent decision to lift visa requirements for Mexican citizens coming to Canada. Since then, with the help of our friends in the media, we have learned that during the first month since the visa requirements were lifted, at least 70 Mexican citizens claimed refugee status. Although a small number in itself, it stands in stark comparison to the previous year's total number of refugee claimants from Mexico, which was 111.

In addition, the last year that Mexican citizens needed a visa to visit Canada — 2009 — saw a peak of refugee claimants from the country at over 9,500 applicants. Once visa requirements were introduced to Mexicans, the number in 2010 fell to just over 1,300 claimants and it has continued to fall.

• (1450)

How is the Trudeau government planning to deal with the expected asylum seekers from Mexico? More specifically, where will the $433.5 million that this visa waiver is expected to cost over the next 10 years come from?

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for his question. There are many elements to the question as he has described it.

First of all, it is the view of the Government of Canada that the imposition of visas on Mexico was not helpful in either a bilateral or economic sense, and certainly nobody in the government would suggest that visa requirements are necessary as a source of income and revenue, so I certainly don't subscribe to the premise of the question in that regard.

When the Government of Canada initiated the discussions and then reached the agreement with the Government of Mexico with respect to lifting the visa waiver, honourable senators will know that there was a kickback mechanism in the event that the numbers of applications made in Canada for asylum were to repeat and trigger higher. This is a situation that is evolving and is being monitored. Certainly, at this stage, it is premature to contemplate a return of a visa waiver in a relationship that's working very well for Canada.

**Senator Enverga:** How can Immigration, Refugees and Citizenship Canada ensure that other immigrants and their processing times will not be affected by this policy change?

**Senator Harder:** I want to reaffirm to senators that the voting table for the department has a number of line votes for various activities of the department and that the processing of refugee and asylum claims by the Immigration and Refugee Board are separate from the processing of immigration applications from would-be Canadians and that the department is in that regard meeting its targets, I am told, of processing times. I will certainly be happy to look further into the current situation, but I do not believe that the numbers that we are speaking of have any material effect.

## INNOVATION, SCIENCE AND ECONOMIC DEVELOPMENT

### CHINESE INVESTMENT IN SENIOR CARE FACILITIES

**Hon. Thanh Hai Ngo:** My question is for the Leader of the Government in the Senate. It concerns the Liberal government's approval of the sale of the largest chain of seniors' homes in British Columbia to the Chinese firm Anbang Insurance Group.

On December 2, 2016, the host of the private Liberal cash-for-access fundraiser earlier told *The Globe and Mail* that he raised directly with the Prime Minister the issue of Chinese companies investing in senior health care in Canada.

The Liberal Party has maintained that people wishing to discuss government business at party fundraisers are instead directed to make an appointment with the relevant office.

Could the Leader of the Government in the Senate please tell us why the Liberal government approved the sale? Second, as this matter was raised with the Prime Minister during a $1,500 ticket fundraiser in November, could the leader tell us if the Prime Minister referred the individual or individuals to make an appointment with the office of the Minister of Innovation who was tasked with reviewing the sale under the Investment Canada Act?

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for the question, and I want to assure all honourable senators that the decision made by the relevant minister, the Minister of Innovation, Science and Economic Development, was made under the minister's responsibilities deriving from the Investment Canada Act. The new owner will remain subject to provincial regulatory requirements on senior citizen care facilities.

In addition to the provincial regulations through the minister's review of the ICA, Cedar Tree, the acquiring party confirms strong commitments to the ongoing quality of operations of Canadian retirement residences and its health care workers, including the following: to maintain at least the current levels of full-time and part-time employment of Canadian businesses; to ensure a significant ongoing role for Canadians in the business; to have the current Canadian operator continue to manage the business; to not disclose or re-purpose any of the existing residences and to financially support the expansion of the businesses; and to maintain a significant level of unleveraged equity in Canada. These will remain in place for a significant period of time.

The minister, as is required under act and as he would in the normal case, has also consulted the Province of British Columbia, and a number of third party submissions were also part of the review process. The minister takes full responsibility of exercising his authority under the act.

**Senator Ngo:** As my supplementary question, on January 7 of this year, the *New York Times* reported:

> Anbang's structure has stoked such suspicion about its true ownership that some Wall Street firms, including Morgan Stanley, have opted not to advise the company on United States mergers and acquisitions because they cannot get the information needed to satisfy their "know your client" guidelines.

The *New York Times* also reported last year that 92 per cent of Anbang was held by firms wholly or partly owned by relatives of the former Chinese leader Deng Xiaoping or the son of a famous People's Liberation Army general.

Could the Leader of the Government please make the inquiries and let us know if that insurance group provided clear information regarding its ownership structure to the Government of Canada prior to the approval of the sale, information that Anbang was recently unwilling to provide Wall Street firms such as Morgan Stanley?

**Senator Harder:** I'm informed that the minister was satisfied with all the information he requested, and that information, of course, formed part of the decision-making process that led to his ultimate decision under the act.

[*Translation*]

## HEALTH

### MENTAL HEALTH

**Hon. Jean-Guy Dagenais:** Honourable senators, I'd like to once again raise an issue that we've already brought to the attention of the Leader of the Government in the Senate: mental health. In January 2013, the Conservative government, through the Mental Health Commission of Canada, launched the National Standard of Canada for Psychological Health and Safety in the Workplace. Canada was the first country to develop such a standard. It provides Canadian employers with the tools and resources they need to assess and reduce psychological safety risks in the workplace and promotes and improves employee mental health.

Can the Leader of the Government in the Senate tell us about specific actions the government has taken in the past year to address the workplace psychological health and safety issues that Canadians face every day at work?

[*English*]

**Hon. Peter Harder (Government Representative in the Senate):** I want to thank the honourable senator for his question. It is an important issue. I will inquire of the appropriate minister and have the response for the honourable senator.

[*Translation*]

**Senator Dagenais:** In its election platform, the Liberal Party made plenty of promises related to improving mental health services, particularly for veterans and first responders. Can the Leader of the Government in the Senate tell all honourable senators when the Liberal government plans to keep those promises?

[*English*]

**Senator Harder:** Again, I thank the honourable senator for his question. With respect to veterans, there have been investments made in the last budget for veteran benefits in this area. I will inquire of the minister for additional details in conformity with the question he is asking, but I would note that over 330 new employees to support veterans not only in this area but in other areas has already taken place in the investments made in the last budget.

## ANSWERS TO ORDER PAPER QUESTIONS TABLED

### PUBLIC SAFETY AND EMERGENCY PREPAREDNESS—BONUSES AT THE ROYAL CANADIAN MOUNTED POLICE

**Hon. Peter Harder (Government Representative in the Senate)** tabled the answer to Question No. 18 on the Order Paper by Senator Kenny.

### PUBLIC SERVICES AND PROCUREMENT—FEDERAL GOVERNMENT EMPLOYMENT

**Hon. Peter Harder (Government Representative in the Senate)** tabled the answer to Question No. 20 on the Order Paper by Senator Downe.

### IMMIGRATION, REFUGEES AND CITIZENSHIP—CANADIAN CITIZENS WHO ARE ALSO CITIZENS OF ANOTHER COUNTRY

**Hon. Peter Harder (Government Representative in the Senate)** tabled the answer to Question No. 34 on the Order Paper by Senator Carignan.

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• (1500)

# ORDERS OF THE DAY

## CANADA LABOUR CODE

### BILL TO AMEND—THIRD READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Bellemare, seconded by the Honourable Senator Harder, P.C., for the third reading of Bill C-4, An Act to amend the Canada Labour Code, the Parliamentary Employment and Staff Relations Act, the Public Service Labour Relations Act and the Income Tax Act.

**Hon. Mobina S. B. Jaffer:** Honourable senators, I rise today to speak on Bill C-4, An Act to amend the Canada Labour Code, the Parliamentary Employment and Staff Relations Act, the Public Service Labour Relations Act and the Income Tax Act.

If passed, Bill C-4 will repeal several problematic provisions found in Bill C-37 and Bill C-525. As honourable senators will remember, this chamber studied these bills thoroughly and had many challenges.

I support this bill for two reasons. On one hand, it restores balance in the federal labour regime, and on the other it restores the constitutionality of our labour laws.

I would like to begin on the first topic by quoting Hassan Yussuff, President of the Canadian Labour Congress, when he appeared before the Standing Senate Committee of Legal and Constitutional Affairs:

> Careful study, consultation and deliberation have always created stability, predictability and a balance in the federal

> labour relations regime. Bills C-377 and C-525 threaten to undermine this achievement.

In particular, Bill C-377 singled out unions, undermining them by making their reporting conditions so demanding that it infringed on their ability to operate. The bill also ordered unions to disclose publicly any information regarding their actions pending and their members. That last requirement is especially concerning since people would fear being singled out for repercussions by this reporting, especially since it required them to disclose any political activities. If a union could not comply with these heavy reporting requirements, they would be faced with a heavy fine.

The legislation was unnecessary. When the bill was passed, section 110 of the Labour Code already required unions to provide financial statements to their members upon request and free of charge. The legislation was not about promoting transparency, since it was already present in the law.

Instead, Bill C-377 undermined unions by making their reporting conditions so demanding that it damaged unions' ability to operate and placed a chill on potential union members who risked having their personal information revealed.

Meanwhile, Bill C-525 replaced the previous card check system used for the certification and decertification of unions with a mandatory secret vote system. The former government claimed that this change was necessary because many complaints had come up regarding union intimidation.

In fact, no federal stakeholder stated this was an issue. Further, only two cases of union intimidation could be found between 2004 and 2014. Instead, Bill C-525 created a system that only weakened unions. When Minister of Employment, Workforce Development and Labour, the Honourable Patricia Hajdu, appeared before the committee, she told us that her department had determined that the mandatory secret vote system declared that decreased union density, further changing the threshold to trigger a decertification vote from a majority to 40 per cent, threatened unions by making their decertification far easier.

Honourable senators, the restrictions that these two bills placed upon unions were unjust and unnecessary. I welcome that Bill C-4 will restore balance in the federal labour regime and remove undue restrictions on the actions of unions.

To conclude on this subject, I would like to quote Mr. Yussuff once more:

> Honourable senators, the labour relations regime that Bill C-4 will restore has evolved over decades and has generally worked well in the federal jurisdiction. It has led to stability and predictability in federal labour relations. The vast majority of contracts negotiated and re-negotiated in the federal jurisdiction are settled without work stoppages. This is an important value and achievement in the regime that we have built.

Honourable senators, as I mentioned before, I also support Bill C-4 because it restores the constitutionality of our labour laws. In particular, Bill C-4 repeals sections of Bill C-317 that were blatantly unconstitutional. First, Bill C-377 intruded on provincial jurisdiction over labour relations without any form of provincial consultation or consent.

Honourable senators, we live in a federation. This speaks to the kind of country Canada is. Our country differs greatly from sea to sea to sea, with several provinces that have their own circumstances. That is why the Fathers of Confederation chose to split responsibility between the federal and provincial levels of government.

One of those areas is labour. The Constitution only provides the federal level with jurisdiction of labour that falls into two categories: Labour within the federal public sector and federally regulated private sector labour.

Under section 92(13) of the Constitution Act, 1867, all other labour relations are under the jurisdiction of the provinces. Bill C-377, which Bill C-4 will be repealing, clearly fell under provincial jurisdiction.

According to Professor Bruce Ryder of York University, who appeared before the Standing Committee on Legal and Constitutional Affairs, less than 10 per cent of all labour organizations are under federal jurisdiction; therefore, legislating on an area that the provinces have 90 per cent jurisdiction over without consultation or consent would be unconstitutional.

When Bill C-377 was being debated in 2015, the previous government tried to avoid this by stating that the bill was amending the Income Tax Act, and claimed that it would use the federal power to legislate that area. I rejected that reasoning then, and I still reject that reasoning today. I stated then that our Constitution uses the pithand substance doctrine which states that the important characteristics or leading features of a bill determine the constitutionality of the bill. With the division of powers, this means that the courts examine the purpose of a bill when deciding which jurisdiction it will fall under. Legal associations from across Canada spoke out to say that the pith and substance of Bill C-377 was outside federal jurisdiction.

Notably, the Barreau du Québec said:

> A rather more serious problem is posed by the purpose of the bill, since it is intended to provide oversight of labour organizations across Canada. Such an intention falls within the ambit of labour relations, jurisdiction over which has been conferred on the provinces through case law interpreting subsection 92(13) of the Constitution Act, 1867, since the famous decision of the Judicial Committee of the Privy Council in 1925.

Given that this is the case, I welcome the fact that Bill C-4 will repeal the unconstitutional provisions. I believe Minister Patty Hajdu summarized this issue well when she stood before the Standing Senate Committee of Legal and Constitutional Affairs and said:

> . . . the constitutionality piece is important because we live in a country that believes in federalism. We live in a country that supports the rights of provinces to administer their own

laws and their own jurisdiction. So it is a constitutional issue.

With that said, Bill C-377 is unconstitutional for another reason. It violates section 2 of the Canadian Charter of Rights and Freedoms. The Charter reads as follows:

> 2. Everyone has the following fundamental freedoms:
>
> (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication . . .

Honourable senators, with the already existing requirement to provide financial statements to union members, there is no justification for the expanded reporting requirements under Bill C-377. In fact, there is no justification at all for the requirement to make information about political speech of unions and their members to be made publicly available on a government website.

Requiring unions to provide this information about their members is problematic for two reasons. First, publicly identifying the actions of individuals to the public could put a worker at risk as they may face repercussions for their actions. The Privacy Commissioner also stated that this requirement to release such sensitive information also violates the privacy rights of union members.

Second, the Charter reads as follows:

> 2. Everyone has the following fundamental freedoms:
>
> (d) freedom of association.

• (1510)

To quote the Canadian Bar Association in a letter they sent to the Standing Senate Committee of Legal and Constitutional Affairs, Bill C-377 infringes on unions' freedom of association since it "undermines trade unions by making their reporting conditions so arduous, it would infringe on their ability to operate."

In other words, the unreasonable levels of disclosure would make the day-to-day operations for a union much more difficult, especially since the operations of larger unions include many transactions with larger amounts of money.

Given that Bill C-377 has so many problematic elements, I welcome the revocation of these provisions found in Bill C-4. Bill C-4 recognizes the previous legislation had serious concerns from the perspective of our constitutional law and seeks to restore our labour law's constitutionality.

Honourable senators, as I mentioned before, I rise to support Bill C-4 today for two reasons. This bill restores balance in the federal labour regime and it represents a return to the important Canadian values that define us as a country: respect for federalism, the Constitution and the rights of all Canadians.

As a lawyer, I welcome this renewed focus on these central principles. Rather than obstructing Canadians as they seek to express their freedoms of expression and association, it is our job and responsibility as senators to enable them.

Honourable senators, I urge you all to join me in supporting Bill C-4.

**Hon. Art Eggleton:** Honourable senators, I rise today to add my voice to those who are supporting Bill C-4.

This is an important bill. As has been made clear in earlier speeches, this bill seeks to reverse the harm that was done to unions by Bills C-377 and C-525. Why were they damaging? Bill C-377 imposed an onerous set of restrictions on unions that would destabilize collective bargaining in this country. Under its provisions, unions would be required to report individual transactions — even the receipt of pension money — above $5,000, identifying a host of items such as the payee, the payer and the purpose of the transactions. Unions would have to compile and report to the government literally thousands of payments, increasing administrative costs not only for the unions but for the government as well.

The stated purpose of the bill was to increase transparency, yet it is exclusively targeting unions and excluding other professional organizations such as legal, accounting and medical associations, organizations whose members are able to deduct professional fees on their tax returns as employment expenses. They don't want to have to do any of that.

It was also redundant. Under section 110 of the Canada Labour Code, unions are already required to make their financial statements available to their members. In other words, unions already have accountability to their membership. If members want information, they can get it by law. There was no evidence that this system of laws and practices requiring union financial disclosure was broken.

Bill C-377 stood on shaky legal ground as well, as I think Senator Jaffer just pointed out. The Canadian Bar Association, when it was commenting on the matter, said it's problematic from a constitutional and privacy perspective and had the potential to invite constitutional challenge and litigation.

Bill C-525 presented its own set of issues. Under this legislation, any union certification vote held in private or public entity under federal jurisdiction they said must be conducted by secret ballot. There are provisions for a secret ballot, but not in all cases. As was pointed out, while this appears to be democratic on the surface, in practice, holding a mandatory ballot could provide the employer with ample opportunity to influence the result.

We need to be concerned with the fact that since the 1980s there has been a steady decline in the rate of employed Canadians belonging to unions. Between 1981 and 2014, unionization rates fell from 37.6 per cent to 28.8 per cent. This decrease was particularly evident in the private sector, where between 1999 and 2014, unionization rates fell from 18.1 per cent to 15.2 per cent.

I believe it's no coincidence that these declining unionization rates correspond with increasing income inequality. Statistics Canada reports that from 1980 to 2005, the income of the richest 20 per cent of Canadians grew by 16 per cent, while the

income of the poorest 20 per cent declined by 21 per cent. For those in the middle, earnings were essentially stagnant. Timothy Noah, author of *The Great Divergence*, said something that is very instructive:

> Draw one line on a graph charting the decline of union membership, then superimpose a second line charting the decline in middle-class income share and you will find the two lines are nearly identical.

What's more, honourable senators, it was reported last year that Canada's top 100 CEOs made an average of just under $9 million a year. This is 184 times the annual salary of the average Canadian worker, which sits at just under $49,000. By lunch on Monday, each of these 100 CEOs will make what an average Canadian makes in a year. What is now 184 times, back in 1980 it was 40 times, a hard-to-believe increase in just three decades. No organization should have this kind of disparity among its highest, middle and lower wage workers. It's absolutely obscene.

There's more. This inequality is a threat to our social fabric, and it's a threat to our social cohesion. One need only look at the political climate of some of our closest allies to see the kind of destabilization that can happen when people feel left behind.

Fortunately, Bill C-4 will assist in limiting the erosion of the Canadian working class. Unions exist to assist workers they represent. The Canadian Labour Congress reports that, on average, union members earn $5.38 more an hour than workers who are not unionized. Women in unions earn an average of 35 per cent more than their non-unionized peers. Young Canadians who are still in school or paying off student loans, buying a home or starting a family, earn 27 per cent more on average if they belong to a union.

What is good for the individual is also good for the economy. A report by the World Bank found that countries fare better economically if large numbers of workers belong to trade unions.

Unionization rates are associated with lower unemployment, lower inflation, higher productivity and speedier adjustments to economic shocks. Yet labour in Canada is moving in the other direction. The emerging "gig economy," as it is called, has contributed to the growing portion of Canadian jobs that are precarious and insecure. These jobs are usually lower paying, temporary and offer few, if any, benefits.

Research done by the United Way of Greater Toronto and McMaster University found that in the Greater Toronto and Hamilton area, precarious work in the region has increased 50 per cent over the last 20 years. Taken in tandem with some of the negative consequences of globalization — some are positive but some are negative — this rise of precarious employment will prove a challenge for Canadian workers moving forward.

Yet these are not the only challenges to Canada's job market. I sit on two Senate committees currently that are studying increasing automation in our everyday lives. Here we are learning the benefits automation will bring. For instance, evidence points to self-driving cars being safer and more efficient. It is hoped that automation in our health care system will help remove menial tasks and allow medical professionals to focus on what they are there for, the patient.

However, automation will also bring with it an upheaval in our labour force not seen in our lifetime. A recent study conducted by the Mowat Centre found that roughly 42 per cent of Canadian occupations are at high risk of automation in the next decade or two.

Honourable senators, this is not some abstract future. Much of this technology already exists and more is rapidly on its way. This rapid advancement of technology has led Professor Stephen Hawking to write recently:

> . . . the automation of factories has already decimated jobs in traditional manufacturing, and the rise of artificial intelligence is likely to extend this job destruction deep into the middle classes, with only the most caring, creative or supervisory roles remaining

Professor Richard Florida of the University of Toronto's Rotman School of Management put it bluntly when he said:

> We are in the midst of the greatest, most thorough economic transformation in all of history.

• (1520)

Our workforce needs to be adaptable if huge numbers of Canadians are to avoid being economically displaced. Government will be central in all of this. Social programs, such as basic income, will need to be considered to adapt to a new reality.

Government can't do it alone, and the unions will have an important role to play if we are to ease this transition for Canadians.

Unions must also adapt to this new reality and work with government. They need to cooperate with government and employers on adaption to automation and other economic challenges. That is why Bill C-4 is important. Under Bill C-377 and C-525, unions would have been mired in hobbling bureaucratic red tape. They would be harder to certify and too easy to decertify. Put simply, unions would have been made weaker at a time when they should be focused on helping Canadian workers in an economy that is becoming increasingly tilted against them.

It is for these reasons I intend to support Bill C-4 and why I hope it is just the first step in allowing unions to better help Canadian workers adapt to a rapidly changing and uncertain job market. Thank you.

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

**The Hon. the Speaker** *pro tempore*: Would you take a question, senator?

**Senator Eggleton:** Sure.

**Senator Martin:** In regard to C-525 having come into force, the impetus behind that bill was that 86 per cent of union workers wanted the secret ballot. I think many of us in this chamber, if not

all, believe in the secret ballot as being a tenet of democracy. That number is fairly high.

I was just wondering if you have seen any stats since the enactment of the bill that counter the high percentage of workers who want the secret ballot to remain.

**Senator Eggleton:** The law does provide that there can be a secret ballot. I believe it's the labour relations board or whoever they appeal to that will make that determination. If workers feel they want that kind of provision, it can be done.

But it shouldn't be automatic. We have a delicate balance here. Right now, unions are losing the delicate balance. I think we need to restore it. That's why we need Bill C-4.

**Senator Martin:** My question was just regarding that very high number; 86 per cent is very high. So I'm just wondering whether there have been any studies or polls with the workers themselves as to the kind of change they would like to see, because it was a very popular bill. It was endorsed by the workers.

**Senator Eggleton:** Yes, there have been opportunities for people to make submissions on these bills. There seem to be very few complaints about the way the unions have operated that we have heard. Sure, people might react by saying, "Yes, a secret ballot is a good idea." There is provision for that if in fact it is a justified case.

But I think we have got to watch tilting the balance too much against the unions. Right now, they are diminishing. There are great values in terms of the kind of provisions they provided for the middle-class, middle-income people and lower-income people in this country. We want to be very careful about changing that balance.

**The Hon. the Speaker** *pro tempore*: Senator Eggleton, will you accept a question from Senator Bellemare?

**Senator Eggleton:** Sure.

**Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate):** Is it not true, Senator Eggleton, that the traditional system relies also on secret ballots at some point? And is it not right also that the survey about secret ballots is made in Canada but it relies on a sample of a thousand people? Isn't that right?

**Senator Eggleton:** You know more about the details than I do. That sounds reasonable to me.

**The Hon. the Speaker** *pro tempore*: Are senators ready for the question?

**Senator Ringuette:** Question.

**Senator Martin:** I move the adjournment of the debate.

**The Hon. the Speaker** *pro tempore*: It is proposed by the Honourable Senator Martin, seconded by the Honourable Senator Frum, that the remainder of the debate be adjourned until the next sitting of the Senate.

Is it agreed, honourable senators?

**Some Hon. Senators:** No!

**Some Hon. Senators:** Agreed.

**The Hon. the Speaker** *pro tempore*: On division.

(On motion of Senator Martin, debate adjourned, on division.)

## CANADA-EUROPEAN UNION COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT IMPLEMENTATION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Pratte, seconded by the Honourable Senator Mitchell, for the second reading of Bill C-30, An Act to implement the Comprehensive Economic and Trade Agreement between Canada and the European Union and its Member States and to provide for certain other measures.

**Hon. Leo Housakos:** Honourable senators, I'm rising to speak on Bill C-30, an Act to implement the Comprehensive Economic and Trade Agreement between Canada and the European Union, the CETA. This is a monumental agreement for Canada. It will provide preferential access for Canadians to an economic bloc of more than 500 million people with a gross domestic product currently worth some $17 trillion.

This will provide immense benefits to Canadians. At home, it means lower prices when it comes to European imports, as well as more choice for Canadians. In the European market, for Canadian exporters, preferential access to such a huge market means expanded business opportunities, and with that, more jobs that are higher paying in the export sector.

The many benefits of CETA will be felt rapidly. On the day CETA comes into force, 100 per cent of all EU tariff lines on non-agriculture products will be duty-free, together with nearly 94 per cent of EU tariff lines on agriculture products. Canadian service suppliers, a sector which employs 13.8 million Canadians, will receive the best market access that the EU has ever granted to any free-trade partner. Likewise, the EU's $3.3 trillion government procurement market will be open to secure preferential access for Canadian suppliers, representing a significant new export opportunity.

Looking at the opportunities more broadly, when Canada launched negotiations with the EU, a joint Canada-EU study found that a comprehensive agreement between Canada and the EU would generate a 20 per cent increase in bilateral trade, bringing with it a $12-billion annual boost to the Canadian economy. This has the potential to add 80,000 new jobs to the Canadian economy and boost average Canadian family income by $1,000 per year.

The Canada-EU Comprehensive Economic and Trade Agreement has been increasingly described as a gold standard

agreement for Canada. Indeed, in terms of the impact and the benefits it will bring to Canadians, that is an apt description.

[*Translation*]

The European Union is already the second largest exporter and trade partner of my province, Quebec. Many sectors, including advanced manufacturing, mineral and metal products, and agriculture are well positioned to benefit immensely from CETA. Not only does the agreement give Canadians preferential access to European markets while offering Canadian consumers more choice and lower prices, but it contains better investment dispute resolution mechanisms and it enhances strict environmental and labour protection standards.

I also believe that CETA is an ideal agreement for Canada for two other reasons. First, CETA represents the culmination of Canada's longstanding efforts — especially in the past ten years — to strengthen its trade and economic relations with the rest of the world. Why? Because free trade agreements are the engines of economic growth and they lay the foundation for creating high-quality jobs for Canadians. In short, free trade serves Canada's national interests.

Business and political leaders have known this for a long time as evidenced by the consensus that began to take shape in the 1980s. Brian Mulroney took a political risk by launching the Canada-U.S. free trade negotiations. Roundly criticized at the time, he was forced to hold an election in 1988 on the issue of free trade, which he believed offered tremendous potential and possibilities. In the end, the Canadian people agreed with him.

Once the Canada-U.S. Free Trade Agreement came into force, trade with the United States tripled. Despite the misgivings of many people, who feared that major Canadian industry was incapable of competing on the free market with our neighbour to the south, Canadians rose to the challenge. Far from disappearing, many sectors were strengthened and became world leaders with access to major new markets. These free trade talks gave Canadians renewed confidence and other governments followed suit and rose to the challenge.

• (1530)

Trade liberalization became the cornerstone of the Harper government approach. From 2006 to 2015, Canada concluded negotiations on seven bilateral trade agreements and three multilateral trade agreements involving 46 different countries. This trade agenda, unprecedented in Canadian history, ushered in the conditions for increased opportunities and prosperity for years to come.

The former Premier of Quebec, Jean Charest, recently said that NAFTA, CETA, and other trade agreements combined give Canada unfettered access to 60 per cent of the world's economy. According to Mr. Charest, we are set to become a hub of the global trade of goods and services, as well as of investments, not to mention the mobility of people and labour.

He is not alone in that thinking. Groups such as the Business Council of Canada, the Canada Europe Roundtable for Business, the Canadian Chamber of Commerce, the Canadian Federation of Independent Business, Canadian Manufacturers & Exporters, and countless others share Mr. Charest's opinion. They point not only to the opportunities created through the trade agreements concluded over the past few decades, but also to the risk of failing to have strong measures with regard to both promoting the coming into force of CETA, and consistently pursuing new opportunities.

[*English*]

As former Prime Minister Harper recently noted:

> The world desperately needs more international trade agreements. In an age where structural deficits, loose money and low growth are becoming the norm, trade expansion represents one of the few tools to spur job creation and economic growth in developing countries.

The Government of Canada needs to ensure that it takes up this call and continues to pursue new trade opportunities in the most vigorous manner.

We live in a time of increasing skepticism about the value of free trade. Countries are becoming more protectionist. This represents both a danger for Canada as well as an opportunity. On the one hand, we are at risk as some of our leading trade partners become more skeptical about the value of their current trade agreements, but, on the other hand, this also gives us a potential opportunity to capitalize and, in the words of Mr. Charest, make ourselves a "world trade hub." The first move or advantage can be pivotal in positioning Canada for access in a very challenging world market.

One example of both the pitfalls and the opportunities for Canada is already at play in Europe. We know that our leading trading partner in Europe, the United Kingdom, has decided to leave the European Union. This is obviously a worry for Canada in that the U.K. makes up more than one fifth of the EU's collective GDP. However, this also provides the government of Canada with an opportunity to take the lead in protecting and deepening our overall economic relationship with the U.K. in the months and years ahead.

In short, we cannot afford to become in any way complacent. Even at a time when we are celebrating one of our greatest trade triumphs, we need to see the opportunities that are present in the challenges and dangers that we face.

This brings me to another way in which CETA represents the gold standard for the Government of Canada. The CETA agreement has been under negotiation since 2007. The agreement in principle between Canada and the EU was signed in October 2013, and the final agreement was signed a full three years later, in October 2016. The negotiation of this agreement therefore spanned a decade and two Canadian governments. The previous Harper government, which initiated the process, as well as the current Trudeau government have been strongly committed to the agreement. This national consensus has been absolutely vital because these trade agreements are so complex and involve so many of our economic sectors. Political consensus, over an extended period of time, is essential. Only through such a consensus are we able to forge a truly national approach and ensure that no sector, province or region of Canada is forgotten.

Historically, we have always come together to forge cross-party political unity during times when we have faced our most serious international challenges. It is fitting that such political unity has

emerged again on the matter of Canada's international economic interests. It is nice to see that the Liberal Party has also come to embrace its more traditional position on free trade, based not only on the economic opportunities that free trade represents but also given the opportunities that now exist for Canada to diversify its international economic relations.

We will all need to work harder to ensure that the unity that exists today can be sustained in the years ahead. This means that we will need to have a detailed appreciation of how individual Canadian economic sectors both benefit and are challenged by international trade agreements. Governments and legislators will need to work with and listen to those sectors to respond in a way that helps to bridge the transition from protection to freer trade.

In this regard, it will be extremely important for the government to keep promises made to our dairy sector, as well as to Newfoundland and Labrador in relation to the CETA Fisheries Investment Fund. In other countries, governments have too often ignored or glossed over the immediate economic impacts of comprehensive trade agreements. The consequences of such ill-considered approaches are today being felt both in Europe and, particularly, in the United States.

I ask that the government listen closely to our dairy farmers, to the representatives of Newfoundland and Labrador's fishing sectors, to those who represent our shipping sectors on the Great Lakes and the St. Lawrence River and to all potentially vulnerable sectors to provide the full measure of interim support that may be required. We will begin that process in the Senate through our own committee hearings. It will be vital for the government to monitor that very closely.

The conclusion of CETA is a great accomplishment for Canada. The Conservative opposition is, of course, strongly in support of the agreement. We are very proud not only to have initiated the CETA process but also to have played a pivotal role in forging our current national free trade consensus.

It has been a privilege to speak in support of Bill C-30, which, when passed, will implement CETA. I'm very proud to stand in support of the bill, and I encourage all colleagues to do so.

(On motion of Senator Sinclair, for Senator Forest, debate adjourned.)

## CANADA-UKRAINE FREE TRADE AGREEMENT IMPLEMENTATION BILL

### SECOND READING—DEBATE ADJOURNED

**Hon. George Baker** moved second reading of Bill C-31, An Act to implement the Free Trade Agreement between Canada and Ukraine.

He said: Just a couple of words for the record on this legislation. I don't intend to give a long speech but just to put a couple of things on the record.

This bill was passed in the Commons by a vote of 304 to 0. A recorded vote was asked for because everybody knew that it would be unanimous, but they wanted it on the record.

The other thing that is striking is that the minister responsible praised the former Prime Minister on this bill. So the first thing that I should do in starting the debate is to make reference to the great contribution made by former Prime Minister Harper.

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

**Senator Baker:** On the facts of the matter, history has shown that this Senate has the same support as that in the House of Commons. We just celebrated the one hundred and twenty-fifth anniversary of the first immigration of Ukrainians to Canada. We have now 1.2 million Canadians of Ukrainian heritage.

• (1540)

Canada was the first Western nation to recognize the independence of Ukraine in 1991, and most people accept the fact that when the movement of immigrants came they settled in the Prairie provinces and that area is the primary location of persons who came from the Ukraine to Canada.

Newfoundland and Nova Scotia can also claim a Ukrainian heritage as far as our fishery is concerned. At this very moment, there is a quota of redfish in Management Area 3O on the Canadian east coast assigned to Ukraine, Canadian quota. It's an international quota because it belongs to an organization called the Northwest Atlantic Fisheries Organization that provides the scientific work and the quotas for 12 foreign nations to fish off the east coast of Canada.

The fishermen from Ukraine have for years and years fished on the east coast of Canada. It's quite remarkable. How industrious they are to have fishing vessels that travel right to the coast of Newfoundland and Nova Scotia to fish. They had quotas going back prior to 1991. And after 1991, under their flag, which is blue and yellow in colour, they have had their factory freezer trawlers fishing those stocks off the east coast of Canada.

However, their real contribution, as senators from Newfoundland would know, was in their scientific work. A few moments ago I just looked up some statistics on the contributions made by the scientific community of Ukraine. I'll read just one sentence from the Scientific Council meeting of the Northwest Atlantic Fisheries Organization, Serial No. N6046.Under scientific research it says:

> The Ukrainian scientists investigated NWA fishery resources both on research and fishing vessels. Thus, in 1990 research vessel —

—so and so, which I can't pronounce—

> — based in Ukraine with a group of . . . Ukrainian experts onboard carried out bottom trawling survey on the Flemish Cap bank.

That is just off the nose of the Grand Banks of Newfoundland, which would be about 200 nautical miles east-southeast of St. John's, Newfoundland.

It goes on to say:

> Beginning in 2001, Ukrainian scientists —

—and then listing the scientists.

> The results of this research were submitted in scientific publications —

—and then listing all of the scientific publications.

So you have this great contribution by Ukrainian scientists and Ukrainian fishermen to preserve the fish stocks off the east coast of Canada.

The other thing I would like to put on the record is the contribution that senators make. The primary function of the Senate is, of course, sober second thought on legislation from the Commons. We see it every day in our case law. Every day I read case law and I see cases that arise. Last week for example in the Ontario Court of Appeal in *R. v. Osborne*, 2017 ONCA 129 at paragraph 55, they quote liberally from the Standing Senate Committee on Legal and Constitutional Affairs proceedings Issue No. 2, November 20, 1986, at paragraph 2-23.

I see a decision by the Ontario Superior Court, by the Supreme Court of Quebec, the Superior Court of Quebec in the last two weeks as well. So you see in case law in our courts constant reference to the Senate, Senate committees, Senate debates. You don't see a reference constantly to House of Commons debates, House of Commons committees, and the reason is that the Senate is specifically now entrusted with examining legislation in detail so that our courts can actually see what the government intended in their legislation.

What I wanted to put on the record as far as this bill is concerned is this: We have in this Senate a lot of friendship groups with foreign nations. We have associations. We have, for example, seven multilateral associations to which senators belong; bilateral associations, five; interparliamentary groups, four. On some of these associations we have 15 and 20 senators, so senators develop an expertise in certain areas.

For example, today you have on the executive of the Canada-Japan Inter-Parliamentary Group, Senator Massicotte; Senator Mercer on the U.K. association; Senator MacDonald on the U.S. parliamentary group; Senator Day on the Canada-China; Senator Ringuette on the ParlAmericas group. We have Senator Hubley, Senator Ngo, Senator Downe, Senator Andreychuk, and the list goes on, of chairs and vice-chairs held by senators.

The reason why I point this out is when you go to the Canada-Ukraine Friendship Group, you see of course the last meeting that took place, and they have the largest number of parliamentary participants. The annual general meeting was chaired by Senator David Tkachuk, as it is, and the election took place, and the new chair of that particular committee is Borys Wrzesnewskyj. There are 85 members, 21 parliamentarians on the executive of the Canada-Ukraine Friendship Group.

I mention that because when the Government of Canada has an opportunity to take part as observers in an election that takes place in some distant land, they sometimes go to those parliamentary groups and associations and ask a senator to become the chair or the chief representative of that parliamentary group. For example, 500 Canadian observers went to observe the Ukrainian election in 2012. Heading the group was a senator, a senator sitting with us today here in this room.

**An Hon. Senator:** Who's that?

**Senator Baker:** Let me go on and you will probably guess who that senator is.

**An Hon. Senator:** Oh, name her!

**Senator Baker:** Let me tell you what happened, the excellent job that that particular senator did. I could use other examples as well, but this one in particular stands out. It was not very long after that when the Government of Russia banned that senator from ever entering Russia. She's in good company because the second person banned was the Minister of International Trade for Canada who introduced this particular bill. In referring to the great contribution that has been made to Canada-Ukraine relations, I'm referring to Senator Andreychuk.

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

• (1550)

**Senator Baker:** Those were the two items that I wanted to put on the record, identifying the role of senators. Perhaps some of the newer senators are not members of these organizations and so on, but we would certainly encourage you to become involved, and to fulfill that function that the Senate has always filled. It is probably one of the top functions of the Senate to fill those functions with our foreign nations and to perform as well as some of our senators, like Senator Andreychuk, have performed.

I want to put on the record because, after all, I'm giving second reading speech on the bill, what is in the bill. I'll do this briefly by saying it's not just a bill involving tariffs. It's not. It involves much more than tariffs. Yes, it is the same legislation that was announced by Prime Minister Harper in 2015. Nothing has changed in it, but it does not just remove tariffs over a seven-year period.

It introduces into law — and all our trade agreements should reflect on this — that it gives these agreements a Canadian perspective, a Canadian view of what should be in a free trade agreement. Let me mention a couple of things that are there. As far as section 12 is concerned,

> Each Party shall ensure that violations of its environmental laws can be remedied or sanctioned under its law through judicial, quasi-judicial or administrative proceedings.

Then it goes on under the heading of "Compliance With and Enforcement of Environmental Laws." Then for each party there will be, for example, environmental assessments. Imagine putting that as a necessity. They are free trade agreements, but here's what we agree to. We agree you will respect the environment and environmental assessments.

It goes on in quite a lot of detail on the environment and then it says "Application to the Provinces of Canada" because, as we know, this is a federal agreement and there is a provision that says

"Canada shall use its best efforts to make this Chapter applicable to as many provinces as possible."

Then in the next section, Labour, it says "freedom of association and the effective recognition of the right to collective bargaining."

It goes on to say:

> (d) the elimination of discrimination in respect of employment and occupation;
>
> (e) acceptable minimum employment standards, such as minimum wages and overtime pay, for wage earners, including those not covered by collective agreements;
>
> (f) the prevention of occupational injuries and illnesses, and compensation in cases of injuries or illnesses; and
>
> (g) non-discrimination in respect of working conditions for migrant workers.

It goes on in detail about how that is to be monitored under the provisions of this free trade agreement. It is quite remarkable. This is not just about the reduction of tariffs, and it goes on.

A very important section of a free trade agreement is anti-corruption, and those of you who have visited a lot of countries in the world know they that are trying to get on their own two feet and have borrowed money from the International Monetary Fund, trying to meet their standards and their requirements, which go to anti-corruption measures and so on. There is a whole section on anti-corruption measures and the establishment of criminal offences.

It is absolutely outlining in detail what we have in our Criminal Code. It is practically a mirror of what we have in our Criminal Code. As some of you know, there have been problems in Ukraine with some of these matters. We have a contingent of RCMP officers today in Ukraine teaching enforcement of the law, and how the law should be enforced and administered. Canada has contributed a great deal to the organization of the society on grounds that meet our particular standards.

I might mention that Canada has committed $1.4 billion in technical and financial assistance to Ukraine and $27 million in humanitarian assistance to help people affected by the conflict in eastern Ukraine.

In conclusion, I think this bill should be dealt with at the same time that the European trade deal is dealt with. Here is why: The Canada-European Union Comprehensive Economic and Trade Agreement Implementation Act comes into play in the Ukraine bill. When you look at the bill, you discover a clause 43. You go to the coming into force of this act that we're passing.

It says at clause 44:

> This Act, other than section 43, comes into force on a day to be fixed by order of the Governor in Council.

What is clause 43? It contains a detailed breakdown of matters that affect the Ukraine free trade deal in the European Union trade agreement. If you look at the opening sentence of clause 43, it goes on to say:

> Subsections (2) to (13) apply if a Bill entitled the *Canada—European Union Comprehensive Economic and Trade Agreement Implementation Act* (in this section referred to as the "other Act") is introduced in the 1st session of the 42nd Parliament and receives royal assent.

Then it goes on to deal with various sections.

Honourable senators, I think that it would be wise to have both of these bills dealt with in quick order or at the same time or in the same section of meetings dealing with the European Union agreement.

As far as coming into force is concerned, this is not a simple matter of just passing the bill. The bill is passed, yes. The act says it will come into force at a date to be given by Governor-in-Council after this bill is passed. However, when you look at the agreement, it goes a little bit further and says that it will come into effect the first day of the second month after which each party notifies the other party that they have carried out their domestic obligations under the agreement. It will not become law until all of this is passed. This process start started in 2009. In 2015, Prime Minister Harper signed it. In 2016, it was finally signed in Kiev with the Prime Minister there. Now we have the act of Parliament presented in 2016 and here we are in 2017. If you think that it doesn't have to be passed, I can assure you that it must be passed in order for it to come into effect.

It's not like back in the 1970s when you remember the case before the Supreme Court of Canada of champagne from France under the Canada-France trade agreement. It was supposed to be ratified in France, but it was not. The wine producers in France brought an action in the Canadian courts against Chateau-Gai. You can look it up under the Supreme Court of Canada, heard in 1974. I was a member of Parliament at the time and we were discussing it, and the conclusion of the court was that there was not a requirement that it be ratified by Parliament. Well, after that there is a requirement that all of the regulatory and domestic matters are now settled in the jurisdiction of Canada and the jurisdiction of Ukraine.

• (1600)

So it's absolutely important that we pass this bill as soon as possible. I'm not suggesting we just not examine the thing. We should certainly give it due diligence, but pass it as quickly as possible, keeping in mind the fact that it would be very difficult to amend a bill that has already been verified between two nations, especially a bilateral. A multilateral bill would be even more difficult because you would have to have the agreement of the other side.

This is an excellent piece of legislation that deserves quick passage. I congratulate the Government of Canada, the former Government of Canada, Senator Andreychuk and all of the other senators who served on that committee of friendship with Ukraine on the great job done in the name of the Senate of Canada.

**Hon. Serge Joyal:** Would the honourable senator entertain questions?

**Senator Baker:** Certainly.

**Senator Joyal:** Thank you, Senator Baker, for your presentation.

As I see it, the free trade agreement with Ukraine is special in a political context. We all know the problems in Ukraine stemming from the Russian annexation of the Crimean region, so this free trade agreement has a political impact that the free trade agreement with the European Union doesn't have. As you know, the attention of the world is on the moves that the Russian president can make in the context of the geopolitical environment south of the border. Those are very serious issues.

What is your evaluation of the political impact of the free trade agreement that you're proposing we endorse today? In other words, is it just a trade issue, or should we also be concerned about the political context in which this trade agreement is entered into with the present Ukrainian government?

**Senator Baker:** Well, this free trade agreement involves a nation — Ukraine — that is not even in the top 40 trading nations that Canada has relations with. The total value of the trade is about $250 million a year. The amount of trade from Canada is about $220 million a year, and Ukraine exchanges about $50 million a year. It's very little.

When you mentioned "south of the border," I was reminded that I was asked some time ago about the supply of satellite information that some senators were concerned about, and we were discussing the changes that have taken place over the past year. I know this is on Senator Andreychuk's mind. I simply make the observation that there was a corporate takeover of the Canadian company supplying the information by a corporate entity in the United States that is registered in Delaware, with headquarters in San Francisco, so it makes it all the more difficult for Canada to continue something that was in effect prior to this.

But in direct answer to your question, no, it absolutely is not a large trade deal. It is not even in the top 40 with Canada, but it has so much significance for Canadians and so much significance for the rest of the world, because it wasn't just Canada. It was the entire G7 that stood up and said, "Look, what is happening is wrong." This is Canada stepping forward with a free trade deal with Ukraine that will not just increase trade but will also assist Ukraine in meeting some of their objectives in their society and the operation of their society, almost to Canadian standards, so that it will be free of these complaints from the IMF that privatization is not going fast enough.

For example, the foreign fishing fleet that carries the blue-and-yellow flag off the coast of New Zealand today, and that was off the coast of Newfoundland, is being put up for sale as a part of the privatization network. The faster that can be done, the better it is in meeting the requirements of the IMF and the requirements of the other industrialized nations in the world to trade with Ukraine. But it's not just the trade; it is the act that Canada is doing on behalf of the Canadian people. You're absolutely correct.

**Senator Joyal:** I exchanged ideas with Senator Andreychuk in the midst of the crisis. The other concern I have is that the Russian government was trying —and I will use a word that might be too descriptive — to squeeze the Ukrainian economy and prevent the supply of energy in a country where the main supplier of energy is Russia. If I remember well, Senator Andreychuk made a statement in the chamber at that time that the people of Ukraine were caught in a war with a giant that had its hand on the energy valve and Ukraine had almost no other option than to yield to the Russian request.

It was expressed that Canada could offer the support of supplies at that time, which would have been welcomed by the Ukrainian people and could have given them breathing space to prepare their reaction to the invasion that the Russian government was denying they were doing but that, in fact, all the international observers believed was happening in the region.

Will this trade agreement strengthen the capacity for the national independence of Ukraine? Will it allow for an economic base and a supply of essentials to let them stand for their independence, having made the choice to open their economy to the European Union for a better standard of living and a greater level of freedom in their country? In the end, that is the essential question.

As I said, I hope this trade agreement will have a political impact. We should be more concerned with it than the other trade agreement that we're looking at with the European Union, which may have all the merit in the world but is not caught in the political straight jacket in which Ukraine is now.

**Senator Baker:** Yes. There are 46 million people in Ukraine; there are 36 million people in Canada. Your reference to energy is, of course, correct. It is mainly centred around gas, but Ukraine has an advantage in that the gas pipelines from Russia to Europe run on Ukraine's soil. Russia has put forward, in recent months, plans to build a pipeline under the sea. How long that is going to take is anybody's guess. But when you read the judgment of the Superior Court of Ukraine on the taxes, because four years ago Ukraine increased taxes on the transmission of gas from Russia to Europe through Ukraine and it ended up in court, and the decision was that Ukraine was legitimately able to charge more money for that.

• (1610)

What will the trade agreement do? It's interesting that one of the witnesses that I was listening to recently, who should appear before our standing committee, a group of investors from Alberta, who, with this agreement signed and the guarantees that this gives them protection, would like to go as a group of investors to invest in alternate forms of energy in Ukraine. That's one example.

They explained exactly what they wanted to do. They wanted to bring Canadian technology to Ukraine in other forms of energy to meet that great demand, and that's why an agreement like this will solidify matters. The anti-corruption and criminal law sections in this agreement will go far in allowing foreign investment into Ukraine, which could solve some of their energy problems.

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

## CANADIAN HUMAN RIGHTS ACT
## CRIMINAL CODE

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Fraser, for the second reading of Bill C-16, An Act to amend the Canadian Human Rights Act and the Criminal Code.

**Hon. Lillian Eva Dyck:** Honourable senators, I rise today at second reading of Bill C-16, An Act to amend the Canadian Human Rights Act and the Criminal Code and to express my support for it.

Colleagues, as other senators have already noted, bills to protect Canadians who self-identify as members of the transgender community have been before us previously, and most recently as Bill C-279, an NDP private member's bill that was passed by the House of Commons and received in the Senate in 2013, but which never came to a vote. Senator Mitchell, the sponsor of Bills C-279 and C-16, gave an excellent overview of Bill C-16.He provided a full description of the historical background.

Bill C-16 is a government bill which aims to protect transgender people from hate crimes by including "gender identity" and "gender expression" in the list of identifiable groups in the Canadian Human Rights Act, and by including gender identity and gender expression as aggravating circumstances in the Criminal Code.

Colleagues, I support the intention and the legislative measures included in Bill C-16. The intention of Bill C-16 was laid out clearly by the Minister of Justice last May. It is meant to protect transgender individuals, to increase their safety from hate crimes and from discrimination in the workplace. It is well-documented that transgender individuals are targets for hatred and violence. The need for such a bill is documented. The mechanism of specifically including gender identity and gender expression as categories deemed to be aggravating circumstances is good because the generic terms — sex and gender — are vague. Furthermore, the reality is that specific groups such as women, Aboriginal women and transgender people are at much greater risk of being victims of violence.

Not everyone is in favour of Bill C-16, and the main objection championed by our colleague Senator Plett with Bill C-379 is that the bill may have the unintended consequence of allowing men to pretend to be transgender women and enter women's bathrooms or change rooms and expose their genitals. This hypothetical proposal has been dubbed "the bathroom predator scenario."

Colleagues, how often do women and girls encounter exhibitionists? After much searching, I was able to find only one report on the number of indecent acts and indecent exposures that have occurred in Canada. This number is helpful because it gives us an idea how common such incidents are. The data show that the incidence of indecent acts and indecent exposures is not rampant in our society. There was no information on where these criminal acts took place, but I doubt that public washrooms would be a preferred location for exhibitionists because of the increased chance of being apprehended compared to being in a public park or on a public street.

According to the Canadian Centre for Justice Statistics, in 1993-94, over a two-year period, there were 2,033 charges laid under the Criminal Code for indecent acts and indecent exposure in Canada. That's 1,017 incidents per year across Canada. It's most likely the victims were female. If we assume 1 victim per perpetrator, then in 1 year, 1,017 females were victims of indecent acts or indecent exposure. That is only about 1,000 females out of about 17.5 million in Canada. A woman has a 1 in 17,000 chance of being the victim of an exhibitionist.

Colleagues, why do transgender people need protection from violence and discrimination? Other senators have spoken about the victimization of transgender people, and the statistics are worth repeating. In 2010, nearly 500 transgender people were surveyed. Of that number, 20 per cent reported being physically or sexually assaulted, 13 per cent were fired, and 18 per cent were refused employment because they were transgender.

To give you a qualitative perspective on the experiences they face, I will quote from a report by Global News on June 15, 2016. Professor Gillis from OISIE at the University of Toronto said the following:

> In the research I've done, almost every homosexual or transgender person has been called names, has been verbally harassed and assaulted.

Professor Gillis continued:

> . . . I've had things thrown at me from cars: bottles, eggs, rotten fruit. I've been threatened with violence. I've had property destroyed. I've had harassment from neighbours. I've had harassment in university residences. It goes on.

Colleagues, how many transgender people are there in Canada? According to the Forum Research poll by the *National Post* in 2012, 5 per cent of Canadians identify as lesbian, gay, bisexual or transgender. A significant number, 1.7 million Canadians identify as LGBT. They will be protected by Bill C-16.

According to Statistics Canada data on hate crimes, 16 per cent of the victims of hate crimes are those perceived of having unacceptable sexual orientation. There were 186 such incidents in Canada in 2013, and 130 were violent assaults. If the LGBT subpopulation were 100 per cent of the population, rather than 5 per cent, there would have been 20 times 186, which is equal to 3,720 hate crimes in Canada against people that were considered to have unacceptable sexual orientation.

This number, 3,720, is greater than the 1,017 acts of indecent exposure in Canada in a year. In other words, the rate of hate crimes against LGBT individuals is greater than the rate of indecent acts against women. It should also be noted that according to the American Psychiatric Association, exhibitionists rarely do anything else but expose themselves. Victims may be traumatized by the experience, but they are not sexually touched or violated. Thus, if for no other reason than the frequency and

the severity, we should at least be as concerned about hate crimes against those who are LGBT as we are about indecent acts against females.

Honourable colleagues, who sexually assaults girls and women?

• (1620)

First, I would like to say I think it's important to mention that girls and women ought to be protected from exhibitionists and sexual predators. Every parent and every grandparent — every family member — wants to protect their young girls from exhibitionists, and we also want to protect girls from the other more serious sex crimes, such as sexual assault and sexual interference.

According to the Statistics Canada report *Measuring violence against women: Statistical trends*, sexual crimes are the most common offence against girls under the age of 12. These offences are committed in their home, mostly by male family members. The report states that 56 per cent of the perpetrators are family members, while strangers are the perpetrators only 10 per cent of the time. For girls ages 12 to 17, the most common offence committed against them is physical assault. For this age group, the perpetrators are often most often casual acquaintances.

In 2011, 8,200 girls under 12 and 27,000 girls between 12 and 17 years of age were victims of violence in Canada. A total of 35,200 girls were victims of sexual and physical violence in 2011. By comparison, as I noted earlier, the number of female victims of an exhibitionist was 1,017.I repeat: 35,000 girls were sexually or physically assaulted compared to only 1,000 females who were "flashed."

Colleagues, clearly the sad reality is that it is not a stranger in a public place but a male family member who is more likely to commit a sex crime against girls under the age of 12. Girls are at much greater risk of being sexually assaulted at home by male family members than by strangers. Furthermore, it is clear that the risk to girls of being sexually and physically assaulted by their male family members and acquaintances is much greater than the risk of being traumatized by a stranger who exposes himself.

So, colleagues, how valid is this "bathroom predator" prediction?

After much searching, I was not able to find any reports verifying the hypothesis that granting human rights protection to trans individuals will lead to an increased number of indecent exposures by men pretending to be transgender women. Other senators have tried to determine whether this possibility is real. In response to a question from Senator Cordy about the possibility of there being an increased number of indecent exposures in public washrooms, Senator Mitchell said:

> The information that you referred to was as a result of research done by Member of Parliament Randall Garrison, who contacted each of the jurisdictions in the United States. At that time there were four. All of them adamantly indicated that they had no episodes or events such as those who are opposed to this bill sometimes allude to.
>
> There are eight provinces and one territory in Canada. In fact the first jurisdiction in Canada to recognize transgender rights was the Northwest Territories, in 2002 I think. Once again, I'm not aware of these kinds of episodes.
>
> Transgender people are terrified of being outed. They are not going into washrooms to expose themselves in any way to that kind of abuse. They simply want to be able to live their lives quietly as other Canadians do without those kinds of fears.

In her second-reading speech, Senator Petitclerc stated:

> Senator Cordy is right to question the existence of evidence that would prove these apprehensions. The reality is that transgender people already use public toilets all across our country. Even with my best efforts, I could find no indication that these fears, which have been maintained for so many years, are founded.

Colleagues, my superb assistant directed me to a Web page entitled A Comprehensive Guide To The Debunked "Bathroom Predator" Myth. It contains a wealth of information from numerous credible and informed authorities in the U.S.A., such as police officers, human rights directors and school administrators. All of them stated that protecting transgender individuals through legislation has not led to any increase in sexual predation in public washrooms, change rooms and so on. There were no observed increases in 16 states, 23 school districts and 4 universities.

I will cite two examples from this page. First, in 2007, the State of Iowa prohibited discrimination on the basis of sexual orientation and gender identity in public accommodations. In 2014, seven years later, the Des Moines Police Department spokesman Jason Halifax stated that he had not seen cases of sexual assault related to the state's nondiscrimination ordinance. He said:

> We have not seen that. I doubt that's gonna encourage the behavior. If the behavior's there, [sexual predators are] gonna behave as they're gonna behave no matter what the laws are.

Second, in 1997, the City of Cambridge prohibited discrimination against transgender people in public accommodations. That's 20 years ago. In 2014, Cambridge Police Superintendent Christopher Burke stated:

> Specifically, as was raised as a concern if the bill were to be passed, there have been no incidents of men dressing up as women to commit crimes in female bathrooms and using the city ordinance as a defense.

In 2014, Toni Troop, the spokeswoman for the Massachusetts sexual assault victims organization Jane Doe Inc., stated:

> The argument that providing transgender rights will result in an increase of sexual violence against women or men in public bathrooms is beyond specious. The only people at risk are the transgender men and women whose rights to self-determination, dignity and freedom of violence are too often denied. We have not heard of any problems since the passage of the law in Massachusetts in 2011, nor do we expect this to be a problem. While cases of stranger rape and sexual violence occur, sexual violence is most often

> perpetrated by someone known to the victim and not a stranger in the bush or the bathroom.

Colleagues, in these two —

**The Hon. the Speaker:** Senator Dyck, your time has expired. Are you asking for five more minutes?

Is leave granted honourable senators?

**Hon. Senators:** Agreed.

**Senator Dyck:** Colleagues in these two states, transgender individuals have been protected for decades by human rights legislation. Yet, there was no problem with males masquerading as women in order to enter public women's washrooms for sexual purposes. There was no increase in bathroom sexual predators in the 16 states, 23 school districts and four universities that were surveyed.

Colleagues, it is obvious that the predicted increase in sexual predation in public bathrooms as an undue consequence of providing human rights protection for transgender people has not happened. We cannot deny transgender individuals the legislative rights to protection because of the unsubstantiated and irrational fear for the safety of girls and women from male exhibitionists pretending to be transwomen to gain entry to women's bathrooms or change rooms.

How can we continue to deny nearly 2 million transgender individuals protection from hate and discrimination for no good reason? As senators, we have an obligation as leaders to protect minorities. We shouldn't let groundless, irrational fears prevent us from doing our jobs of examining legislation. As Senator Harder noted, Bill C-16 has been in the Senate since November. Senators opposite ought to speak now and not delay Bill C-16 needlessly.

In summary, first, the rate of various hate crimes against LGBT individuals is greater than the rate of severity of indecent acts against women. We should be at least as concerned about the hate crimes against those who are LGBT as we are about indecent acts against females.

Second, the risk to girls of being sexually and physically assaulted by their male family members and acquaintances is much greater than the risk of being traumatized by a stranger who exposes himself.

Third, the predicted increase in sexual predation in public bathrooms as an undue consequence of providing human rights protection for transgender people has not happened.

Fourth, the "bathroom predator" scenario is not a valid reason to delay or derail Bill C-16.

• (1630)

Colleagues, to conclude, I support the intention and legislative measures of Bill C-16.

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

[*Translation*]

**Hon. Raymonde Gagné:** Honourable senators, I rise to speak to Bill C-16, An Act to amend the Canadian Human Rights Act and the Criminal Code. I thank Honourable Senator Grant Mitchell for explaining aspects of the bill in detail, as well as all my colleagues who have already contributed to the debate and spoken in favour of Bill C-16. I too wish to support Bill C-16 by appealing to compassion and reason.

Let's begin with reason. Bill C-16 is worthy of being passed because it responds to an overwhelming need in our society. This bill is certainly a significant declaration of openness and respect, but in essence is a legislative response to protect people who currently are not adequately protected. Studies show that the transgender population is much more vulnerable than average Canadians. The *Canadian Trans Youth Health Survey* published in 2015 revealed that two thirds of transgender youth felt that they were victims of discrimination because of their sexual identity and that half felt that they were victims because of their physical appearance. Seventy per cent of the youth said they were also victims of sexual harassment.

We must not lose sight of this reality. The question we must answer by way of this bill is not "What do you think of transgender people", as much as I would like the response to that sort of question to be one of openness, support, and acceptance, but rather "Do you find it acceptable to leave a vulnerable, persecuted group without adequate protection?" This distinction is important and I believe it shows the real scope of the bill, which in fact is not so controversial.

Let's consider the first element of the bill, which would add gender identity and gender expression to the list in section 2 of the Canadian Human Rights Act of prohibited grounds for discrimination with respect to depriving individuals of the right to equal opportunity to achieve their potential and meet their needs.

Now, imagine another scenario: a bill that, instead of including gender identity and gender expression, adds the following sentence to the end of section 2:

> However, it is still permitted, for reasons of gender identity or gender expression, to deprive individuals of the equal opportunity to achieve their potential and to meet their needs.

I believe it would be impossible for any of us to vote for an amendment that knowingly deprives transgender people of the rights granted to all individuals under the Canadian Human Rights Act. I encourage you, honourable senators, not to implicitly allow what you would, quite rightly, refuse to explicitly allow.

Some will say that the existing law already protects transgender people. Senator Mitchell examined that argument. If that is the case, there is no harm in restating it but in a slightly different way. If that is the intent of the law, it clearly has not had the desired effect for transgender people. The fact is that transgender people are still vulnerable. Many of our colleagues have already discussed some crystal clear and deeply troubling statistics that prove it. The Honourable Senator Renée Dupuis explained that

the discrimination they face is systemic. Does the existing law protect transgender people? If it does, it is not working well enough. There is an urgent need for clarity. If it doesn't, it must do so without delay. Once again, I ask whether you would be prepared to vote for an amendment that explicitly allows systemic discrimination. Of course not. Yet it is happening. It is up to us to make it clear, as soon as possible, that this is unacceptable.

[*English*]

Bill C-16 also adds reference to gender identity or expression in subsection 3(1) of the Canadian Human Rights Act. It enumerates the prohibited grounds of discrimination for the purposes of the act.

Honourable colleagues, I invite you to ask yourselves once again if it would be acceptable to amend the subsection to read, "For the purposes of this act, gender identity and expression remain permitted grounds of discrimination." Would you be ready to vote in favour of such an amendment? I am convinced that such an amendment would not get any support, and rightfully so. Again, I implore you, honourable senators, not to allow implicitly what we would never explicitly allow. As Justice Laforest, of the Supreme Court of Canada, said, a failure to explicitly refer to gender identity in the act leaves transgender people "invisible."

[*Translation*]

The bill also makes two amendments to the Criminal Code. The first would add gender identity or expression to the "identifiable groups," that is to the section of the public that is distinguished from others by a specific characteristic. The other characteristics recognized are colour, race, religion, national or ethnic origin, age, sex, sexual orientation, and mental or physical disability. It is important to point out that no new crime or legislative precedent in Canada is being established. The principle of identifiable groups already exists in the Criminal Code and a decidedly vulnerable group is being added to that list.

The second amendment deals with aggravating circumstances at the time of sentencing. It is important to note that section 718.2 is only applied when a guilty verdict has been reached and a sentence must be imposed. Furthermore, the offence must be motivated by bias, prejudice or hate based on gender identity or expression. The question to ask is then the following: are we dealing with aggravating factors when the criminal offence was committed against a person because he or she is transgendered? The answer is obvious. Our Criminal Code recognizes that offences motivated by bias, prejudice or hate based on the identity of the victim deserve harsher sentences. The express inclusion of gender expression or gender identity as part these identity factors fully respects the spirit of the law.

To summarize, this bill contains reasonable measures to deal with a real problem. The objections we heard do not stand up to more in-depth analysis. My honourable colleagues, and especially Senator Dyck, who spoke a few minutes ago, clearly explained — and I would even say demolished — the false argument concerning washrooms. Senator Mobina Jaffer very clearly expressed the great suffering that such unfounded rumours can cause. I have nothing to add on that point.

[*English*]

Honourable colleagues, it's simply good policy because it proposes reasonable amendments to address an important and statistically irrefutable problem.

[*Translation*]

I am once again appealing to reason by reminding everyone, as some of our honourable colleagues have already done, that eight Canadian provinces and the Northwest Territories already have human rights laws that mention gender expression or gender identity. According to Manitoba's Human Rights Code, people may not be treated differently because of gender identity, and gender identity cannot be the basis for refusing to provide a reasonable response to an individual's or a group's special needs.

University campuses are also adapting by providing gender-neutral washrooms to better accommodate their students. As we might expect, the Canadian Museum for Human Rights in Winnipeg is leading by example on this, as it quite rightly should.

• (1640)

Manitoba, like eight other provinces and one territory, recognizes that sexual identity can serve as the basis of discrimination. Indeed, honourable senators, the statistics are clear: inaction is not an option.

Honourable colleagues, allow me one last time to appeal to reason by reminding you that one of the Senate's stated roles is to protect minorities. We often talk about the responsibility of this chamber in that regard and we often cite this responsibility when we are called upon to explain what sets this chamber apart from the other place. It is time that this bill be referred to committee for review.

Now, I would like to appeal to compassion in order to acknowledge the suffering of individuals who are marginalized by society and to see to remedying the situation.

Often in life, we must listen to our hearts in order to understand our thoughts. I will close my speech by sharing with you the fact that my son and I are looking for Alexia, a young woman formerly known as Allen. Allen was a good friend of my son's until the day he disclosed to his group of friends that "he" was becoming "she" and he wanted to be acknowledged as such from that point on. The friends were unable to adapt to his new reality. She withdrew, the boys no longer wanted her around, and the friendship ended.

This happened over a decade ago and to me the matter has been forgotten. However, to my son it is a whole other story. He recently told me that he is still filled with remorse and that one way or another he would like to right this wrong. If only he could find her. He is well aware of the challenges that transgender people face because since that incident, my son became a teacher, a sensitive teacher who is supportive to his young students. He is especially attentive to youth who are vulnerable and marginalized because he knows too well that he can make a difference in their lives and that of their families.

You're probably wondering why I, too, am searching for her. It's because, for too long, I chose to say and do nothing about Alexia and transgender people. I also want her to know that, today, I am joining those who have already expressed their support for this bill.

Thank you.

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

**Hon. André Pratte:** Honourable senators, with my background in journalism, nothing matters more to me than freedom of expression. I'm allergic to any measure that would limit anyone's freedom to express their ideas, no matter how false or repugnant, unless, of course, they are inciting hatred or violence, which is a crime. In other words, I am with Voltaire, who said:

> I disapprove of what you say, but I will defend to the death your right to say it.

I'm telling you this because I want to make it clear that if I had the slightest concern that Bill C-16 violated freedom of expression, I would oppose it. I have absolutely no concern that it does. Those who feel uncomfortable about transgender people can continue to express that discomfort once the bill is passed. Those who find it ridiculous to use particular pronouns to refer to transgender people can continue to say so. Those whose religion holds that changing one's gender identity is wrong can continue teaching their children that regrettable belief.

Let's be honest: lots of Canadians still feel uncomfortable about transgender people. That discomfort is familiar to us because it is the same reaction many people had to homosexuals decades ago. That discomfort is actually prejudice, and it is born of ignorance and lack of understanding.

Unfortunately, prejudice breeds bad behaviour — discrimination, harassment, and even verbal and physical abuse — which causes victims serious if not irreparable harm.

Gays and lesbians have made great strides in their fight against prejudice. Transgender people are just beginning their journey. By passing Bill C-16, we can help them take a crucial step. By declaring loud and clear that gender identity and expression are unacceptable grounds for discrimination and hate speech, we will be telling all members of Canadian society that transgender people must be treated just like any other Canadian citizen and that the Government of Canada will not have it any other way.

[*English*]

As you know, Bill C-16 amends two statutes — the Canadian Human Rights Act and the Criminal Code. With regard to the Canadian Human Rights Act, Bill C-16 adds gender identity and gender expression to the list of prohibited grounds of discrimination. In other words, it will now be expressly prohibited to exercise discrimination against a transgender individual in the provision of goods or services, in the employment world, and when it comes to the provision of residential accommodation or commercial premises.

These new prohibited grounds of discrimination will be added to those already stipulated in the act, such as race, national or ethnic origin or colour; religion; age; sex; sexual orientation, et cetera. Thus, the nature of the Canadian Human Rights Act remains unchanged. The bill merely adds two grounds of discrimination to those listed in the act. How does this simple addition affect freedom of expression? So far, nobody has managed to demonstrate, based on hard evidence rather than unsubstantiated assertions, that this will have any adverse effect at all.

Some detractors claim that Bill C-16 constitutes a precedent, the first time in history that a piece of legislation would require Canadians to use certain words. I urge those who have not already done so to examine the bill from all angles for any indication that such is the case. There is simply no such indication, nothing.

The opposition to the bill is founded in part on documents published by the Ontario Human Rights Commission concerning the use of pronouns designating transgender individuals. In one such document, for example, the commission wrote:

> Refusing to refer to a trans person by their chosen name and personal pronoun that matches their gender identity . . . will likely be discrimination when it takes place in a social area covered by the *Code*, including employment, housing and services like education.

This opinion by the commission is behind the famous controversy that erupted last fall at the University of Toronto when Professor Jordan Peterson refused to use the gender neutral pronouns by which some students demanded to be designated. This seems to constitute the only basis upon which the constraint of freedom of expression argument rests.

After Bill C-16 becomes law, giving transgender persons the same protection as provided by the Ontario code, Canadians would be obliged to use neutral pronouns such as "they," "ze" or "hir" rather than "he" or "she" in referring to transgender individuals. However, that is not what the Ontario Human Rights Commission says. The commission clearly states that "refusing to refer to a trans person by . . . a personal pronoun that matches their gender identity," i.e. refusing to use "he" or "she" as appropriate," will likely be discrimination."

Is this what is seen to be a threat to freedom of expression? Is this what the opponents of the bill want to be free to do, to insist on using the pronoun "he" to refer to a person whose gender identity or expression is female? If this is so, what is at issue here is not freedom of expression but rather simple respect.

• (1650)

With regard to gender neutral pronouns, including recent inventions such as "zhe" or "zher" that have raised the hackles of Professor Peterson, the Ontario Human Rights Commission states:

> The law is otherwise unsettled as to whether someone can insist on any one gender-neutral pronoun in particular.

Hence, the Ontario commission does not say that gender neutral pronouns are mandatory; it says that the law is "unsettled." The passage of Bill C-16 will change nothing on that front.

In any case, the commission offers an alternative to those who are reluctant to use the famous pronouns.

> Simply referring to the person by their chosen name is always a respectful approach.

I would remind senators that the addition of the term "Ms." to the English language was a source of considerable controversy some years ago. Did it infringe on freedom of expression? Was it a case of compelled speech? Today "Ms." has become part of everyday language and Western democracy has not crumbled as a result.

Bill C-16 amends the Criminal Code by adding "gender identity or expression" to the definition of identifiable groups against whom advocating or promoting genocide or inciting hatred is prohibited. According to the opponents of the bill, this amendment could lead to criminal charges for hate speech being filed against people expressing dissenting views about transgender individuals. Professor Peterson stated that the bill thus runs the risk of "criminalizing discussions about aspects of human sexual behaviour and identity."

In the other place, some have wondered what impact Bill C-16 would have on immigrant groups and faith groups, the majority of which disagree with gender fluidity concepts. Would they be free to teach their children and practice their beliefs without being accused of hate speech? Once again, repeated readings of Bill C-16 reveal absolutely nothing to warrant such concerns.

Therefore, I would like to ask those who are afraid that the bill will infringe their freedom of expression one question: What precisely do you want to have the right to say about gender identity, gender expression or transgender individuals?

Do you want to be able to say that you disagree with the government's policy on these issues? Let me assure you — and any Canadian legal expert will tell you the same thing — that the passage of Bill C-16 will in no way alter your right to do exactly that. Do you want to be able to teach your children the precepts of your religion, which require an individual's gender identity and expression to match the biological sex of that individual? The passage of this bill will not prevent you from doing so. That is an indisputable fact.

I am convinced that you would not wish to claim that all transgender individuals are bad people or that they should not have the same rights as other Canadians, but even if you went ahead and did so, you would not be convicted of a hate speech crime. Why not? It is because in 2013, the Supreme Court of Canada in its *Whatcott* decision established a very narrow definition of what constitutes hate speech, precisely in order to ensure that freedom of expression remains as unrestricted as possible.

The Supreme Court stated:

> Hate speech legislation is not aimed at discouraging repugnant or offensive ideas. It does not, for example, prohibit expression which debates the merits of reducing the rights of vulnerable groups in society. It only restricts the use of expression exposing them to hatred as a part of that debate. . . . The prohibition of hate speech is not designed to censor ideas or to compel anyone to think "correctly".

In its decision, the Supreme Court gave examples of descriptions of minority groups recognized as hate speech by Canadian tribunals. These examples include "horrible creatures who ought not to be allowed to live," "incognizant primates," "sub-human filth," and "lesser beasts."

Now, I am absolutely certain that the opponents of Bill C-16 have no intention of saying anything about transgender individuals that could be considered hate speech under the Criminal Code or harassment under the Canadian Human Rights Act.

Since there is nothing in the bill that explicitly or even implicitly restricts freedom of expression, the burden of proof rests with the opponents of Bill C-16. Instead of making vague assertions, they must explain to us clearly what they wish to have the right to say about gender identity, gender expression and transgender individuals that would be prohibited if the bill received Royal Assent. They must give us concrete examples.

For my part, in all that I have heard and read so far, the only examples given were the famous pronouns in the controversy that erupted in the University of Toronto. First, as I pointed out already, that has nothing to do with Bill C-16. Rather, the issue stems from the Ontario Human Rights Code as interpreted by the Ontario Human Rights Commission and by the University of Toronto. Second, the Ontario Human Rights Commission or tribunal themselves have never stated that the use of gender neutral pronouns is mandatory.

As for me, I'm convinced that the freedom at issue in this bill is not Canadians' freedom of expression but rather the freedom of transgender individuals to live as they see fit without being the victims of discrimination, harassment, hate speech and violence. In other words, it is their right to engage in the pursuit of happiness like any other Canadian.

The fears expressed by the opponents of the bill concerning freedom of expression, based on scenarios that are as unfounded as they are apocalyptic, quite simply wilt in comparison to that right. Bill C-16 is a simple legal measure to protect one of the most vulnerable minorities in this country. The alleged threat to freedom of expression is merely the latest argument put forward by those who are uncomfortable about transgender individuals and who wish, for that reason or another, to deprive those individuals of the protection they so desperately need.

It certainly looks like a more respectable argument than the one involving restrooms and locker rooms, but it is just as groundless nonetheless. Transgender individuals will soon have the same rights as all other Canadians. That is inevitable. They have been kept waiting for several years, however, and they have suffered far too long.

Honourable senators, let's see to it that the long awaited legislation that will make this happen is finally passed during this session of the Forty-second Parliament of Canada.

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

**Hon. Lynn Beyak:** Honourable senators, it is hard to follow three esteemed colleagues who spoke so eloquently, but here goes. I have not spoken here in the Senate since we all debated Bill C-14 together, the assisted dying bill. It's a pleasure today to rise today and speak against Bill C-16.

I hope that you have the time to listen to my point of view. Since I came to the Senate four years ago, I have had the privilege

of sponsoring three bills through this place to Royal Assent. Each time the critic of the bill was thoughtful, knowledgeable and respectful. Senator Joan Fraser in particular was perceptive and understanding of my feelings and pointed to the areas that we disagreed upon, but focused more on the things we agreed on. I thank you for that, Joan.

I oppose Bill C-16 for many of the reasons articulated last month by Senator Plett and I want to elaborate on a few concerns of my own. I will begin with some personal feelings and then proceed to some facts.

Many of you know from my past efforts in the Senate that much of my legislative work is done in memory of my late husband, Tony, and the challenges he began, or which we worked on together. In 1990, with other businessmen, Tony founded the Taxpayers Coalition of Fort Frances, and saved local citizens and businesses millions of dollars in taxes over a 10-year period simply by getting out of things that are not government business and doing the things that are, eliminating waste and duplication in the process.

Pierre Elliott Trudeau got it right decades ago when he said there is no place for the state in the bedrooms of the nation. I would submit that holds true for kitchens, hallways, basements and bathrooms, too.

• (1700)

We would save billions of dollars each year — I and others have done the math — if government simply did what our Constitution asks it to do and left special interest groups and their causes to be funded by specially interested people. There are already numerous duplicate laws on our books wasting taxpayers' dollars every year.

We are all Canadians with equal rights and freedoms under our Charter and completely protected therein.

When we begin to pigeonhole one another and put each other in slots on race, religion, creed, ethnicity or anything else, we become divided, and there are simply not enough taxpayers in our nation to pay for everyone's preference or choice.

In 1997, a young gay man named John McKellar founded and was president of a group called H.O.P.E., Homosexuals Opposed to Pride Extremism. I won't go into all of his doctrine today, but I would urge each of you to go to Google and read about his life and his work. It's quite incredible.

His goal was to live in quiet dignity with no special treatment outside the Charter, the ability to share benefits with a partner — something that had already been achieved — and to do everything in his power to prevent the radicals of the gay movement, who expected all of Canada to be their closet, from setting the agenda. Those are John's words.

Whether you agree with John McKellar or not, his belief is shared by millions of hard-working taxpayers who do not care what people do in their bedrooms and bathrooms, as long as they don't have to pay for it.

A perfectly reasonable position.

I'm speaking today for John, and my other gay friends who feel exactly the same way and who have lived in quiet dignity together, celebrating 50-year anniversaries without expecting or getting a single thing from government. By living in quiet dignity, they have never had to face any kind of discrimination or uncomfortable feelings.

I would assert that is how the vast majority of the LGBT community feels.

Sadly, we only focus on the vocal minority.

Our school curriculum is now so crowded there is little time to teach our children the three Rs: reading, writing and arithmetic.

We in this chamber, honourable colleagues, have a written signature that is part of our identity. Since they no longer teach cursive writing in our schools, our children and grandchildren will not have the privilege of their very own distinctive signatures.

Yet we teach them how to put condoms on cucumbers or question whether they want to be a boy or girl before they are even old enough to understand what the difference really is.

Isn't it time we get our priorities straight?

John McKellar also believed in letting children be children.

While sex is obviously a wonderful fact of life, there is also a place for it, and the radical fringes of some special interest groups have given it far more attention than it deserves.

I still remember my husband and I, aged 21 and 22, honeymooning in the Pocono Mountains, on our way to visit the horse farms in Kentucky, reassuring one another that if anything happened to either of us and we could never be intimate again, we would still love and cherish one another until death, and we did.

Sex is one small part of human life together, but it is focused on so much that it's taken away every other aspect.

Today we have children focused too much on sexuality, in class time that could be better used to teach them life-long skills.

Sex education is better left to parents, and the same kids who didn't have good parents when I was a kid will learn from their friends. If we could all just live by the golden rule and treat others as we wish to be treated, many problems of tolerance would be solved. The government cannot legislate compassion or understanding.

Instead of dividing us all into groups and so-called safe spaces, why don't we all try talking together? That would go a long way towards eliminating bullying, too.

Once again, defeating this duplicate bill, of rights already enshrined in the Charter, would mean a significant savings to taxpayers and another opportunity to get the government out of our lives.

My second major concern with this bill is the threat to free speech and expression, and I disagree with Senator Pratte, although I respect him very much.

The purpose of the bill is to amend the Canadian Human Rights Act by adding gender identity and gender expression to the list of prohibited grounds of discrimination.

It also amends the Criminal Code to extend protection against hate propaganda to those who self-identify as being something other than male or female.

At first blush, the principle seems very reasonable.

As a Conservative, a woman and a Canadian, I am opposed to anyone being the target of hate or discrimination.

And I'm proud to live in a country that already leads the world in protecting its citizens against hate and discrimination.

This bill, however, also does something else. It threatens another cherished Canadian value: our right to free expression.

Free speech is one of our most foundational rights as Canadians.

It's what distinguishes us from many other, less-civilized countries around the world.

In Canada, anytime a right is violated, our Constitution demands that such a violation be reasonably justified.

As has been well-articulated by the Honourable Maxime Bernier, the Supreme Court has interpreted that in case law, and has developed the Oakes Test.

The Oakes Test says that any violation of our rights must be proportional to the harm it seeks to correct.

Bill C-16 does not meet that test.

Not only does Bill C-16 restrict reasonable speech, it could also force Canadians to say things they do not believe.

There are already examples of this happening. Senators may be familiar with the case of University of Toronto Professor Jordan Peterson. If you are not, I would urge you to read it in its entirety.

Professor Peterson objects to being forced to use made-up words as zir, hir and ze instead of he and she. Not hate. Not discrimination. He simply feels more comfortable with traditional terminology.

But no, in yet another attempt to deconstruct our traditional social norms, a small group of self-anointed activists demand that everyone else conform to their view of the world, stay silent or, even worse, under this new legislation, face criminal charges because you prefer to use universally accepted and understood language.

It's just the thin edge of the wedge when these things start.

No hate. No discrimination. Just plain, old language.

Today, even without this legislation, Professor Peterson has received warning letters from the university, accusing him of discrimination against minorities. Colleagues, I fear the passage of Bill C-16 will result in more limits on our right to free expression.

Do you know that there are now 71 different terminologies for gender identity? In addition to the original 50, another 21 have just been added. Can any senator in this chamber name the 71, or even 10? I can't.

We had better start doing our homework, because if you don't know all 71 and Bill C-16 passes, you may be in danger of breaking the law. That, my friends, is what this legislation is all about.

I also fear there could be tremendous new costs to taxpayers and businesses associated with the legislation. Court challenges, signage enforcement, information campaigns — all these things and more will add many millions in higher taxes, the cost of doing business and the price of consumer goods and services.

For what? To appease a very small and vocal minority against whom, quite frankly, the clear majority of Canadians do not discriminate.

And for whom we have already more than adequate protection under existing laws, why should anyone's rights as Canadians be violated? If any additional protections or accommodations are required for transgendered persons, I suggest this would be best dealt with at the local level.

Accepted norms are not the same in some parts of this country as they are in others. We do things differently in Rainy River than they do in Vancouver or Montreal, and we certainly know our needs much better than folks in Ottawa or Toronto. We already have national and provincial legislation to protect Canadians against discrimination and hate. Anything else, including the transgender bathroom decisions, can be best handled at the local level.

Senators, for these reasons I will be voting against Bill C-16 and I urge you to do so, too, carefully considering all the ramifications of the bill.

In doing so, I am taking a principled stand in support of protecting all Canadians against hate and discrimination— I don't have a bigoted bone in my body — against higher tax and costs for Canadian taxpayers, consumers and businesses, and in defence of free and common-sense speech. Thank you.

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

• (1710)

## CONTROLLED DRUGS AND SUBSTANCES BILL

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

**Hon. Larry W. Campbell** moved second reading of Bill C-37, An Act to amend the Controlled Drugs and Substances Act and to make related amendments to other Acts.

He said: Honourable senators, I rise today to speak to Bill C-37, An Act to amend the Controlled Drugs and Substances Act and to make related amendments to other Acts.

This bill introduces a set of changes as part of the government's comprehensive approach to addressing the problem of drug use. The government and its partners will be better able to address public health and safety issues arising from the growing opioid crisis in Canada.

We are all aware of the context in which these amendments are being proposed. We have all heard the staggering numbers in the news. Last year, in British Columbia, more than 900 people died of drug overdoses. In January, over 160 died, which is less than in December but 80 per cent more than the previous January.

Canadians everywhere are feeling the devastating impact of this crisis. Across Canada in 2016, approximately 2,200 people died of opioid overdose deaths. These numbers are approximate, but I would suggest a minimum number. Provinces report deaths in different manners with different time frames. At least one third to one half of these deaths are fentanyl related.

Drug use presents more of a risk than ever before, as extremely potent and dangerous drugs such as fentanyl and carfentanil are being found more often in the illicit drug supply. The root causes of drug use and addictions are multidimensional. They often stem from larger social issues that can lead to addiction. Experimentation by youth, mental illness, poverty and abuse are just a few of the underlying causes. In the case of opioids, there is also the issue of over-prescribing, which can lead to unexpected dependency. Either way, addiction does not discriminate. It is affecting people from all walks of life, regardless of age, background or socio-economic status. Drug addiction and substance use are complex issues, and effectively responding to them requires a public health response that is guided by evidence.

This past December, the minister formalized her statement to the United Nations when she announced that Canada's previous drug strategy, the National Anti-Drug Strategy, would be replaced by the Canadian Drugs and Substances Strategy. This new strategy is more comprehensive and restores harm reduction as a key pillar alongside prevention, treatment and enforcement, all supported by a strong evidence base. The launch of the new strategy is an important step in ensuring that Canada's drug policies are well-balanced, appropriately health-focused and evidence-based to better protect and promote the health and safety of Canadians.

As I mentioned in my opening remarks, Bill C-37 is a comprehensive bill that proposes to amend the Controlled Drug and Substances Act and the Customs Act. It also proposes related amendments to three other acts: the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, the Seized Property Management Act and the Criminal Code.

The amendments included in Bill C-37 will ensure an appropriate balance between public health and public safety by better equipping both health and law enforcement officials with the tools they need to reduce the harms associated with drug and substance use in Canada.

The amendments to the Controlled Drugs and Substances Act would allow the government to support harm reduction measures and respond to the growing rates of opioid overdoses and deaths across the country. There would also be enhanced enforcement measures to help reduce the illegal supply, production and distribution of drugs, and lower the risk of diversion of substances from legitimate use to illegal markets.

In order to support harm reduction at the community level, this bill removes the overly burdensome requirements communities have to meet in order to establish supervised consumption sites. These criteria, 26 of them to be exact, were put in place in 2015. The government proposes these criteria be replaced by the five factors outlined in the 2011 Supreme Court decision in *Canada (Attorney General) v. PHS Community Services Society*. These five factors are: one, evidence, if any, on the impact of such a facility on crime rates; two, the local conditions indicating a need for such a site; three, the regulatory structure in place to support the facility; four, the resources available to support its maintenance; and five, the expression of community support or opposition.

An amendment made in the other place by the House of Commons Standing Committee on Health provides further clarity, changing the third criterion to refer to "an administrative structure in place to support the facility." This is in line with the Supreme Court of Canada's description of the supporting structure at Insite, which includes strict policies and procedures where clients check in, sign a waiver and are closely monitored by qualified medical personnel. Insite is the supervised consumption site in Vancouver.

Many public health experts maintain that when these sites are properly established and maintained, supervised consumption sites save lives by providing a place where people who use drugs can do so safely and securely in the presence of health care professionals, without the fear of arrest or accidental overdose. The evidence also shows that such sites can save lives without having a negative impact on the surrounding community.

To give you an example, since 2003, at Insite there have been 18,093 registrants, with 3,476,722 visits. There have been 40,245 clinical treatment visits and 4,922 overdose interventions. The critical thing is that out of all of those numbers, not a single person has died at Insite.

Insite counsellors make thousands of referrals to other social and health service agencies, the vast majority of which are for detox and addiction treatment. The calendar year 2015 saw more than 464 admissions from Insite, which is the injection site, to OnSite, which is the treatment centre that is already there. Of these, there was a completion rate of 54 per cent.

The government, in adopting the findings of the highest court, is respecting the rights of Canadians while still ensuring that communities have a voice in the decisionmaking. Streamlining the

administrative process for applications and renewals would reduce the burden placed on communities looking to establish supervised consumption sites while maintaining sufficient oversight to protect the health and safety of those operating a site, its clients and community at large.

I believe that harm reduction and supervised consumption sites are key elements in responding to the opioid crisis.

As part of a balanced approach, we must also address some of the public safety elements of this issue. I am referring to the supply of illicit substances and the potential diversion into the illicit market of substances with legitimate medical uses. The government should have the flexibility to reduce the availability of dangerous drugs entering the illicit market. This is why Bill C-37 includes amendments to the Controlled Drugs and Substances Act that provide more effective, modernized tools for law enforcement and the government to deal with the ongoing crisis and prevent drugs like illicit fentanyl and carfentanil from getting into our neighbourhoods.

Illegally produced drugs are often made in pill form and can be made to look very much like legally available pharmaceuticals manufactured and sold for medical purposes. They look like the real thing, but they are not. They often contain fentanyl or carfentanil, and there is no way of knowing which of these pills are fake and which are not. They are the cause of many of the overdoses and the deaths in Canada today.

Officials know that the bulk of supply of illicit powdered fentanyl and carfentanil originates from outside of Canada. Very small amounts of these drugs in their pure form can be used to make a large number of counterfeit pills by employing equipment and devices that can be easily purchased and brought into Canada.

Bill C-37 specifically addresses this problem. First of all, it would introduce a prohibition on the import of unregistered pill press and encapsulator devices. These devices are used legitimately in the manufacturing of pharmaceuticals, food and consumer products. However, in the wrong hands, they can also be used to produce thousands of counterfeit pills in a very short time, posing significant risks to public health and safety.

Currently, these devices can be easily imported into Canada without any regulatory restrictions. Changes introduced in Bill C-37 will require that importers show proof of registration of a pill press or encapsulator device. Unregistered devices could be detained by officials at the border.

• (1720)

Another change that will help to reduce the supply of illicit drugs is an amendment to the Customs Act that will allow officials to open and inspect packages suspected of containing illicit drugs such as fentanyl and carfentanil. The current law gives border officials the authority to open and inspect most packages entering Canada if they have reasonable grounds to suspect the package contains contraband such as drugs or other dangerous goods. There is an exception, however, for small packages weighing 30 grams or less. In these cases, officials need to first seek the permission of either the sender or the addressee to open the package. This allows illegal importers to package dangerous goods, such as powdered fentanyl, in many separate small envelopes weighing 30 grams or less, knowing that some will get through the net cast by border officials. Sellers also know that there will be no illegal consequences for the importer if some of the packages are detained and sent back.

Honourable senators, 30 grams of fentanyl can cause 15,000 overdoses. To give you some idea of what this looks like, imagine six teaspoons of salt. That's how much we're looking at.

This bill will allow border officers to open international mail of any weight should they have reasonable grounds to suspect that that item may contain prohibited, controlled or regulated goods.

Furthermore, Bill C-37 will introduce amendments that allow enforcement officials to take action against any preproduction activities related to any controlled substance. Preproduction activities include buying and assembling anything, such as chemical ingredients, including, but not limited to, precursors listed in the CDSA, and industrial equipment intended to be used to make illicit drugs. These changes will increase law enforcement's ability to take action against suspected drug production operations and to better equip law enforcement to respond to the fast-paced changes in the illicit drug market.

Taken together, the proposed changes respecting pill presses and encapsulator devices, the opening of suspect small packages, and enhanced enforcement of preproduction activities will help to reduce the supply of illicit drugs in our community.

Other changes included in Bill C-37 will modernize the CDSA to bring in changes to allow Health Canada to regulate the legitimate use of controlled substances and precursors and to prevent their diversion to the illicit market.

Health Canada issues licences to over 600 licensed dealers, authorizing them to manufacture, sell and distribute controlled substances. When these regulated parties break rules such as record-keeping requirements, the available sanctions are not always effective. Warning sanctions such as suspending or revoking a licence could lead to drug shortages and would not serve the public interest. This bill will help to reduce the risk of diversion of controlled substances to the illicit market by creating a more robust and effective compliance and enforcement regime that encourages timely compliance and deters non-compliance.

Bill C-37 also provides authority for an administrative monetary penalty scheme that will provide Health Canada with a greater range of tools to promote compliance with CBSA and its regulations. For example, regulated parties could be liable to pay a monetary penalty in cases where they do not follow the required security or record-keeping procedures. The bill introduces modernized inspection authorities that will allow Health Canada inspectors to enter places where they believe, on reasonable grounds, that activities with controlled substances or precursors are taking place. For example, Health Canada would be able to inspect establishments whose licences have been suspended or revoked, to ensure that activities with controlled substances or precursors are no longer taking place. The proposed

inspection authorities would not, however, allow inspectors to enter private dwellings without a warrant or the consent of an occupant.

The emergence of new designer drugs is a problem in Canada and around the world. These are sometimes called new psychoactive substances or legal highs. These drugs circumvent drug control laws because they differ from the chemical structure of the substances in the schedules of the CDSA and are not captured by the law. Since 2008, more than 250 unique, new psychoactive substances were identified in Canada.

This bill will allow the Minister of Health to rapidly add a substance to a new schedule of the CDSA. This accelerated scheduling provision will allow for a quick response to emerging drugs. The temporary controls for up to two years would provide time for a comprehensive review and a decision on whether to permanently schedule the drugs.

Colleagues, I have tried to keep my speech on topic and scientific. The fact is that opioid deaths are tearing apart our society. The fact is that drug addiction is a disease; it is not a criminal act. The fact is that thousands of our citizens are succumbing to these drugs that we find on our streets. Young teens, parents with children, the most disadvantaged in our society are all at risk and are dying. We need go no further than our media to see the ongoing saga of loss and tragedy. In a previous life, I spoke to the parents, the family and the friends of the deceased. Anger, sadness, bewilderment and an overwhelming sense of life permeated the conversations.

Since those days, I would like to say that the number of deaths has decreased, but, instead, they have increased exponentially. Bill C-37 will provide the appropriate mechanisms and safeguards to ensure the health and well-being of Canadians. This bill will literally save lives. I urge you to pass this as expeditiously as possible.

**Hon. David M. Wells:** I would like to ask the senator a question.

**Senator Campbell:** Yes.

**Senator Wells:** There is an allowance in the legislation — and I know it's not a warrant; it's simply an allowance —for border control agents or some federal authority to open packages that are suspect on reasonable grounds. What would happen if they found something that was not carfentanil, like an illegal weapon or something else that wasn't permitted? Are we opening the door to an unintended consequence? How would this legislation address what is not currently permitted?

**Senator Campbell:** I would think that under the law — and I'm not an expert in this area anymore — if you do not find what you suspect is in there, then, for anything found, you can't do anything with it. I would open that to lawyers who are here, but I don't see this as a hunting process so much as just an extension of what they already do. Why would I not search a package that is under 30 grams, the same as I would something that is over 30 grams? I don't really have a definitive answer on that. But I would be the last one to suggest that we allow fishing trips.

**Hon. George Baker:** The present law, as you have outlined it, has authority for a customs officer. An officer is defined as a customs officer in his duties or an RCMP officer. Under the Customs Act, that's the definition of an officer. But you're referencing that what is contained in the bill allows for the examination of what is being sent through the mail.

Presently, the authority to open mail based on suspicion is given to Canada Post officials under the Canada Post Act. It's also given to customs under the Customs Act.

You have entered a new department here, the Department of Health. Am I reading you correctly that Health Canada will now have a proactive part to play in the examination, or are you simply alluding to the fact that the Department of Health will have the authority to register your substances that make up the illegal substances? They are the ones who suggest that it go on either Schedule I, Schedule II, Schedule III or Schedule IV. That's the Department of Health. But you're not suggesting that they have the authority to open packages or to seize packages, or are you suggesting that?

• (1730)

**Senator Campbell:** No, the bill authorizes Customs to open packages that are less than 30 grams. Right now, if a package arrives that's 30 grams and you think it's suspicious, you phone the sender. I don't need to tell you that they don't get a lot of return phone calls on these packages. They then send them back. We're extending this to all packages. If it's suspicious and you have reasonable grounds then you can open it. But it won't be Health Canada who is doing that. This bill comes from Health Canada, but the amendments apply to law enforcement in particular.

**Senator Baker:** The intention of the 30-gram limit was to protect envelopes, not packages. There is a distinction between a package and an envelope. What this bill will do is extend the jurisdiction of Customs and Canada Post. Is there also an amendment to the Canada Post Corporation Act? Because under that, it is unlawful, based on a suspicion of Canada Post, to open an envelope. They could open a package, but not an envelope, if it is mailed within Canada. What your bill applies to, I presume, is crossing borders?

**Senator Campbell:** That's correct, Senator Baker. This bill applies to packages coming into this country from a foreign country. Again, I go back, almost all the ingredients involved in these drugs are manufactured overseas. With the precursor of Senator White's bill, we have that avenue open to us, but this would strictly be Canada Customs opening packages coming into Canada.

**Senator Baker:** Could the senator clarify what is happening to Senator White's precursor bill? It is our understanding on the committee that once the precursors were listed, that that would be the law. The precursors for fentanyl were clearly outlined, as you know. You were part of the process with Senator Harder. To your knowledge, has the law consequently been changed because of that bill that we passed regarding the precursors for fentanyl?

**Senator Campbell:** It's my understanding that the bill has passed, but I could be corrected. I believe it has passed and it is law. One of the amendments in this one will allow the Health Minister more flexibility with regard to the designer drugs we are seeing.

Just as a simple explanation, at one time there was a drug called MDA that came into being in the United States. They made MDA illegal. Then somebody changed it to MMDA, so all you do is change a molecule and suddenly MMDA was the drug of choice.

They went and made the precursors, so having the precursors that make MDA, which also makes MMDA, and which makes all of these once you start changing the molecules. All these precursors were then put on a list and were subject to investigation and censure.

That's how these precursors work, so that we don't have to name each drug; we will start naming the precursors that go into them. The precursors are perfectly legal. They are brought into Canada for any number of legitimate reasons. If you get them all in one spot, the chances are you are not making a legal substance.

**Hon. Yonah Martin (Deputy Leader of the Opposition):** I am a resident of Burnaby now, but a long-time resident of Vancouver. I was driving through the Downtown Eastside a few days ago, and the concerns around the supervised consumption sites remain. It's very complex.

I'm wondering about the logic of adding that to this bill rather than focusing on the fentanyl crisis and the other elements of the bill, because that debate is still ongoing. I know that there is good work being done, but there are a lot of other issues and the impact on the city is growing.

I wanted to understand the logic of including that in this bill.

**Senator Campbell:** One of the enduring defeats that I have had after being mayor was not being able to make a change to the Downtown Eastside in the manner I wanted.

Senator Martin is entirely right. This is a multi-faceted problem. It ranges from our First Nations in the Downtown Eastside to people with mental illness, to people who have suffered abuse, to people who have taken something that is referred to as recreational and gotten hooked, to people who have been injured on the job and have got wired up to drugs. It is one of my true regrets.

In saying that, if I had been allowed to open four supervised injection sites in Vancouver, I could virtually guarantee that what you would be seeing there would be different, but I was not allowed to do that.

We have to remember that the first thing we want to do is keep people alive. That's all I want to do. The second thing I want to do is get them into some form of treatment, because it's an illness; it's not a criminal act that they are taking, except we have made certain drugs. We do not stigmatize people who smoke cigarettes, which I do, or drink, which I do. We don't stigmatize you for that. You would certainly stigmatize me if I was an opioid abuser.

The problem is complex, and it is not just a matter of drugs; it's a matter of what is going on in our society. To go the other way and not keep these people alive or give them a chance is, to my mind, not right.

So I agree with you. The Downtown Eastside is not better than I left it. I don't think at the end of the day there is a big argument about supervised injection sites. The argument is where they go, how they are put together, what they look like and what size they are. Everyone imagines that there has to be 700 injections a day. That's not true. If you go to Switzerland, for instance, they have mobiles that go out. It doesn't have to be downtown. It can be wherever you have a critical mass of people who have this illness and need help.

(On motion of Senator Martin, debate adjourned.)

## RECOGNITION OF CHARLOTTETOWN AS THE BIRTHPLACE OF CONFEDERATION BILL

### SECOND READING

**Hon. Diane Griffin** moved second reading of Bill S-236, An Act to recognize Charlottetown as the birthplace of Confederation.

She said: Honourable senators, I rise today to speak about Bill S-236, the recognition of Charlottetown as the birthplace of the Confederation.

The United States has Independence Hall in Philadelphia and Mexico has its National Palace in Mexico City. These buildings embody the origins of their countries — bricks and mortar that clothed a definitive moment in the birth of their respective nations.

• (1740)

Today, these monuments to democracy connect people to the past and give meaning to the future. They anchor lofty notions such as nationhood to time, place and personality. But, lost in Canadian modesty is our monument, Province House in Charlottetown, the place where in 1864 leaders of the British North American colonies met for the first time to discuss a shared vision of a united nation. In fact, it is the only surviving building from any of the Confederation conferences as both the Quebec and London buildings are gone.

What brought the Fathers of Confederation together? There were several factors. The British Colonial Office wanted the colonies to be more self-supporting. The American Civil War was raging and there was fear that once it was finished, the large army might be turned to the task of "manifest destiny" to turn the continent under the power of the United States of America. There was also political gridlock in Canada making that colony difficult to govern, so a new arrangement was desirable.

Delegates from the three Maritime colonies agreed to meet in Charlottetown to discuss Maritime union, but a delegation of Canadians — now Ontario and Quebec — came there ostensibly as observers. The topic of Maritime union was quickly laid aside in favour of discussing the larger idea of bringing together of all of British North America.

There were 23 delegates in all. The *SS Queen Victoria* sailed from Quebec City carrying the eight members of the Canadian delegation. The five members of the Nova Scotia delegation arrived on board the *SS Heather Belle* and the five New Brunswickers arrived on board the steamer of *Princess of Wales*. The remaining five were Prince Edward Islanders. I mention the mode of transportation as sailing was the main mode of transportation of the day, although the wish to be connected by rail was an important consideration in moving ahead to establish the new Dominion and to improve transportation throughout British North America.

The delegation from Canada was led by John A. Macdonald and George-Étienne Cartier, and they made the case for Confederation. There was optimism that Confederation was now a distinct possibility. There was general consensus on the principle of a federal union and some of its contours. The central government, responsible for common interests, would predominate, but the member provinces would retain significant powers. The federal branch of government would feature a bicameral legislature, with a lower house elected according to the population and an appointed upper house structured around the concept of sectional equality. Federal subsidies would compensate provinces for surrendering key revenue sources to the central administration and the new state would assume the provinces' existing debts.

The famed Canadian entertainer Johnny Wayne, of the Wayne and Schuster duo, composed a ditty to describe the process:

> Just sat down in Charlottetown
> And built themselves a land.

The formal sessions, as well as a number of social activities, were held in Province House, then called Colonial House. The famous Island hospitality was augmented by generous quantities of champagne brought aboard the *SS Queen Victoria*. The records show that in addition to business discussions, the delegates enjoyed parties, balls, banquets and outings, all of which were important in building relationships. The exploratory talks in the legislative council chamber of the Colonial Building sketched out a rough plan for a confederation. This plan would be converted into a more detailed blueprint at the subsequent conference in Quebec a month later.

It took a number of years to realize how significant the Charlottetown Conference was. On the fiftieth anniversary, a bronze plaque was presented by Canada to the province with the following inscription:

> In the hearts and minds of the delegates who assembled in this room on September 1, 1864, was born the Dominion of Canada. "Providence being their guide, they builded better than they knew."

In the past 100 years there has been a trail of further recognition that this event was the birthplace of Confederation. In 1966, the building was designated by the National Historic Sites and Monuments Board of Canada as a building of national significance.

While Province House is operated by the Province of Prince Edward Island, it is operated as a national historic site by Parks Canada under a 99-year lease signed in 1974 between the province and Parks Canada, resulting in conservation efforts being in the hands of the federal government. The lease gave Parks Canada the mandate "to restore, preserve, interpret and administer parts of the building as a national historic site." A $41 million restoration project has recently been approved to restore Province House as it is showing its age. However, at the time of the 1864 Charlottetown Conference, the neo-classical designed Colonial Building was new, as only 17 years had elapsed since its official opening.

In 1996, the Right Honourable Jean Chrétien, Prime Minister of Canada, signed a proclamation to honour Charlottetown as the birthplace of Confederation. In December 2016, the Prince Edward Island legislature passed a unanimous resolution calling on the Government of Canada to recognize, in legislation, the status of Charlottetown as the birthplace of Confederation.

This year, as we celebrate Canada 150, Bill S-236 gives parliamentarians the perfect time to cement this monument in our history. By recognizing in statute the status of Charlottetown as the birthplace of Confederation, we are confirming a historical fact that Charlottetown is where the Fathers of Confederation first met. In light of that, I am seeking approval to send Bill S-236 to committee.

**Hon. Yonah Martin (Deputy Leader of the Opposition):** I move adjournment of the debate.

**The Hon. the Speaker:** It is moved by the Honourable Senator Martin, seconded by the Honourable Senator Neufeld, that further debate be adjourned to the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

**The Hon. the Speaker:** All those in favour of the motion will please say "yea."

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** All those opposed to the motion will please say "nay."

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the "nays" have it.

Are honourable senators ready for the question?

**Hon. Senators:** Question.

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

**Hon. Senators:** Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

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

• (1750)

## SENATE MODERNIZATION

NINTH REPORT OF SPECIAL COMMITTEE—
DEBATE CONTINUED

On the Order:

> Resuming debate on the consideration of the ninth report (interim) of the Special Senate Committee on Senate Modernization, entitled *Senate Modernization: Moving Forward (Question Period)*, presented in the Senate on October 25, 2016.

**Hon. Linda Frum:** Honourable senators, I welcome the opportunity to speak to the ninth report on Senate modernization, which seeks to reform Question Period in the Senate.

I think we can all agree that Question Period plays an important function in this chamber, given it provides all senators the opportunity to question the government on timely issues of importance. We can also agree that Question Period works best when it follows an orderly, transparent process.

The ninth report of the Senate Modernization Committee seeks to improve the Senate's Question Period practice by making three recommendations for reform.

First, the report advocates formalizing in the rules the current practice of inviting government ministers to appear in the chamber during Question Period. This recommendation supports what I believe has been one of the very best reforms to take place in this chamber under the leadership of Senator Harder, and I fully endorse it.

Second, the report recommends periodically inviting officers of Parliament, such as the Parliamentary Budget Officer or others, to respond to questions from senators. This is another good reform.

Third, the ninth report recommends that Question Period be limited to two days per week, with one day being devoted to questions for a government minister and one day devoted to questions to the government leader in the Senate. This is where the ninth report takes a serious wrong turn, in my opinion.

The suggestion that the number of days allotted for Question Period be reduced from every sitting day to only two days per week is troubling. If we are seeking to enhance the degree of democratic accountability in this chamber, restricting the opportunities for senators to ask questions of the government moves the dial in the wrong direction. The current practice of setting aside time on a daily basis for the government leader to respond to senators' questions is a far more open, transparent and modern practice than to limit questions to the government leader to only 30 minutes per week.

Therefore, I strongly urge this chamber to keep Question Period part of our daily routine in the Senate.

Having outlined the three major recommendations contained in the ninth report, I will now address some of the issues not covered by the report.

Scrutiny of the government is a fundamental pillar of a healthy democracy, and while this responsibility falls on all senators, it is of particular weight to those who sit in the official opposition and who are tasked with the honourable and necessary duty of responsible and thoughtful opposition. In the process of formalizing the rules, it would be useful to enshrine this principle: That Question Period must honour the critical and vital role of the opposition to hold the government to account. In the other place, the first three questions of QP are reserved for Her Majesty's Loyal Opposition. This provides the official opposition the opportunity ask questions of the government that are topical and pertinent to the day.

I recognize that this place is different in many ways from the other place, but the principle that the rights and privileges of the official opposition should be safeguarded and protected is a tenet of all Westminster democracies. Furthermore, I believe it is important to formalize in the rules the process by which it is decided which minister is invited to appear in the Senate for Question Period.

To the credit of the Leader of the Government in the Senate, he has already adopted the practice of consulting and even deferring to the Leader of the Opposition on the decision of which minister should be invited to QP on any given day. However, the failure of the ninth report to formalize the role of the official opposition in the determination of which minister attends Question Period is a concern. Enshrining the principle of consultation with the official opposition and other non-government caucuses over which minister should be invited to participate in QP should be a part of any rule change on this matter, in my opinion.

Another area that could be improved is with respect to the rules or at least the conventions to do with the exchanges between senators and ministers. We are all familiar with instances where ministers appear in this chamber and begin with an opening statement or provide lengthy, meandering answers. To be fair, we senators can go on for longer than necessary as well. This impacts negatively on Question Period for all senators, as it limits the number of us who are able to pose a question on a given day.

I believe that ending the practice of ministers' opening remarks and placing time limits on both questions and responses would allow for the freer flow of debate and allow the greatest number of senators to participate in what is necessarily a constrained amount of time.

Finally, ministers appear before us because they are fulfilling their duty of transparency and accountability to Parliament.

Therefore, displays of gratitude on the part of senators, such as applause, are out of place in this chamber. Needless to say, respectful debate and decorum are always appropriate, but that is the usually practice in any case.

I look forward to a thoughtful and wholesome debate as we seek to bring forward meaningful improvements to our Senate chamber's Question Period.

Thank you.

(On motion of Senator Ringuette, debate adjourned.)

## THE SENATE

### MOTION TO ENCOURAGE THE GOVERNMENT TO EVALUATE THE COST AND IMPACT OF IMPLEMENTING A NATIONAL BASIC INCOME PROGRAM—MOTION IN AMENDMENT—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Eggleton, P.C., seconded by the Honourable Senator Dawson:
>
> That the Senate encourage the federal government, after appropriate consultations, to sponsor along with one or more of the provinces/territories a pilot project, and any complementary studies, to evaluate the cost and impact of implementing a national basic income program based on a negative income tax for the purpose of helping Canadians to escape poverty.
>
> And on the motion in amendment of the Honourable Senator Bellemare, seconded by the Honourable Senator Harder, P.C.:
>
> That the motion be amended to read as follows:
>
> That the Senate encourage the federal government, after appropriate consultations, to provide support to initiatives by Provinces/Territories, including the Aboriginal Communities, aimed at evaluating the cost and impact of implementing measures, programs and pilot projects for the purpose of helping Canadians to escape poverty, by way of a basic income program (such as a negative income tax) and to report on their relative efficiency.

**Hon. Frances Lankin:** Honourable senators —

**The Hon. the Speaker:** Before you begin, honourable senators, we are approaching six o'clock, and pursuant to rule 3-3(1), I'm obliged at six o'clock to leave the chair unless it's your wish to not see the clock.

Is it agreed not to see the clock, honourable senators?

**Hon. Senators:** Agreed.

**Senator Lankin:** Thank you, Your Honour, and thank you, colleagues. I will show respect to you by seriously truncating my remarks at this point in time.

I'm standing to speak to motion 51, which was put forward by Senator Eggleton and was amended by Senator Bellemare. It is a motion with respect to calling on the federal government to participate with the provinces in establishing a pilot project to examine basic income.

• (1800)

I won't quote from a number of previous reports, but I will tell you that, certainly, in 2010, a Senate report was unanimously adopted. It was entitled, *In From the Margins*. Senator Eggleton and former Senator Segal played a co-leadership role in the work. Within that report, there was a call for a guaranteed annual income. That wasn't the first Senate report. In 1971, a special Senate committee on poverty, chaired by Senator David Croll recommended a guaranteed annual income.

In 1970, the Royal Commission on the Status of Women called for a targeted GAI.

In 1984, the Macdonald Commission on Economic Union and Development Prospects for Canada called for the establishment of a universal income security program, a GAI by another name.

In 1986, the Forget Commission of Inquiry on Unemployment Insurance supported that recommendation. There have been numerous city councils and social planning councils and organizations across this country that have added their voice to this call over the years.

There also have been provincial initiatives, most notably if we look back to the 1970s in Dauphin, Manitoba, the mincome experiment, which is of interest anew as a lot of analysis of the impact of that has been done and is continuing to be done. There are initiatives in the province of Quebec and in my province of Ontario.

Recently, the province indicated that it will undertake a pilot project around basic income and has asked Senator Segal to provide advice to them on how to structure that. In Senator Segal's report, which is called, *Finding a Better Way: A Basic Income Pilot Project for Ontario*, he recommended that the federal government consider partnering with any willing province on basic income pilot projects now being considered or contemplated. Not a surprise given his longstanding commitment to this issue and the work that the Social Affairs Committee of this Senate has done in the past with respect to it.

I want to talk about the importance of why the federal government should partner with the provinces, not so much why I support the concept of a basic income. The reason that I support the call on the federal government to participate in this is that this has been put forward primarily as a poverty reduction exercise and initiative. Quite frankly, there are so many policies at various levels of government that interact together that there is no one solution. A basic income isn't a final solution. Reformed social assistance programs at the provincial level are not. A working income supplement at the federal level is not. A separate disability program, separate from welfare disability programs, is not. A child benefit is not. None of these is the only answer. They must work together.

One of the significant issues that we have is that the lack of coordination of these initiatives at this point in time, I would say, fails to get the support to the people who need the support and

fails to have the desired policy outcome that each of those initiatives seeks to have.

I would also say that, from the perspective of efficiency, the duplication of effort in administration is one that concerns me, where those resources could be better put to the resolution of the issues that, from a policy perspective, we seek to achieve.

I had the opportunity, in 2011 and 2012, to serve as co-commissioner of a review of social assistance in the province of Ontario. My co-commissioner was Munir Sheikh, the former head of Stats Canada. As we looked at the solutions for reforming social welfare and social benefit programs in Ontario, we continually came up against the need to engage the federal government in discussions.

I will provide a few quick examples of that, whether it be the children's benefit, which we have seen acted on at both the federal level recently and at the provincial level, or whether it be the issue of disability benefits outside of social assistance, which would allow social assistance to have the low income aspect without tying people with disability into a system that is designed to be one that can focus more on employment supports and basic need supports.

The issue of the change in the job market, growth of precarious employment, what some people call "non-standard employment." These issues and the resolution to these issues fall far outside of one jurisdiction. It is necessary to have that kind of coordination of issues. It's a necessary item to be taken up through the form of labour market ministers that impose federal and provincial and territorial governments coming together.

The fact is that there is a social and economic burden that comes from rising inequality. There have been many studies that talk about health care costs and the education costs of loss in productivity. A range of costs is a necessary piece of the puzzle to be considered jointly.

The better integration of benefits and taxes is a Canada-wide issue. It is important that the federal government and the provinces look at the review of benefit and tax transfers. We have an untenable situation where we trap people at the provincial level on social assistance programs because that's where they can get access to the health benefits they need for their children because those benefits aren't available outside of those systems. There isn't a universal approach to some of these benefits, whether they be drug or other programs. We've recently seen enhancements in public pension programs, but a range of these things still needs to be understood and worked on.

In particular, I want to mention the untenable situation of the marginal effective tax rates that occur. When you see the rate of taxation increasing and the rate of supports for assistance being withdrawn and you add that together that provides you with what is called a marginal effective tax rate. Our highest tax rates are not necessarily for the wealthiest in our country, as we sometimes think. Low income and moderate income Canadians are affected in a perverse way because the systems are not working together.

Lastly, there is an opportunity for the federal government to bring to the table in any kind of joint pilot project and insistence on an evaluation framework, one that looks for us to get the basic evidence that we need instead of the rhetorical support for basic income, to develop the measures that we're going to look for and to create a framework that, I would suggest, should be based on a return on investment.

I won't go through the stats and figures of many reports that have pointed to the kinds of dollars that would be saved in other places of tax-supported programming if we were to streamline support for low income Canadians. But that is a crucial aspect. The federal government, in partnering with the provinces, has an opportunity to help to direct and to see different examples in different communities tested, tried, measured and accounted for in a way that can bring us evidence for the future.

So that's about only a quarter of what I wanted to say, but it is to say that I support this motion. I believe that, if we can engage the federal government in working with our provinces on this issue, we may be able to get some traction that we have not been able to get over years and years of simply calling for the initiation or the implementation of a guaranteed annual income, what we refer to now as a basic income.

(On motion of Senator Pate, debate adjourned.)

• (1810)

## PIPELINE SAFETY

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Mockler, calling the attention of the Senate to the issue of pipeline safety in Canada, and the nation-building project that is the Energy East proposal, and its resulting impact on the Canadian economy.

**Hon. Terry M. Mercer:** Honourable senators, this is an important motion that was placed before us by Senator Mockler. It's on the subject that is also being studied by the Standing Senate Committee on Transportation and Communications, and I await the report with anticipation. I know that that will form a good deal of my presentation on this motion, so I will move the adjournment for the remainder of my time.

**The Hon. the Speaker:** Senator Mercer, you have already spoken to this, so you'll need leave to adjourn. Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

(On motion of Senator Mercer, debate adjourned.)

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

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