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OFFICIAL REPORT
(HANSARD)

Monday, December 15, 2014

The Honourable PIERRE CLAUDE NOLIN
Speaker

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

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THE SENATE

Monday, December 15, 2014

The Senate met at 5 p.m., the Speaker in the chair.

Prayers.

SENATOR'S STATEMENT

WOMEN'S RIGHTS, PEACE AND SECURITY FORUM

Hon. Mobina S. B. Jaffer: Honourable senators, recently I participated in a forum in Istanbul for women to speak out against extremism.

They set out a statement that I would like to read to you, titled "The World at a Crossroads: Women Have the Solutions":

> We, sixty women representing thirteen countries spanning the Middle East, North Africa and Asia, together with our colleagues from Europe and North America, gathered together in Turkey at the Third Annual Forum on Women's Rights, Peace and Security, convened by the International Civil Society Action Network (ICAN), have one word to share with the world: Enough.
>
> Enough of the violence; enough of the importation of extremist ideologies that have no roots in our cultures, religions or history; and enough of the weapons and bombs that are forcing us to bury our people, especially our children, at an age when they should be going to school and building their futures. Across our regions, within the borders of our nations, our people are suffering at the frontlines of the most horrendous wars and forms of violence in recent history.
>
> The vast majority of our peace loving people are being held hostage by a small minority of extremists, occupation forces and authoritarian powers. We women, as activists for peace, rights and pluralism, are in the crosshairs of these forces. On one side, we find ourselves on the kill lists of ISIS/Daesh and other extremist militias for simply daring to speak out for freedom. On the other, we are being harassed, threatened and arrested by state and occupation forces for daring to demand simple services ranging from clean water to decent governance, basic rights, equality and leadership.
>
> The policies of international actors are contributing to the suffering of our people including through sanctions, arms sales, human trafficking and the drug trade. Our girls are being coerced into militias or kidnapped, raped and sold. Meanwhile, extremist and regressive forces are directly benefitting from these policies. . . .
>
> The challenges we face are profound. They are not of our creation. Yet we are forced to deal with the consequences. You may think that nothing positive is possible under the circumstances. But you are wrong. We [the women] are powerful and continue to work because we refuse to give up our values and our hope for a better future. We are mobilizing young people to challenge ideologies that say we should hate each other. We reject any understanding of religion that condones or promotes violence and the oppression of women. We are spreading the message of peace and pluralism that has, for centuries, allowed this region to live together peacefully despite differences.
>
> We work with women to build their knowledge of universal rights and inclusive interpretations of religion, to strengthen their voices, to respect their dignity and to give them jobs. We work with men to counter the culture of violence that has permeated our region. Against the odds, we struggle to hold our governments accountable to their own commitments.

Honourable senators, the women have said that:

> Today we stand at a crossroads. The international community can continue its failed policies and strategies that foment more violent extremism and radicalization. Or they can follow our lead. One thing is guaranteed: our version of the region, our vision for the future, is about peace, freedom, dignity, rights, pluralism, and prosperity for all.

Honourable senators, I ask you to reach out to the women of the region. We can all work together to bring peace in this world.

Thank you.

[*Translation*]

ROUTINE PROCEEDINGS

ECONOMIC ACTION PLAN 2014 BILL, NO. 2

FIFTEENTH REPORT OF NATIONAL FINANCE COMMITTEE PRESENTED

Hon. Joseph A. Day, Chair of the Standing Senate Committee on National Finance, presented the following report:

Monday, December 15, 2014

> The Standing Senate Committee on National Finance has the honour to present its

FIFTEENTH REPORT

Your committee, to which was referred Bill C-43, A second Act to implement certain provisions of the budget tabled in Parliament on February 11, 2014 and other measures, has, in obedience to the order of reference of Friday, December 12, 2014, examined the said bill and now reports the same without amendment.

Your committee has also made certain observations, which are appended to this report.

Respectfully submitted,

JOSEPH A. DAY
Chair

(*For text of observations, see today's* Journals of the Senate, *p. 1501.*)

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

(On motion of Senator Smith (*Saurel*), bill placed on the Orders of the Day for third reading at the next sitting of the Senate.)

[*English*]

ADJOURNMENT

NOTICE OF MOTION

Hon. Yonah Martin (Deputy Leader of the Government): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, January 27, 2015 at 2 p.m.

[*Translation*]

THE SENATE

NOTICE OF MOTION TO URGE GOVERNMENT TO REMOVE INVESTOR AND STATE ARBITRATION MEASURES FROM THE COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT

Hon. Céline Hervieux-Payette: Honourable senators, I give notice that at the next sitting, I will move:

That, whereas the free trade agreement with the European Union contains rules to protect investments accompanied by a dispute settlement mechanism between states and investors through arbitration (ISDS);

Whereas the introduction of such rules could undermine the ability of the Canadian Federal Parliament as well as Provincial and Territorial assemblies or parliaments to legislate, particularly on social, health and environmental issues, exposing the federal, provincial and territorial governments to paying substantial compensation to investors who feel aggrieved by new measures;

Whereas there is already another interstate dispute settlement mechanism for investment, inspired by the Dispute Settlement Body of the World Trade Organization,

The Senate of Canada urges the Government to revise Chapters 10 (Investment) and 33 (Dispute Resolution) of the free trade agreement negotiated with the European Union in order to remove the investor / state dispute settlement mechanism from the agreement.

• (1710)

[*English*]

QUESTION PERIOD

CITIZENSHIP AND IMMIGRATION

SYRIAN REFUGEES

Hon. Mobina S. B. Jaffer: My question is to the Leader of the Government in the Senate. I had mistakenly understood that Syrian refugees were coming to our border in an orderly way. I find out now that we have accepted only 200 refugees. Is that correct?

[*Translation*]

Hon. Claude Carignan (Leader of the Government): Senator, we are continuing to take in refugees. We will continue to protect the Syrian people as we have always done. We hope that Syria will have a stable and democratic future.

Canada leads the Western nations in offering permanent protection to the most vulnerable Syrian and Iraqi refugees. We continue to take an active interest in the ever-increasing number of humanitarian crises, and we are taking action on several fronts to help people who have been displaced because of conflict.

Canada is consistently among the top three countries in the world in welcoming refugees. We have made significant commitments. We are proud of that and plan to do even more.

Since the beginning of the conflict, Canada has taken in over 1,900 Syrian refugees under the Resettlement Assistance Program. Since 2013, we have approved the applications of more than 1,150 Syrians who want to live in Canada permanently. These numbers are rising and will continue to rise in 2015.

[*English*]

Senator Jaffer: Thank you for your answer. I understand that only 200 Syrian refugees have found asylum in our country so far. I will read to you what someone sent to me:

> Martin Mark boils with frustration at the inertia he says has paralyzed Canada's refugee system during Syria's civil war.
>
> "There is delay, delay, delay," says the executive director of the Catholic Office of Refugees in the Archdiocese of Toronto . . . . "It is spoiling our international reputation.
>
> "If I go to a church and tell them, 'Please do the fundraising and prepare and the refugees will come,' I have a good chance of getting a good response. But if I finish my speech by saying it will happen three years from today, they are going to say, 'Get out, man. Are you serious?'

Leader, why are there only 200 Syrian refugees on our soil at this time?

Senator Carignan: I didn't say 200; I said close to 2,000.

[*Translation*]

Canada has taken in over 1,900 Syrian refugees under the Resettlement Assistance Program. That is the number I am giving you.

[*English*]

It's 2,000 not 200.

Senator Jaffer: Because I respect you very much, I would never say that you are misleading honourable senators; but I would say to you that I respectfully ask you to look at the numbers of those who have arrived on our shores. It is true that 1,900 were to be brought here as that was our commitment internationally; but only 200 have come.

I have just been in the camps in Turkey. The Turkish government has welcomed 2 million refugees. In three days, they welcomed 130,000 refugees when the problems in Kobani happened. They have provided refugee camps, which cost them $30 million a month.

Leader, what are we doing about Syrian refugees?

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, it being 5:15 p.m., I must interrupt the proceedings. Pursuant to rule 9-6, the bells will ring to call the senators for the taking of the deferred vote at 5:30 p.m. on Bill C-428.

Call in the senators.

• (1730)

INDIAN ACT

BILL TO AMEND—THIRD READING

The Hon. the Speaker: It was moved by Senator Ngo, seconded by Senator Marshall:

> That Bill C-428, An Act to amend the Indian Act (publication of by-laws) and to provide for its replacement, be read a third time.

Motion agreed to and bill read third time and passed, on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	Marshall
Ataullahjan	Martin
Batters	McIntyre
Bellemare	Meredith
Beyak	Mockler
Black	Nancy Ruth
Boisvenu	Ngo
Carignan	Oh
Dagenais	Patterson
Demers	Poirier
Eaton	Raine
Enverga	Rivard
Fortin-Duplessis	Runciman
Frum	Seidman
Gerstein	Smith (*Saurel*)
Greene	Stewart Olsen
Housakos	Tannas
Johnson	Unger
Lang	Verner
LeBreton	Wallace
Maltais	Wells
Manning	White—44

NAYS
THE HONOURABLE SENATORS

Baker	Hervieux-Payette
Campbell	Jaffer
Chaput	Joyal

Charette-Poulin	Kenny
Cools	Massicotte
Cordy	Mitchell
Cowan	Moore
Dawson	Munson
Day	Ringuette
Downe	Sibbeston
Eggleton	Smith (*Cobourg*)
Fraser	Tardif
Furey	Watt—26

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, we are now back to Question Period. There are 25 minutes and 54 seconds to go. If Senator Jaffer will repeat her question, I will restart the clock in order for Senator Carignan to answer the question.

CITIZENSHIP AND IMMIGRATION

SYRIAN REFUGEES

Hon. Mobina S. B. Jaffer: Leader, I have such faith and trust in you, that I don't think that you would mislead this place that 1,900 Syrians have come to our soil. I may be mistaken, but it's my understanding, with all of the research that I have done, that, so far, we have only received 200 Syrian refugees. May I please ask you to confirm how many Syrian refugees have arrived on the soil of Canada?

[*Translation*]

Hon. Claude Carignan (Leader of the Government): Senator, as I said earlier, I can reiterate that we have resettled a total of more than 22,000 Syrian and Iraqi refugees in Canada, making ours one of the top three countries in the world with respect to accepting and resettling refugees. Since the beginning of the conflict, Canada has taken in more than 1,900 Syrian refugees through its asylum and resettlement programs. Since 2013, we have approved the permanent resettlement in Canada of more than 1,150 Syrian refugees, and we have already made the strongest commitment, per capita, of any nation to resettle Syrian and Iraqi refugees. We are proud of our record and we will continue our efforts to assist refugees.

[*English*]

Senator Jaffer: Thank you, Leader, for your answer. Leader, you said 23,000 Iraqi and Syrian refugees. I'm only asking you for Syrian refugees. How many Syrian refugees have come to our soil?

• (1740)

[*Translation*]

Senator Carignan: I said 22,000, not 23,000, Syrians and Iraqis. I repeat, for the fourth time, that 1,900 Syrian refugees have come to Canada through our asylum and resettlement programs since the conflict began. Since 2013, we have approved the permanent resettlement of over 1,150 Syrian refugees in Canada. If you ask me a fifth time, the answer will be the same.

[*English*]

Senator Jaffer: Leader, this is a very serious matter, and I would respectfully ask you to make inquiries overnight and confirm with us tomorrow whether it is 1,900.

In the three-and-a-half year war that has been waged in Syria, 10 million people have been displaced. Canada has struggled to resettle fewer than, according to me, 200 Syrian refugees overseas and is still processing asylum applications for another 1,300 who made their way to Canada on their own.

In the same period, leader, Germany resettled 6,000, welcomed another 11,800 Syrian asylum seekers, and promised to offer protection in the form of a renewable two-year residence visa to another 20,000 of Syria's most vulnerable victims trapped in the Middle East. Sweden, a country with only about a quarter of Canada's population, has given permanent resident status to more than 30,000 Syrians.

Two months ago, after Canada announced in July 2013 that it would accept 200 government-sponsored Syrian refugees by the end of this year, the Swedish government said all Syrians who made it to Sweden and passed normal security checks would be given permanent residency and allowed to bring their immediate family members to live with them.

While Canadian officials were still trying to process their first government-sponsored refugee, more than 5,000 Syrians arrived in Sweden in the first three months of Stockholm's new policy, yet Canada struggles to meet this year's target of 200 government-sponsored refugees. Sweden welcomes 600 Syrian refugees each week. Canada is failing to respond.

Leader, I was just at the refugee camps at the border of Syria and Turkey. I was at Gaziantep and then at Kilis, and leader, what I saw there was horrible. I saw women that had been injured with barrel bombs, something I wouldn't wish on my worst enemy.

Canada used to be the leader when it came to welcoming refugees. But 200 or 1,900 is not Canada's way. What is Canada doing to help Syrian refugees?

[*Translation*]

Senator Carignan: Senator, I don't know how else to tell you that the number is not 200. I don't know why you are insisting on that figure. The number of Syrian refugees that Canada has welcomed since the beginning of the conflict is 1,900, through our asylum and resettlement programs. Since 2013, we have approved

the permanent resettlement of over 1,150 Syrian refugees in Canada. We have already made the most significant per capita commitment of all countries in the world when it comes to Syrian and Iraqi refugees. We are proud of our record, and we will do even more. As I said earlier, those numbers continue to rise. They will rise considerably in 2015. We continue to take an active interest in the ever-increasing number of humanitarian crises.

[*English*]

Hon. Art Eggleton: Government leader, the problem I see with your numbers is they're paltry. In 2013, the Government of Canada agreed to 1,300 Syrian refugees, of which 200 would be sponsored by the government itself — that's where the 200 comes from — and 1,100 would be sponsored by community organizations or private sponsors. So that's where the 200 comes from.

But the 1,300 or the 1,900, if you're taking it over a longer period of time, are paltry amounts. As Senator Jaffer pointed out, Sweden, a quarter of Canada's population, has taken 30,000. Back in 1975, when the Vietnamese boat people started coming to Canada, we accepted 50,000 of them, of which half, 25,000, were government-sponsored. The other half were privately sponsored.

Now, the numbers you're coming up with pale in significance. There are 7 million people displaced as a result of the Syrian conflict. Many of them are children. Many of them are in the camps that Senator Jaffer has talked about.

The UN Refugee Agency has said they would like countries like Canada to come together with others and take 100,000. There are organizations in Canada that say 10,000. Even 10,000 is a small number compared to what we greeted back in the 1970s and early 1980s from Vietnam and certainly paltry compared to what Sweden or even Germany are doing today.

How can you justify these numbers as being somehow Canada's contribution to dealing with Syrian refugees? They're paltry.

[*Translation*]

Senator Carignan: Senator, that is your opinion. I am telling you that we have welcomed over 1,900 refugees through our asylum and resettlement programs. Since 2013, we have approved the applications of over 1,150 Syrians who want to live in Canada permanently. Those figures will increase substantially in 2015. We will continue to welcome large numbers of refugees.

[*English*]

Senator Eggleton: I have one more supplementary question. I want to know if there is any selection process going on right now with respect to Syrian refugees that gives preference to people of certain religious groups, such as the Christian minorities or some of the other minorities. Is there a preference going on in this regard, or are all Syrian refugees, regardless of religious background, being treated equally?

[*Translation*]

Senator Carignan: Senator, a refugee is a refugee. We need to make sure that this person is a refugee within the meaning of the various conventions. We decide whether to take in the refugees based on those conventions.

[*English*]

Hon. Jane Cordy: I find your answer quite interesting because Mr. Costas Menegakis, who is the parliamentary secretary, said we will prioritize persecuted ethnic and religious minorities, those who demonstrate a risk, and we will not apologize for that.

So he, in fact, is saying that you are going to prioritize for ethnic and religious minorities. So are you correct, or is Mr. Menegakis correct?

[*Translation*]

Senator Carignan: Senator, you know that a person has to be threatened in their own country in order to be a refugee. Someone could be threatened because of their religion. That threat is what makes them a refugee. If they are not threatened as a result of their religion, they are not necessarily a refugee. We make sure that the people we take in are refugees.

[*English*]

Senator Cordy: Well, the approach that was mentioned by Costas Menegakis actually runs against the United Nations High Commissioner for Refugees' policy on refugees. Their policy says that those most vulnerable and in the most need of protection should be protected first, and that it should not just be based on ethnic groups or religious minorities. I wonder if you could say who is correct, you or the parliamentary secretary. If it is the parliamentary secretary, and as you mentioned in your comments that it would be religious minorities, then are you concerned that this goes against the United Nations High Commissioner for Refugees' policy?

[*Translation*]

Senator Carignan: As I said, we make sure that these people are refugees within the meaning of the conventions. Those are the refugees we take in here in Canada.

• (1750)

[*English*]

ORDERS OF THE DAY

IMMIGRATION AND REFUGEE PROTECTION ACT
CIVIL MARRIAGE ACT
CRIMINAL CODE

BILL TO AMEND—THIRD READING—
VOTE DEFERRED

On the Order:

> Resuming debate on the motion of the Honourable Senator Ataullahjan, seconded by the Honourable Senator Meredith, for the third reading of Bill S-7, An Act to amend the Immigration and Refugee Protection Act, the Civil Marriage Act and the Criminal Code and to make consequential amendments to other Acts.

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to speak on Bill S-7. The title of this bill is "Zero Tolerance for Barbaric Cultural Practices Act." This bill covers four areas, four very different areas: first, polygamy; second, national age of marriage; third, forced marriage; and fourth, provocation.

Honourable senators, I will first address the very troubling issue of the short title of "Zero Tolerances to Barbaric Practices Act."

As I said at second reading, and to remind you, the definition in the dictionary for "barbaric" is "cruel or brutal." For "barbarians," "a member of a wild or uncivilized people, meaning a foreigner." The definition of "culture" is "the culture of a particular society, its ideas and its customs."

Honourable senators, at second reading I spoke very passionately about how I felt about this title. At third reading, honourable senators, I believe I should have you listen to what many people in the community feel about this title.

I want to first start off with quoting Deepa Mattoo, a prominent lawyer on the issue of violence against women, from the South Asian Legal Clinic of Ontario, as she stated on CBC, and I quote:

> To be honest, this is what I've been saying for the last two weeks. I can't even look past the title. The title is so very problematic. It blatantly targets marginalized and racialized communities through a racist framework. It's basically saying . . . it's inflammatory language. I don't even believe that this is happening in 2014, that someone is perpetrating a myth regarding certain cultures. Someone is perpetrating a propaganda regarding certain cultures.

Later on she says:

> Unfortunately, this bill actually says that violence is cultural when it is not. Violence is violence. The culture of violence is violence, and it targets people. It is not targeting particular marginalized groups, and it's abandoning us. It's abandoning the community. It's disengaging with communities rather than engaging with communities, while saying that it is an issue of communities. It is basically disengaging communities. . . .
>
> It's targeting very specific marginalized groups. We see the language, for example. It is clear. It is targeting for some groups.

In my second reading speech, I had addressed the challenges with the short title, and since then, honourable senators, we have had committee hearings, and I would like to share with you what we heard at committee.

Dr. Naila Butt, Executive Director of Social Services Network, said:

> We agree that the practices the bill aims to restrict are undesirable. However, the title of the bill has connotations suggesting that a select, privileged few have the status of the civilized preaching to the uncivilized barbarians. This language in a multicultural, open and democratic society like Canada, where the majority of the people are immigrants, will not be conducive to reaching the goals the bill has set to achieve.
>
> If we look at the evidence, Canadians in Bountiful, British Columbia are already practising polygamy. On average, every six days, a woman in Canada is killed by an intimate partner. On any given day, more than 3,300 women are forced to sleep in an emergency shelter to escape domestic violence. More than 1,200 Aboriginal women are missing. Both Amnesty International and the United Nations have called upon the Canadian government to take action on this issue, without success.

She goes on to say:

> I ask the honourable senators: How is the violence inflicted on each of these individual Canadian women any different from the violence that the bill intends to eradicate? Where is the zero tolerance for the barbaric acts committed against these Canadian women, or, as the title implies, is that zero tolerance policy reserved for people who are not born here or who dress, speak or pray differently? Violence against women is a community and public health issue affecting us all.
>
> According to the Department of Justice, each year Canadians collectively spend $7.4 billion to deal with the aftermath of spousal violence. There are existing laws in place to tackle the issues raised in the bill. However, to bring

> about meaningful change in the lives of the victims, based on extensive work on the issue of family violence in Canada, there is an urgent need to bring about multi-level change.

Honourable senators, she went on to describe the landscape in Canada of violence, and it wasn't just violence in the immigrant community.

Interestingly, Ms. Megan Walker, who represents the London Abused Women's Centre, which is an agency located in London, Ontario, serving abused women for the past four decades, stated that she supported the bill, but she said, and I quote her:

> There is a lot of controversy over the title. It does appear to me that the word "barbaric" does not appear in the long title or anywhere else in the bill. Given the controversy around the term "barbaric" I would suggest that it be removed and we just report it as the long title . . . .

This comes from someone who supports the bill.

Alia Hogben, the Executive Director of the Canadian Council of Muslim Women, said, and I quote her:

> The highly disturbing issue, which you've been hearing about over and over again, which affects not only Canadian Muslim women, but all women, is the title of the act. It is disheartening that we as Canadians would use such language for our legislation.
>
> The title is racist, discriminatory and further exacerbates the racism and stereotyping of some of us in Canadian society, including someone like me. We should all remind ourselves of the treatment meted out to our First Nations, who were seen as barbaric, primitive and uncivilized. Look at the results of such discrimination and racism present even today.
>
> The overt message of this act is that these barbaric practices will be brought into a pristine Canada where there is no violence, where women and girls are not subjected to these horrible practices of forced or early marriages, where polygamy is abhorred, and where there is no femicide — that is, no killings of women and girls. Our organization objects strongly to the label of honour-based violence and we hope we will discuss this later.

Honourable senators, we had the Minister of Immigration appear at committee, and I asked the minister:

> You explained it a little bit in your remarks, but why would you have a title like "Zero Tolerance for Barbaric Cultural Practices Act?"

• (1800)

The minister's response was, "Because we consider violence against women barbaric." He went on to say:

> For the few that try to advance barbaric practices that perpetuate violence, we must be unequivocal. The passage of Bill S-7 into law would send a strong message to those in Canada, and those who wish to come to this country that we will not tolerate cultural practices in Canada that deprive individuals of their human rights. We will not tolerate those who would claim their cultural practices as an excuse for committing barbaric acts against women and girls, continuing violence against women. These practices will not be tolerated on Canadian soil.

Honourable senators, the minister says that it's barbaric to have violence against women. I would agree with him if he was saying that of all violence against women in Canada, but that's not what he was talking about. He was talking about violence in cultural practices.

We received a brief from a Ms. Go, who is from the Metro Toronto Chinese & Southeast Asian Legal Clinic. She said about the title:

> Violence against Women — An Overview of the issue in Canada
>
> According to the Canadian Women's Foundation:
>
> - Half of all women in Canada have experienced at least one incident of physical or sexual violence since the age of 16.
> - 67% of all Canadians say they personally know at least one woman who has been sexually or physically assaulted.
> - On average, every six days a woman in Canada is killed by her intimate partner.
> - On any given day in Canada, more than 3,300 women (along with their 3,000 children) are forced to sleep in an emergency shelter to escape domestic violence.

Honourable senators, I refer you to her paper, which is very eye-opening. It's long and I have limited time, so I won't read all the other statistics that she gives. But when we read her statistics and we listen to the other women, I think we have to look inside and see that when we throw stones and we live in glass houses, we have to be careful about who we call barbarians.

Some Hon. Senators: Hear, hear.

Senator Jaffer: The number one issue that was addressed in the bill was the issue of polygamy. Honourable senators, as you are all aware, the Criminal Code covers polygamy. Section 293(1) says:

> Every one who
>
> (*a*) practises or enters into or in any manner agrees or consents to practise or enter into
>
> (i) any form of polygamy, or
>
> (ii) any kind of conjugal union with more than one person at the same time,

whether or not it is by law recognized as a binding form of marriage, or

(*b*) celebrates, assists or is a party to a rite, ceremony . . .

is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

As you all know, senators, polygamy is already illegal in our country. I come from British Columbia where, sadly, polygamy is very much thriving in our midst. As you all know, polygamy exists in my province. I can't speak for your provinces, but I know we are struggling with this in my province.

The Minister of Immigration is amending the Immigration and Refugee Protection Act, which is the only part of the bill that he really is in charge of. If you look at the amendment in the act at 41.1(1) he is saying:

A permanent resident or a foreign national is inadmissible on grounds of practising polygamy . . .

Especially practising polygamy in Canada.

Honourable senators, nobody in this place will say we accept polygamy in Canada. We don't. That's not the challenge I have with this. The games that are played with this bill are what make me angry. I had interpreted for you at second reading what this section means. This section means that if a man in a polygamous relationship comes to Canada without his wife, he can come to Canada. But if the wife arrives afterward, she will be denied entry into Canada because that would be practising polygamy in Canada.

So what are we doing? This bill is supposed to protect women. Instead, we will deny the woman entry because she will then be practising polygamy. Don't take my word for this, honourable senators. I asked the minister this question. He interpreted the bill exactly the same way as I did.

I asked him the question, so I will quote our exchange:

The Chair: Minister, I have a question for you which directly concerns your department, and that's to do with polygamy. If I read section 41.1(1) of the new bill, it says:

A permanent resident or a foreign national is inadmissible on grounds of practising polygamy . . .

I have two scenarios for you. A man comes to this country as a visitor. He is in a polygamous relationship but he comes alone. He would be able to enter Canada because he's not practising polygamy in Canada; am I correct?

Mr. Alexander: Correct, he would be able to enter.

The Chair: If he came with his wife as a visitor, he would be practising polygamy in Canada so he wouldn't be able to enter; is that correct?

Mr. Alexander: Correct.

Is this a bill about protecting women, or what is this a bill about? How are we really dealing with the issue of polygamy? Honourable senators, I really want you to think about this. If the bill said that no one could enter Canada if they are in a polygamous relationship, I would be okay with that. But when you say a man who is in a polygamous relationship can enter Canada alone and can then stay in Canada, I do not agree to that.

Some Hon. Senators: Hear, hear.

Senator Jaffer: This bill, honourable senators, has been portrayed as a bill that will protect women. This bill is supposed to protect women who look like me. Let me tell you something, honourable senators: We had Craig Jones. If you come from my province, you know he is a very prominent lawyer who has fought the tough fight in relation to Bountiful. He was the lawyer for the Province of British Columbia. For many years he has taken on the issue of Bountiful. At this point I would be remiss if I didn't recognize the work of the former Attorney General Wally Oppal when he fought the good fight to try to stop the polygamous relationships at Bountiful.

Craig Jones is now a professor at Thompson Rivers University. He said:

One caveat that I would offer is that our polygamy laws should be applied in a way that is cognizant of the vulnerability of the women and children already in such households. I'm concerned that the federal government should work with the provinces to ensure that the criminal immigration law provisions against polygamy don't backfire and that family rules don't do harm to the very people that we're trying to help. . . .

The criminalization of polygamy and now the formal introduction of a rule against polygamous immigration and perhaps one that provides for the removal of people in polygamous families have the potential of further isolating the women and children in polygamous households, and both federal and provincial authorities should be conscious of this. My point here is just that targeting polygamy in an attempt to help vulnerable members of our society can, in some cases, hurt the very people we're trying to help. It's not an all-win situation when you take on polygamy through the criminal law or, perhaps in this case, through immigration law.

My own conclusion is that, on balance, the advantages of prohibition outweigh its deleterious effects, so I support the inclusion of the references to polygamy in the present legislation as part of a global effort to de-normalize and eventually eliminate this practice, but it is, as I say, not without its risks, and it needs to be balanced with many of the things your previous witnesses were talking about with respect to community outreach and meaningful social work.

• (1810)

Honourable senators, I would like to remind you all that Canada is a signatory to the Convention on the Elimination of All Forms of Discrimination against Women. We were one of the first countries that signed this convention. This convention clearly talks to us, under Article 9, "about providing for the statehood of

women, irrespective of their marital status. The convention thereby draws attention to the fact that often women's legal status has been linked to marriage, making them dependent on their husband's nationality rather than individuals in their own right."

Honourable senators, I reread CEDAW this weekend, and my reading says that Canada has agreed not to discriminate against women on the basis of their marital status. Therefore, a woman in a polygamous relationship should not be discriminated against.

Honourable senators, we have international obligations as well, so I ask that we look at this provision very carefully because we will hurt the very women we are trying to protect.

The second issue this bill brings up is the national age of marriage. I have to admit to you, honourable senators, that I have no idea why a national age of marriage is being discussed under the zero tolerance for barbaric cultural practices act. I have no idea, but who am I? I'm not privy to all the information. But I am confused.

The minister said:

> Specific federal laws, which apply only in Quebec, set the minimum age at 16 years. In other parts of Canada, the common law applies. There is some uncertainty about the common-law minimum age, which is sometimes interpreted as setting a minimum of 12 for girls and 14 for boys, —

Where have you seen a 12- or 14-year-old marriage in Canada, honestly?

> — although in some instances and historically, going all the way back to medieval common law, it was as low as 7 years old. Setting a national age of 16 years old for marriage would make it clear that underage marriage is unacceptable in Canada and will not be tolerated.

Honourable senators, first of all, I believe this is very much a provincial issue, but I want to tell you what the minimum age of marriage in the provinces is: Alberta, 18; British Columbia, 19; Manitoba, 18; New Brunswick, 18; Newfoundland, 19; Northwest Territories, 19; Nova Scotia, 19; Nunavut, 19; Ontario, 18; Prince Edward Island, 18; Quebec, 18; Saskatchewan, 18; Yukon, 18.

So why are we going to the age of 16? I am confused, honourable senators. If we were protecting women, why would we go to 16 when all the provinces have 18 or 19 years of age?

Some Hon. Senators: Hear, hear.

Senator Jaffer: Honourable senators, I have often said that I'm confused. I am genuinely confused as to what's going on in this bill. Sometimes I feel the Creator looks after me, because I get myself into trouble all the time. Over the weekend, when I was doing research on this bill, I found something that Canada is doing at the United Nations. Our country, with Zambia, is leading the way to make sure that the national age in every country is 18.

I will read to you what our Foreign Affairs Minister, John Baird, has said at the Third Committee:

> The overwhelming support of the international community for this resolution is a clear signal that there is a global movement toward eradicating a practice that threatens the lives and futures of 15 million girls who are forced into marriage each year.

He continues to say:

> To the 700 million girls and women around the world who were forced to marry as children, Canada stands with you and will continue to work with partners around the world to ensure that your daughters and granddaughters will not suffer the same fate.
>
> Child and early forced marriage is one of the most pressing development challenges of our time. Our country will always act according to its founding values of freedom, democracy, human rights and the rule of law so that they can be enjoyed by all.

Honourable senators, I have this document from the Third Committee of the General Assembly, which was led by Canada and Zambia. In this document, it specifically says that 15 million girls are married every year before they reach 18 years of age, and more than 700 million women and girls alive today were married before their eighteenth birthday. Internationally, Canada is saying 18. Why is it nationally saying 16? Honourable senators, what's going on?

An Hon. Senator: No credibility at all.

An Hon. Senator: It should be withdrawn.

Senator Jaffer: Honourable senators, the next issue that I want to raise is the issue of forced marriage. Honourable senators, I have been working on this issue for many years, and I want at this point to thank Lord Lester of the House of Lords of England. For many years, he has been working on this issue. Whenever I have gone to London, he has always told me that he has studied the communities; we have to do it under the civil law. He was instrumental in making forced marriages under the civil law.

Honourable senators, in 1999 I made a presentation in Brussels, Belgium, on forced marriages. I don't have time today to read my whole presentation to you, but I spoke about the destructive effects of forced marriages. I spoke about how it destroys the community. My conclusion was that whether we like it or not, forced marriages are a reality in many industrialized societies, especially those with sizeable immigrant components, and we have to decide sooner or later whether all women are entitled to the same basic rights regardless of their background. I have my whole document, if anybody wants to look at this.

Honourable senators, I spoke a lot at second reading about how I feel that criminalizing a family under forced marriages is the wrong way to go. I feel even more so that criminalizing a family under forced marriages is wrong.

I have since spoken to many girls who have called me because I spoke. They said to me that they are in forced marriages. But they said to me, "We are in forced marriages, but we still feel that our parents love us. There is no way on this earth that we are going to go to the police to send our father and mother to jail." They said to me, "That would mean that I would be denied the love of my brothers and sisters, I would be denied the love of my community, and I would become rootless." They have said to me, "Please find a way to stop the forced marriage, but don't destroy us completely by our having to leave our families, our communities and everything we know."

Honourable senators, I have to tell you that when the Prime Minister goes to West Africa and speaks about forced marriages, I am very proud of him. It is very important that the Prime Minister says that in Canada we will not accept forced marriages; around the world we will help to stop forced marriages. But if it is really a sincere effort, let's listen to the voices of the little girls who are saying, "Don't separate us from our families. Don't separate us from our communities. Don't make us rootless. Just stop our being married forcefully."

I could go on and on, but I don't have the time. This bill will stop these girls from coming to seek help. They are not going to come to the government to say, "Our parents are barbaric. Send them to jail."

• (1820)

The other thing that no one has thought about is, if you are an immigrant and you go to the police and your father is charged and convicted, then the whole family will be deported. Do you think a little girl is going to want that, that her family gets deported so that she doesn't go into a forced marriage? What is she going to do? These are the choices we are giving.

Honourable senators, I ask you to very carefully think about what we are doing.

At second reading, I spoke at length about provocation. I spoke at length about how provocation has never been used for honour killings. I would love to speak to you at length about honour killings and provocation again, but maybe on another day.

I want to commend a book to you that the Quebec Status of Women has written on honour crime. Madam Miville-Dechêne came to our committee. I really commend the Quebec Status of Women for this study, where they have in detail set out what honour killing is. I can't tell you how many times she said to please get rid of the title. That's not the way to do it; that's not the way to build harmony.

Honourable senators, I'm not going to speak any more about provocation except to say to you that the minister said he wanted to stop honour killings. I also want to stop honour killings. We are both on the same page, but if he wants to stop honour killings, why not just have a statement to say that the courts will never use honour killings as a defence? Why change the whole definition of "provocation"? Why not send a strong message to everyone that Canada does not accept honour killings? Why not just say that in the code? Why not say that honour killings will never be a defence to provocation or to murder, and that would be okay; I would be happy with that. But to go in a roundabout way to talk about honour killings — the bill doesn't talk about honour killings. It's just changing the definition of "honour killings."

The bill doesn't say one word about honour killings. Ten years, five years down the line, who will remember why this came into fruition? Why was the definition of provocation, which is sort of the anchor of our criminal system, changed? They use the words "honour killing," but they didn't put it in the bill. That is wrong.

We heard from many witnesses in the committee who said that you can't have this bill without having prevention. Aruna Papp, who is a supporter of this bill, said to us, and I will repeat:

> I just met with the minister before I came here, and I warned him. I said, "If I speak to this bill, I want resources to follow, and that is very important." He has recognized that. I think we are moving in the right direction. We are doing prevention and starting education in schools and talking to all the parents, starting in elementary school. People are shocked when the girls come home and they're teenagers and say, "I want to go to school."

They want to go out with their friends.

We need resources.

Honourable senators, I want to leave this last thing: I have worked with Aruna, Naila and Deepa for many years. I know all their good work, and I have great respect for them.

I have also worked with Alia Hogben, who is the president of the Canadian Council of Muslim Women, and I ask you to read what she said in the transcripts. She said that when we treat our children as being different, when we treat them like they don't look like us, then we give them different treatment. She said that she is a social worker. She very much knows what happened in the Shafia case. When those little girls went and asked for help, they were not given the help — that's what she said; I'm not saying it — because they were not seen as Canadian girls. They were seen as different.

Honourable senators, I could go on and on telling you that this bill causes us to be seen as different. These were Canadian girls. These were girls from Canada. These girls that we are talking about are Canadian girls. We have to protect our girls.

Honourable senators, at second reading, I spoke to you and said that we could be needles and we could be scissors. We could sew our societies up, or we could cut them apart. That's the power of a politician.

But today I come and say to you that around Christmas one of the most beautiful things for all of us is the harmony that we see in our society, families and communities, and the love we see in our communities. After everything that has happened to us on the Hill, look at how warm everyone is towards each other around Christmas, because we value harmony.

Honourable senators, this bill is cutting our communities. You have no idea how upset communities are to be called "barbarians."

When I was a little girl my mother dreamt that I would play the piano. My father said I would be a politician, and you know who won out — my father. My mother has been dead for three years and now, when I was studying this bill, it occurred to me what she was saying. When I was little, to annoy her after I came from school, I would sometimes play on the white keys. Try it. There is no good harmony if you just play on the white keys. Sometimes I just played on the black keys. Try it. It's not good harmony. My mother used to tell me that to have real harmony you have to play on both black and white keys.

Honourable senators, I say to you, when you have a bill like this that is going to cut up communities, you are destroying the beautiful harmony that we have in our country. We need all people to feel included in our community. Don't cut up communities.

Honourable senators, I ask you to not have third reading read now, and I have a number of amendments that I would like to move.

MOTION IN AMENDMENT

Hon. Mobina S. B. Jaffer: Therefore, honourable senators, I move that Bill S-7 be not now read a third time but that it be amended:

(*a*) on page 2,

(i) in clause 4, by replacing line 6 with the following:

"**2.2** No person who is under the age of 18", and

(ii) by adding after line 19 the following:

"Consequential Amendment

Federal Law—Civil Law Harmonization Act, No. 1

5.1 Section 6 of the *Federal Law—Civil Law Harmonization Act, No. 1* is replaced by the following:

6. No person who is under the age of eighteen years may contract marriage.";

(*b*) on page 3,

(i) in clause 7, by replacing lines 9 to 24 with the following:

"7. Section 232 of the Act is amended by adding the following after subsection (2):

(2.1) Despite subsection (3), that the victim engaged in behaviour believed by the accused to have been socially or morally inappropriate or unacceptable and to have brought shame or dishonour to the accused or the accused's family does not amount to provocation for the purposes of this section.", and

(ii) in clause 8, by replacing lines 33 to 38 with the following:

"would be an offence against section 293.1 or 293.2 in respect of that";

(*c*) on page 4, in clause 9, by replacing line 10 with the following:

"is under the age of 18 years is guilty of an";

(*d*) on page 7,

(i) in clause 14, by replacing line 7 with the following:

"under age of 18 years) and 810.2 (recognizance", and

(ii) in clause 15, by replacing line 23 with the following:

"age of 18 years) or 810.2 (recognizance —"; and

(*e*) by making any necessary consequential changes to the numbering of provisions and cross-references.

Basically, honourable senators, I am asking that the age be moved from 16 to 18 and that the definition of "provocation" be deleted and a new definition added.

Thank you, honourable senators.

Some Hon. Senators: Hear, hear.

• (1830)

The Hon. the Speaker: On debate on the amendments.

Hon. Anne C. Cools: Honourable senators, I wish to ask Senator Jaffer a couple of questions. Senator Jaffer has put a lot into this bill. Her statements have been so complete.

The Hon. the Speaker: Senator Jaffer, you have another six minutes to go. We can use those six minutes to answer questions, even though we are on debate on the amendments. I will allow the six minutes.

Senator Cools: Senator Jaffer, I thank you very much for what I would say was an extremely appropriate and fitting speech and analysis.

There are a few things about this bill which are bothersome. I wonder if you could address them. I shall articulate some questions to you so you can address them.

Bill S-7 is a massive invasion of the federal power into the provincial power under section 92 in respect of the solemnization of marriage and civil rights and property in the provinces. It is

very important that we examine that issue because, as we know, the solemnization of marriage was granted to the provinces after the first several drafts of the British North America Act when Quebec insisted and were concerned that their marriages in Quebec be conducted and solemnized by Roman Catholic priests rather than Protestant ones.

I looked at the list of witnesses. I note that no Attorney General from any province was called to comment.

Senator Jaffer: Senator, I did look at this, and I am given to understand that the federal government has a role and the provincial government has a role, and I am given to understand that the federal government can set the age of marriage as it is involved in the Divorce Act and other issues. So my understanding is that this is acceptable. We did not have any constitutional experts speak on it, so I may be wrong in my answer.

Senator Cools: Senator Jaffer, you mentioned the Civil Marriage Act. The 2005 Civil Marriage Act is a very recent act. The only reason it was enacted was to create the rights for same-sex couples to marriage. It left everything else to do with marriage in the sphere of the provinces. I have not understood what the purpose was in Bill S-7 in amending the Civil Marriage Act. Maybe you could explain, if you know.

Senator Jaffer: I don't know.

Senator Cools: Honourable senators, the final question is that the bill, on the face of it, appears to be using the Criminal Code which is a brutal instrument, and a very rough one, to regulate marriage. This is a huge and different kind of invasion into this almost sacred provincial sphere in the solemnization of marriage. Do you have any insights into that?

Senator Jaffer: When you get a bill, it's on an issue. It could be on cyberbullying; it could be on the Internet. This is an omnibus bill. We are talking about polygamy; we are talking about forced marriage; we are talking about national age of marriage; and then we are talking about amending the Criminal Code. This is just a hodgepodge bill. We did not get the opportunity to ask the Minister of Justice, who declined to come in front of our committee because the lead minister on this was the Minister of Immigration. The three issues were under his domain, but the Minister of Immigration was the lead minister.

Hon. Nicole Eaton: I cannot hope to emulate Senator Cools and some of her fine legal arguments, but I was sitting in committee and I never heard the minister once refer to people. He referred to barbaric acts.

If I were to say to my 15-year-old daughter, "Darling, I think it would be to my financial advantage if you went off to Bountiful and married your cousin of 20," would that not be barbaric?

Senator Jaffer: I don't know what you're asking me. What is barbaric? I'm not understanding. I quoted the minister's words exactly, so I'm not sure what you're saying.

Senator Eaton: The minister never referred to anybody being barbaric. He referred to acts being barbaric.

Senator Jaffer: He said violence against women was barbaric.

Senator Eaton: You do not agree?

Senator Jaffer: I hope you heard my whole speech. What I said is that we cannot say that violence against women is barbaric with the landscape that we have. If we are saying that that's barbaric, then all the violent acts that have happened in Canada, including the missing Aboriginal women and girls, are barbaric. Why are we not having a national inquiry on it? That is barbaric.

Why are we not having a national inquiry on it? That's barbaric.

Senator Eaton: That is not the focus of the bill, and I don't disagree with you. All action against all women is barbaric. I guess I don't understand why you have such difficulty thinking an early or forced marriage is not barbaric. I have trouble with why you think it's fine and that maybe it's not our customs and maybe we should be gentler. No; forcing someone to get married at an early age, is it not barbaric?

• (1840)

Senator Jaffer: I can't interpret what you think because I can't get into your mind, but I have told you that since 1999 I have been working on issues of forced marriage. I want the little girls to get help. I want them not to have to be in that. However, when you call their father barbaric, they are not going to go to get that help.

The Hon. the Speaker: Senator Jaffer, to finish your remarks, do you seek five more minutes? No?

Senator Jaffer: No.

The Hon. the Speaker: On debate. Honourable Senator Eggleton?

Senator Eggleton: No.

The Hon. the Speaker: Question?

Senator Martin: Question.

The Hon. the Speaker: We'll first deal with the amendment.

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: Those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: May I have the instructions from the whips?

Hon. Elizabeth (Beth) Marshall: A 30-minute bell.

Hon. Jim Munson: A 30-minute bell.

The Hon. the Speaker: The vote will take place at 11 minutes past 7 o'clock.

Call in the senators.

• (1910)

Motion in amendment negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Baker
Campbell
Chaput
Cools
Cordy
Cowan
Dawson
Day
Downe
Eggleton
Fraser
Furey
Hervieux-Payette
Jaffer
Joyal
Massicotte
Mitchell
Moore
Munson
Nancy Ruth
Ringuette
Sibbeston
Smith (*Cobourg*)
Tardif
Watt—25

NAYS
THE HONOURABLE SENATORS

Andreychuk
Ataullahjan
Batters
Bellemare
Beyak
Black
Boisvenu
Carignan
Dagenais
Demers
Eaton
Enverga
Fortin-Duplessis
Frum
Gerstein
Greene
Housakos
Johnson
Lang
LeBreton
Maltais
Manning
Marshall
Martin
McIntyre
Meredith
Mockler
Neufeld
Ngo
Oh
Patterson
Poirier
Raine
Rivard
Runciman
Seidman
Smith (*Saurel*)
Stewart Olsen
Tannas
Unger
Verner
Wallace
Wells
White—44

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: We are now back on the main motion. I recognize the Honourable Senator Eggleton.

Hon. Art Eggleton: Honourable senators, I am sorry that the very strong arguments and the passion that were displayed by Senator Jaffer have fallen on deaf ears. One has to wonder about how sober second thought is surviving these days. I can't think of one government bill that has come before this body in the time that there has been a Conservative majority which has been amended — not one.

You might say, "What about that Bill C-377?" That was a private member's bill. Or there was an amendment to the prostitution bill, but that was requested by the big boss. Other than that, we see a compliant group. Let's think about that. Sober second thought is certainly taking a beating.

You say, "Wasn't it the same when the Liberals were in?" Interestingly enough, the Library of Parliament did a study in the years 2001-2004 and it found that 10 per cent of the government bills coming before the Senate were amended. That's at a time when both the Senate and the House of Commons also had a majority by one party.

We are where we are. We have Bill S-7, which suggests doing some things that are already part of the law. You have to wonder, why is it being recommended that we have a further law on top of the laws that already exist? Things like forced marriages, female genital mutilation, polygamy and honour killings are already made illegal in this country by existing laws and interpretations of courts. They cover abduction, forcible confinement, homicide, abuse, et cetera. All of these things are covered.

• (1920)

The minister admitted when he came before the committee that there hadn't been any case where honour killing was successfully used before a court of law. So why have honour killings become the justification for doing this? It's not even mentioned in the bill, as I think Senator Jaffer pointed out, but it hasn't been successful, or mere insult in terms of the provocation aspect of things.

If the government wanted to be absolutely sure that mere insult or honour killings was not going to be used in a case of provocation, it could have said so. But it didn't. Instead it made a generalized change in provocation.

That can work against women, too. There are some times when women are provoked to feel that in their own self-defence, in their own circumstance, that they may commit a crime in the heat of the moment. So, it's not just men. It may well be women, as well. Yet what the minister said and what we've heard coming from the government side is that this has to do with violence against women and children.

Senator Eaton asked Senator Jaffer whether she thought many of these abuses — forced marriage, et cetera — were barbaric. You know what? That's not even the main point. That certainly is a problem in using the word barbaric here, but what are we doing about it in terms of providing the kind of services that people need? That's what many of the organizations that came before the committee said — that they can help resolve a lot of these things, if we give them resources.

For example, in the United Kingdom they talk about having a Forced Marriage Unit. They are actually providing services — human services. Instead, this government is just focused on the law and order. It's just focused on throwing people in jail, instead of being more focused on human needs. That's really what the issue is.

The many organizations that came to make that point are organizations that do help women and children who are being abused. For example, the Barbara Schlifer Commemorative Clinic assists over 4,000 women every year through their legal, counselling and interpreter services. What do they say about Bill S-7? They say this bill, if passed, will result in increased criminalization and deportation of certain racialized communities in Canada and will re-victimize — I repeat, it will re-victimize — women and children who are survivors of violence. It will create further institutional barriers for already marginalized communities to report violence and receive support.

Again, Senator Jaffer quoted the Executive Director of the South Asian Legal Clinic who came before the committee. In their 2013 report, the South Asian Legal Clinic of Ontario stated, and this is a very instructive point:

> Criminalization of FM's creates barriers for victims who need access to justice. First, victims will be more unlikely to report FM's because of their internal struggle with placing their family at risk. Second, due to the increased stigma, perpetrators of FM will be more skilled at hiding their attempts at forcing a marriage. The unfortunate result of creating these barriers is that victims will go deeper underground, instead of seeking support.

Now, what sense does that make? What help is being given to women and children? And this is from people who know and deal with these kinds of cases all the time. They pointed out that the Force Marriage Unit in the U.K. does an awful lot more than the implications that result from a law-and-order-type of legislation.

So we have those organizations.

The United Nations Children's Education Fund, the advocacy group, UNICEF, warns that the barbaric practices bill will criminalize children. Marvin Bernstein, who is the Chief Policy Advisor at UNICEF Canada, says that he understand the intent to project children in this bill, but, by protecting one child, we might be putting another at risk.

How is that? Well, he says that if a child can be forced into a marriage situation and that is a concern that we're trying to protect against, then why are we not contemplating that children could be forced into a situation where they are witnessing, celebrating or forced in some way to facilitate a forced marriage, including another child's?

So, this matter of criminalizing people who participate in some way in a forced marriage, who witness a ceremony — again, these could be children. They're not necessarily all going to be adults, so we could have a serious problem there.

Now, the Justice Department officials who came before the committee, when I asked them these questions, they said that, well, no, that's not the intent and they don't think that prosecutors will do that.

Well, we do operate under the rule of law, so it's not just a question of good intentions that is important here. It's important what the law says.

So UNICEF asked for some changes: that children be exempt from amendments made to the Criminal Code; that law enforcement authorities consult with children protection specialists before pursuing the legal process; and that children have access to Canada in cases where they are left behind in their home country by a father who dissolves a polygamist union in order to immigrate to Canada. Even in the polygamy case, you can see that women and children can be victimized.

It's also known that sometimes when a man comes to Canada and sponsors his wife to come over, that it can sometimes prove to be an abusive relationship. Yet the woman would be very hesitant to say anything about it, because the minute that there is the risk of the sponsor no longer financially supporting her, she rightfully fears — given the way that immigration is now enforced in this country — that she could be deported. She could become a victim again.

So, trying to protect women is not exactly what I think this legislation is about. I think this legislation is far more political in nature. You can tell that when you get to the title of the bill.

The title of the bill, I think, is very unparliamentary. I know this government has had a creative nature in dealing with the titles of bills. I understand that, but I think a lot of them go too far. This is one of them. This one says "Zero Tolerance for Barbaric Cultural Practices Act." I think that is unparliamentary and it should not be part of this bill.

You put the words "barbaric" and "cultural" together and I think you are casting aspersions on communities — not just on the individuals who carry out the acts, but on the community as well. If you look up the word "cultural" in the dictionary, it says

things like "a particular society that has its own beliefs and ways of life", et cetera. Another one says the "customary beliefs, social forms and material traits of a racial, religious, or social group." Still another definition is, "the customs, acts, social institutions and achievement of a particular nation, people, or social group."

Well, I think when you put these two words together, that's what you're getting. You're casting aspersions on communities and that's certainly what witnesses who came before the committee said. More than 90 per cent of the witnesses who came before the committee thought it was a very unfortunate title.

Again, the Executive Director of the South Asian Legal Clinic, Deepa Mattoo, said:

> Unfortunately, this bill actually says that violence is cultural when it is not. Violence is violence. . . .
>
> It blatantly targets marginalized and racialized communities through a racist framework. . . . it's inflammatory language.

That's what somebody who deals with these kinds of issues all the time is saying.

It wants to stop these issues as much as I think everybody in this place wants to stop these kind of problems — we all agree with that — but I just don't think that this bill is going about it in the right way. It's concentrating on putting more people in jail, convicting more people, as opposed to solving the problem. It will re-victimize, in effect as they say, women and children.

• (1930)

The other thing I find interesting in view of some recent press reports is the use of the word "barbaric." I guess we could call the federal government barbaric. Why is that? Well, we find out that the government supports the extensive use of solitary confinement. Solitary confinement for the mentally ill is for many a death sentence; and we saw that in the case of Ashley Smith and in the case of Edward Snowshoe. The number of people who die in solitary confinement is about half the number of people who die in the prison population; and the people who die in the prison population do so at a much higher rate than in the general population.

These practices go on for far too long: Edward Snowshoe was 162 days in solitary confinement, and he hanged himself. Ashley Smith was 2,000 in solitary confinement over a period of time, and she committed suicide.

Solitary confinement is a particularly evil thing. If you're going to impose it, as the government seems to want to do, and it has no desire to make any change, then it needs to at least look at how long a person is held in solitary confinement and their mental condition at the same time. I want to quote a couple of people on this. Nelson Mandela said:

> I found solitary confinement the most forbidding aspect of prison life. There is no end and no beginning; there is only one's own mind, which can begin to play tricks.

Senator John McCain, who was held as a prisoner of war in Vietnam, said:

> It's an awful thing, solitary. It crushes your spirit and weakens your resistance more effectively than any form of mistreatment.

That sounds barbaric to me. It's inappropriate for this word to be in the bill.

MOTION IN AMENDMENT

Hon. Art Eggleton: Honourable senators, therefore, I move:

> That Bill S-7 be not now read a third time but that it be amended:
>
> (*a*) on page 1, in clause 1
>
> (i) by deleting the heading before line 4;
>
> (ii) by deleting lines 4 and 5; and
>
> (iii) by making any necessary consequential changes to the numbering of provisions in cross references.

This would remove the short title and rely completely on the long title, which I think is a normal kind of title.

Hon. A. Raynell Andreychuk: I would like to ask Senator Eggleton some questions that I wanted to ask Senator Jaffer.

The Hon. the Speaker: Senator Eggleton, are you seeking more time to answer the questions of Senator Andreychuk? Are five minutes granted to Senator Eggleton?

Some Hon. Senators: Agreed.

Senator Andreychuk: This is a serious debate. I'm afraid that the way it's being presented in the chamber is misleading because we have bits and pieces and we are not getting the continuum of this issue.

I heard Senator Jaffer say she is against honour killings and against everything. The point is that we have tried to eradicate polygamy in Canada. We've tried to work on forced marriages internationally and haven't succeeded. Is it not time to indicate that it is a barbaric practice when internationally countries that have polygamy and forced marriages are joining hands and saying, "This is not our culture. This is not how we treat women"?

Senator Eggleton: Most definitely we shouldn't have forced marriages and most definitely we should do something about polygamy. However, I must say that polygamy has been illegal for a long time, about 100 years, but we still haven't done anything about it. We keep hearing about Bountiful, B.C., but nothing is being done there. Nothing has succeeded — governments of any stripe I must tell you, regardless. Instead, we're focusing here on the immigration aspect of it.

Well, if you're not going to allow someone into the country for being polygamous, that's fine, but that doesn't seem to be what this bill will do. Certainly, the victims in much of this action in an immigration sense could be the women and children; and that's what concerns me about suddenly tackling polygamy in an immigration sense when we haven't done anything here in this country.

The other thing is about forced marriages. Again, I go back to what Senator Jaffer said. Will a child go to a court and say, "My parents are barbaric; they're forcing me to marry"? I don't think that will happen. I don't think that's practical. It would function better if, as part of our social and human services, we were to deal with these matters to prevent them from happening in the first place. Just criminalizing forced marriage is insufficient and will only victimize the people we're trying to protect.

Senator Andreychuk: Senator Eggleton, you make a very good point that we have not eradicated polygamy or forced marriages in our country or elsewhere. However, you will recall the debate within our committee and the excuse not to proceed on cases of violence against women in a marriage because it would victimize them further and further marginalize them out of their group. We eventually said that all of our support and resource systems were not sufficient. They have to be in place. In fact, we changed our law and policies such that despite a woman saying she doesn't want to be separated from her husband even though he is beating her and she is in danger, the charges started to be laid; and I think women are in a safer place now with resources. You used the U.K. example, where they put in resources and put in the criminal section.

Is it not time after 100 years to try something? I did not hear any rebuttal on what we could do in a different way except to ratchet it up higher and put a stamp on it so that we can have a debate to see whether we're moving in the right direction. You will hear many women say that forced marriage is barbaric and polygamy is barbaric, in fact, those who have lived through it.

Senator Eggleton: So is solitary confinement for the mentally ill barbaric; but what will we do about that and what will we do about this? Support services: I didn't hear the minister or anybody say they would provide money for support services or to support these organizations that are starving for funds, such as the South Asian Legal Clinic of Ontario or the Schlifer Clinic, which deal with these people and problems every day. They're the ones who say that we're taking the wrong tack. They're saying that it's already in the law. We can deal with it under the current law, but we need the support services — the "forced marriage unit" concept. That's where I think this bill is wrong.

The Hon. the Speaker: For questions to Senator Eggleton, the time is up.

Senator Cools: I wish to speak to the main motion after all the amendments are defeated.

• (1940)

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Those in favour of the motion please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those who are against please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: The nays have it.

And two honourable senators having risen:

The Hon. the Speaker: Whips, can I be instructed?

Hon. Jim Munson: Your Honour, we wish to defer the vote until tomorrow.

The Hon. the Speaker: The vote is deferred until tomorrow at 5:30.

ECONOMIC ACTION PLAN 2014 BILL, NO. 2

SIXTEENTH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE ON SUBJECT MATTER—DEBATE CONCLUDED

On the Order:

> Resuming debate on the consideration of the sixteenth report of the Standing Senate Committee on Social Affairs, Science and Technology (Subject matter of Bill C-43 (Divisions 5, 7, 17, 20 and 24 of Part 4)), tabled in the Senate on November 27, 2014.

Hon. Jane Cordy: Honourable senators, I would like to speak briefly on the report from the Standing Senate Committee on Social Affairs, Science and Technology, which was tabled in the Senate on November 27. The committee's report deals with several aspects of Bill C-43, the government's second budget implementation bill. I would like to thank members of the committee. While members didn't all agree on many measures the committee studied, the committee's report is fair in recognizing the differing opinions.

As we are aware, Bill C-43 is another omnibus bill, and because of the unwieldy nature of such a bill, no fewer than seven different Senate committees were required to examine the proposed legislation. The Standing Senate Committee on Social Affairs, Science and Technology was tasked with examining the subject matter of those elements contained in Divisions 5, 7, 17, 20 and 24 of Part 4 of Bill C-43, the government's second act to implement certain provisions of the budget tabled in Parliament on

February 11, 2014. Firstly, I will speak briefly about Division 5 as Senator Eggleton did an excellent job of explaining this section in his speech on the report. As the report states:

> Division 5 would introduce amendments to the *Federal-Provincial Fiscal Arrangements Act* to modify the "national standard" for the Canada Social Transfer so that it applies only to certain groups of people. According to the national standard as currently defined in the *Federal-Provincial Fiscal Arrangements Act*, no residency requirement may be imposed by a provincial or territorial government on social assistance recipients without the possibility of incurring a penalty in the form of a reduction in the Canada Social Transfer from the federal government.

Honourable senators, the proposed amendment in Division 5 essentially removes any penalty imposed by the federal government for not following the national standard and opens the door to giving provinces and territories free reign to impose residency requirements in order to qualify for social assistance programs without reprisals from the federal government in the form of withheld Canada Social Transfer funds.

This policy change is directed at refugee claimants who come to Canada to seek a safe haven. They have no money and no resources, and many have no contacts or family in Canada. Honourable senators, refugees are unable to work in Canada until they can receive a work permit, which is after they have been in the country for six months. These are people in dire need of assistance with housing and food until they can get established. This amendment will now allow provinces and territories to deny these people the assistance they require through legislation by enacting a residency clause. Refugees could be left homeless and relying on charity to survive.

I am puzzled about the motivation behind this proposed change. Who is requesting this change and for what purpose?

We found out at committee that the provinces and territories did not request such a change. A government witness said that they had discussions with the provinces. As Senator Eggleton pointed out, the Ontario government said that they were not consulted, and inquiries to the Nova Scotia government revealed that they did not have any discussion with the government regarding residency restrictions either. So I am left to wonder who was consulted or who had the so-called discussions with the government officials. I am also left to question why the government is making this change. Since this is the same government that removed health benefits for refugees, one has to question whether we, as a country, are beginning to close the door to refugees. We certainly appear to be making it more challenging for refugees once they arrive in Canada.

I truly believe that there is something fundamentally wrong with this change. It is un-Canadian to target those most vulnerable and to abandon them. I fully believe that no provincial or territorial government would be so uncaring as to take advantage of this opportunity that the federal government is offering, but I can't help but worry that this is just a small part of a larger shift in government policy. I share Senator Eggleton's concern that we cannot foresee where this change will take us in the future and whether this change will be part of other changes some time down the road. There is uncertainty about the motivation behind this proposed change, and the potential of this change can devastate the lives of refugees who come to Canada to seek a safe haven. I agree with my Liberal colleagues on the committee who also expressed strong opposition to this clause at committee. I cannot support the proposed amendments in Division 5, particularly since the provinces and territories did not request the change, nor were they consulted about the change.

The committee also examined Division 20, and, again, while the majority of the committee supported this change, there were strong objections. As you know, the Chief Public Health Officer is currently the head of the Public Health Agency of Canada and is bestowed the status of deputy minister. This provision will strip the deputy minister status from the Chief Public Health Officer and will create the position of president of the Public Health Agency of Canada. This new president position will now head the agency and will be given the equivalent status of a deputy minister.

Our committee also dealt with Division 17, which introduces amendments to the DNA Identification Act to authorize the creation of new DNA indices within the National DNA Data Bank. As you know, the DNA Identification Act was proclaimed in the year 2000, and of course the use of DNA has contributed significantly to the solving of criminal investigations.

The proposed amendments to the DNA Identification Act would expand the use of DNA identification to support the investigations of missing persons by creating three new indices. The first is the missing persons index, comprised of DNA profiles of missing persons developed from personal effects like a hairbrush or a toothbrush. The second is the human remains index, comprised of DNA profiles found from human remains. The third is the relatives of the missing index, comprised of DNA profiles voluntarily submitted by close relatives of the missing or to compare against the human remains index.

Clearly, our committee is supportive of the goal of these changes provided in Division 17, which will strengthen and expand the role of the National DNA Data Bank. However, concerns were expressed by Daniel Therrien, the Privacy Commissioner of Canada, that the act will increase sharing of information with foreign states or international organizations. He recommended to the committee that:

> Given the concerns we have expressed about using missing person profiles for law enforcement purposes, and given that on two previous occasions Senate committees reviewing the DNA Identification Act have raised concerns about the possibility of sharing information with a foreign state with respect to an offence that may not be an offence under Canadian law, I would urge that the proposed amendments to increase international sharing be removed from the bill.

• (1950)

Mr. Therrien also expressed concern that humanitarian and law enforcement purposes should be treated differently. There is an obligation to protect personal privacy and, of course, there should be strict enforcement of the uses of the information from the National DNA Data Bank.

The committee also examined Division 24 of Bill C-43. This measure authorizes the Ministers of Citizenship and Immigration and Employment and Social Development to create a list with the names and addresses of employers found guilty of certain offences under the Immigration and Refugee Protection Act or an offence under any federal or provincial law that regulates employment or recruitment. The employers who are listed would not be eligible to access the Temporary Foreign Worker Program or the International Mobility Program.

Senator Merchant asked some excellent questions at the committee about who will determine the guilt of those employers. Witnesses also expressed concerns about not only the subjective determination of the guilt but also the lack of any appeal process.

Joyce Reynolds, the Executive Vice President of Government Affairs, Restaurants Canada, expressed her concerns with the proposed list. She is concerned that the bill will give department officials blanket authority to publicly expose an employer without due cause or natural justice. Her organization believes that there should be an oversight and appeals process put in place.

Mr. Maynard from the Canadian Bar Association also spoke about the list of employers created in Bill C-43. He commented that the lists would not protect foreign workers. Rather, the list will set up employers for loss of access to the program.

It is already the law that all employers must comply with provincial and federal recruitment law. He raised such questions as who gets put on the list? What does "found guilty" mean? He also suggested that the government should carefully identify and make public which offences will justify being put on the list.

Honourable senators, I believe most, if not all of us, believe that changes had to be made to the Temporary Foreign Worker Program, but as Gordon Maynard of the Canadian Bar Association stated in reference to the changes, "It has been a huge over-reaction of the government . . . ."

This is the government's attempt to come down hard on the big chain restaurants and multinational corporations and the reported abuse of the Temporary Foreign Worker Program. No consideration was given to the thousands of small, independent, family-owned and operated restaurants and businesses that rely on the program to staff their operations. No consideration was given to the disabled or elderly who rely on the Temporary Foreign Worker Program to find qualified caregivers.

The new regulations put in place by the minister have only made it financially challenging for many Canadians to hire a Temporary Foreign Worker, and it has created hardships for many families. Escalating fees and ever-changing application requirements have made the system unviable for these Canadians.

As Joyce Reynolds said to us in committee:

> In Alberta, where our members primarily make use of the Temporary Foreign Worker Program, it can take months for these to be processed.
>
> The other thing that's happened is that the application form has changed three times since June. You submit an application. You pay your $1,000 fee. If there's some minor problem with the application, it gets sent. Then, you have to submit another one with another $1,000 fee. You can't even use the same application. You have to use a different application. You have to start the process all over again.
>
> It was tough enough when the fee was $275. It's just become unviable . . . .

Honourable senators, I agree changes had to be made to the Temporary Foreign Worker Program, but I feel Division 24 of Bill C-43 is indicative of the hastily conceived and rushed response by the government to the problem. There is a lack of oversight and understanding of the consequences these changes would make to individual Canadians. There are Canadians who rely on the program for their livelihood or for their quality of life, as is the case for the elderly and those with disabilities who are seeking caregivers. I agree with Gordon Maynard when he referred to the proposed changes as a huge over-reaction.

The $1,000 fee, which the government imposed in June, is an extreme hardship for seniors or Canadians with a disability who are on a fixed income and are seeking a temporary foreign worker as a caregiver. The fee of $1,000 is for an application, whether approved or not. If the worker for any reason does not accept the job, then a new application is needed and another $1,000 must be paid. I believe this is unfair for those on fixed incomes. Surely there can be exceptions made within the program.

Honourable senators, Bill C-43 is just the latest massive omnibus bill from this government and another example of its abuse of power. So many measures in this bill do not belong in a budget implementation bill and deserve closer examination and consideration on their own.

Because of this and the reservations I have outlined, coupled with the objections we have heard from witnesses in committee with this piece of legislation, I will be unable to support this bill.

The Hon. the Speaker: There is no question because there was no motion to adopt the report, so if no other senator wishes to speak, this motion is considered debated.

(Debate concluded.)

CANADA LABOUR CODE PARLIAMENTARY EMPLOYMENT AND STAFF RELATIONS ACT PUBLIC SERVICE LABOUR RELATIONS ACT

BILL TO AMEND—THIRD READING—VOTE DEFERRED

Hon. Scott Tannas moved third reading of Bill C-525, An Act to amend the Canada Labour Code, the Parliamentary Employment and Staff Relations Act and the Public Service Labour Relations Act (certification and revocation — bargaining agent).

He said: Colleagues, I rise again today to speak to Bill C-525, a bill that I have said in the past and I will say again is a common-sense bill. This bill enhances the democratic rights of Canadian employees in federally-regulated sectors by adding a secret ballot vote for the certification and decertification of unions.

The current card check system for federally-regulated industries requires that 50 per cent plus one of workers sign union membership cards for automatic union certification. This system, in my view, is open to abuse, whereby co-workers and other interested parties could pressure employees into signing union cards. Rather than automatic certification of a union, this bill would require a 50 per cent plus one majority of votes cast in a secret ballot supporting certification.

At second reading, our honourable colleague Senator Fraser voiced her concern that intimidation by unions isn't a big problem and that none of the relevant parties — by which she meant the unions, the employers and the Canada Industrial Relations Board — have asked for this bill.

Colleagues, I would like to point out to you that there is one relevant party to this legislation that hasn't been mentioned, and that's the employees themselves. Indeed, it is this group, the employees — ordinary Canadians — who were the inspiration for MP Blaine Calkins to initiate this legislation. He testified at the committee that he heard of this issue from his constituents.

It appears that Canadian workers agree with his initiative. In fact, independent polling data shows that greater than 80 per cent of respondents from all of the Canadian provinces believe that there should be a secret ballot for the certification and decertification of unions. It's particularly notable that of the respondents, those who were already unionized showed the highest level of support for the idea of secret ballot votes. I believe this shows pretty clearly that there is a great desire among workers for the secret ballot vote.

• (2000)

In regard to any concerns that there may be about union intimidation not being a big issue, I would respond with a few thoughts. First, just because the Canada Industrial Relations Board has only two founded cases of unfair labour practices by unions does not mean there aren't hundreds of other cases of union intimidation that go unreported. Conversely, just because the Canada Industrial Relations Board has only had four unfounded cases of unfair labour practices by employers does not mean that there are not hundreds of cases of employer intimidation that go unreported as well. The committee heard a number of unions say that there are, in fact, hundreds of instances anecdotally they could cite where they felt that there was intimidation by employers.

Regardless of how much intimidation is actually perpetrated either by union leaders or employers, a secret ballot vote will have a mitigating effect. Employees would be free to vote their conscience without fear of any third party who may unduly influence their vote.

I also don't believe the scope of the problem is an adequate justification for inaction in the case of the rights of workers. If we can replace the current system with something that the vast majority of Canadians, including myself, believe is more democratic and better protects the rights of working Canadians, then we should do so. More than half of the Canadian provinces representing a majority of Canada's workforce already use a secret ballot system. This bill is simply bringing workers under federal jurisdiction to the same level.

In committee, we heard from union representatives that switching from a card check system to a secret ballot vote will make it harder to unionize. It should not come as a surprise to anyone that it is easier to unionize when a person can show up at a co-worker's home with a couple of friends and ask, politely or otherwise, that he or she sign a union card. But that doesn't mean it's a fair process for workers who are being asked to make an important decision.

I respectfully submit that focusing on the ease or difficulty of unionization misses the point of the legislation. It's about having a fair process. Specifically, a secret ballot vote will allow employees to voice their true opinion without fear of intimidation from unions or from employers.

That, colleagues, is a fair process, a process that is already in place and works well for a majority of Canadian workers, a process that is supported by an overwhelming majority of Canadians and even larger majority of Canadian unionized workers.

I encourage all of you to support this bill.

Hon. Joan Fraser (Deputy Leader of the Opposition): I congratulate Senator Tannas on his very clearly expressed and carefully phrased attempt to make a silk purse out of a sow's ear.

Colleagues who heard my second reading speech will be aware, even if Senator Tannas hadn't reminded us, that I believe this to be a bad bill. The committee hearings that I was able to attend — and I read the transcripts of the other one — only persuaded me that I was right. It is, at least as drafted, a bad bill.

This is ostensibly a pro-democracy bill, although one of the interesting sidelights that my colleague Senator Baker raised in committee is that, in fact, it makes it more likely that union certification or decertification could occur with less than a majority of the workers actually wanting it to occur because the secret ballot that will be conducted will — and I believe this to be fully proper — count only the votes of those voting. Originally the sponsor wanted to count people who didn't get around to voting as having voted against certification and, if memory serves, for decertification.

That would have at least indicated that there was majority support for a given position. Now it's just going to be 50 per cent plus one of those voting, and even though voting in this kind of vote tends to have a high turnout, it's never or almost never 100 per cent. So we'll just have to see how that works out.

But the real effect of this bill is not to create democracy. It is — and I believe this is at least part of the intent of the bill — to diminish unionization. That's what they want. People who support this bill told the committee that yes, that would happen, and they thought that was a good thing.

Let me begin by disposing of — if I may change metaphors from sows' ears — a great big red herring.

Witnesses told the committee, as they had told the committee in the other place, that private members' bills are not a good way to change labour law because labour law is extremely complex; and for any system of labour relations to work well, it must be based on mutual understanding, mutual trust and a sense that the system is in fact fairly designed to serve, to the extent possible, the needs of all parties.

This has been accomplished for many years in Canada by careful, detailed consultation among the parties before the law meddles with a system of labour relations that actually works and is admired around the world. That's the right way to do it.

The wrong way, it was suggested to us by most witnesses, is to engage in unilateral, single-issue private members' bills based not on consultation with parties involved but on the opinions of the sponsor of the bill.

You don't have to take my word for it and you don't have to take the unions' word for it. I quote again at third reading Mr. John Farrell, who is the Chair of FETCO, the largest employers group that will be affected by this bill. He supports the bill, but he doesn't like how we got there, and he's nervous about the precedent. He said:

> This critical tripartite, pre-legislative consultation process is bypassed where changes to the Canada Labour Code are proposed through the mechanism of one-off private members' bills.

Still quoting him:

> The use of private members' bills as a method of labour law reform tends to politicize labour relations. It will cause the pendulum to swing between labour law extremes and will create labour relations instability.

The pendulum is swinging, dare I say, to the right with this bill. It can swing back correspondingly to the left. That's a good recipe for instability.

Somehow while this argument was being carefully explained to senators on the committee, an assumption arose that this argument is an attack on the right of parliamentarians to present private members' bills. I mean, honestly, that is sheer nonsense. Nobody disputes — certainly nobody in this chamber and certainly not me — the right of parliamentarians in either chamber to bring forward a private member's bill. That does not mean that all private members' bills are automatically good.

• (2010)

We have the right and the duty to assess every bill — government bill or private member's bill — that comes before us to see if we believe it is wise in its conception, appropriately drafted, worth passing, worth amending or sometimes worth rejecting.

Of course, I have to admit that this particular private member's bill from Mr. Blaine Calkins, as Senator Tannas said, is no longer strictly a private member's bill. The government backs it, as it seems to back so many "private" members' bills. It backs it strongly enough that it put it on its "must" list of bills that have to pass before Christmas.

Anyway, why is this so very clearly an anti-union bill? Well, for a number of reasons, but two that concern me particularly come down to the basic question of delay.

The first kind of delay is the delay between the signing of a union card and the holding of the certification vote. This does, indeed, allow time for interference and intimidation. Interference and intimidation can, as Senator Tannas said, occur on either side. Unions or employers can engage in interference and intimidation but, colleagues, the imbalance is gigantic.

Intimidation and interference occur far more often from employers than from unions because, as I said at second reading, the employer has the power of the purse and can use that power to frighten employees about whether they will still be employed if they become unionized.

In British Columbia, for example, which has the secret ballot system, a study by Professor Sara Slinn from the Osgoode Hall Law School found that between 1990 and mid-2007 the overwhelming majority of both complaints and unfair labour practice findings were made against employers. Of the complaints in British Columbia in that period, 78 per cent were filed against employers and only 21 per cent against unions.

Okay, it's easy to complain, but what about the findings after the complaints had been investigated? After investigation, 88 per cent of the findings were against employers, and only 11 per cent against unions. And the same story is repeated in many places.

What kind of interference, what kind of intimidation? It usually goes to the prospect of losing your job, which is pretty powerful intimidation for most people.

The second kind of delay that is involved in this bill is the delay in calling the vote after a union has applied for — well, it used to be for certification, now it will be for certification post vote. That is to say between the signing of the cards and the holding of the vote. It is well established that the longer the delay between the signing of the cards and the holding of the vote, the less likelihood there is of success in that vote for those who asked for it.

In Ontario, this is Professor Slinn again, between 1995 and 1998, when there was poor enforcement of election time limits — Ontario ostensibly has a five-day limit but it was not always enforced as it might have been — delayed elections had a 32 per cent — nearly one third — reduction in the odds of success.

In British Columbia between 1987 and 1997, again with poor time-limit enforcement, there was a 10 per cent reduction in the likelihood of certification for every 5 days the election was delayed. If the election is delayed 5 days, 10 per cent less likely to

succeed; if the election is delayed 10 days, 20 per cent less likely to succeed, and so on. These questions of delays are not theoretical or academic.

Outside the government, in the private sector, the body that will be administering this bill, should it become law, will be the Canada Industrial Relations Board. Will it be able to hold timely votes? It was clear to us that it wants to.

The chairperson of the CIRB, Ms. Elizabeth MacPherson, made it very plain that she believes timely votes are very important, but goodwill is not necessarily enough. She estimates, and I think this may be an underestimation, that she will need three more full-time equivalent staff once all certifications have to involve a secret ballot vote. I think that is an unrealistically conservative estimate, but it is her estimate. However, she has had no indication whatever that she will get any new resources, not even one full-time equivalent person. So she said that the board would aim at holding votes within five days of receiving the request for a vote for certification.

Later there was a suggestion that this should be increased to 10 working days, because of the sheer distances involved in our geography. As somebody said, if you have to hold a vote on the same certification in Iqaluit and Whitehorse, you've got costs and time delays for travel. It's not going to be easy to meet the standard. It's particularly not going to be easy, in my view, in light of the fact that even now, when the board tends to hold secret ballots in less than 20 per cent of the certification requests that it receives, it has terrible trouble meeting its own performance targets.

The board has established a target of 50 days for the handling of certification applications but, as material provided by the board points out, in cases where a vote is ordered, this target of 50 days is very difficult to meet. In the last fiscal year, 2013-14, 0 per cent of the certification applications where a vote was held met the performance targets of 50 days. The same was true in 2011-12.

I wish I could believe that they'll be able to do it in 5 or 10 working days, but I have trouble in believing that, terrible trouble.

You know, it's not only the CIRB that will face problems of resources if this bill becomes law — so will unions. I quote something Ms. MacPherson said to us in committee. She said that it's important to hold a vote as soon as possible, and it takes resources. She went on to say:

> I suspect that unions may not try to organize small units going forward, given the costs that will be associated with organizing such units, and, therefore, perhaps the most vulnerable people will be left without union representation.

It sounds like a likely outcome to me.

• (2020)

The bill's supporters think that's just fine. They don't like unions. They don't want any more people to be unionized than they can help. I suggest that few other people, and very few legislators, should take that particular stance.

Mr. Calkins, the sponsor of this bill, says he talked to his constituents — not apparently to anyone else, but he talked to quite a few of his constituents.

Well, views can vary from riding to riding. Mr. Calkins is an MP from Alberta who rejoices in the fact that he got 81 per cent of the vote in his riding in the last election. That's quite an achievement, but it also speaks to the nature of his riding, the nature of the way people think and feel and believe in his riding. That riding may not, dare I say, be typical of the rest of the country.

Okay. So far I have talked about the substance and the intent of this bill. Now let me turn to its drafting.

Colleagues, one more time, the Commons has sent us a bill containing an error. Wait for it — an error in numbering. Can't anybody over there count? Can't anybody over there read? It's becoming tiresome.

In this particular case, Bill C-525 includes a specific kind of amendment to both the Public Service Labour Relations Act and the other one whose long name I forget. But anyway, in the case of the one whose name I forget, they got it right. They made a change in the law that will affect the board's ability to certify or decertify union organizations, to judge whether they're legitimate or not. Then, having made that change, they followed through and adjusted the necessary other sections in other statutes.

But then, when it came to the Public Service Labour Relations and Employment Board, they made the same change in Bill C-525, but they forgot to change the other statutes. The effect of this is that the board loses powers which everybody thinks it should have.

Ms. Catherine Ebbs, who is the chairperson of the Public Service Labour Relations and Employment Board, said that the impact of this change is not fatal, not lethal, because the board can find other, longer ways to get to the same end. But she said the impact of this change is not trivial. It is not trivial because it will require the board to perform additional duties and will mean — wait for it — delays in processing applications for certifications by councils of employee organizations. More delays.

The Commons may not have noticed what it was doing. This particular problem arose because of amendments that were made in committee and not properly examined for their effect on other statutes. The Commons may not have noticed, but we've noticed. We've noticed.

Senator Bellemare had legal advice. She was the one who first alerted us to this problem. We talked about it in committee. We talked about it at length in committee. What did the committee decide to do? Nothing. Vote in favour of a bill we know to be flawed — that's what they decided to do.

Honestly, it's beyond embarrassing, colleagues. You know, it would be so simple to fix this bill by making a simple amendment to it — well, a couple, actually, of simple amendments. But oh,

no. The argument is, "Well, we couldn't do that because it would kill the bill. We'd have to send it back to the House of Commons, and then it would never see the light of day again."

Senator Cordy: Instead we have a flawed bill.

Senator Fraser: We would have a bad law in preference to sending it back to the House of Commons. That's basically the argument. I'm getting tired of hearing this argument. You know, it's been presented to us in the case of Bill C-428, Bill C-442, Bill C-394, Bill C-290, and now Bill C-525. In the case of Bill C-394, the argument might hold some water because its original sponsor in the house had gone on to become a parliamentary secretary, and according to their rather strange rules, that meant he couldn't continue with his sponsorship of the bill.

With the other bills, this is an absolutely spurious argument. If we amend a bill — and it is our constitutional duty to engage in legislative oversight — if we amend a bill that came to us from the Commons, yes, it goes back to the House of Commons; and everybody is terribly worried because it would go to the bottom of their list of precedence. Do you know what happens down there? They trade up the list of precedence. If this is a bill that enough people want — and certainly the government obviously wants it — it can arrange to have it traded up that order of precedence in no time flat.

Instead, the suggestion is that we pass the bill, but the committee did utter observations. The observations say that the committee was made aware of a minor drafting error. Remember Ms. Ebbs, who said this is not a trivial matter? Minor drafting error. Their suggested solution is that the bill be adopted as is, now, and that the drafting error be corrected in future legislation prior to Bill C-525 coming into force. The bill calls for it to come into force within six months. So it is much too worrisome and difficult to correct the bill now. Instead, we're asked to put our faith in future changes that may or may not be presented in fresh legislation, starting from scratch: first reading, second reading, third reading twice, report stages — all this in six months.

How much simpler would it be simply to amend the bill? Not to do so is, in my view, sheer abdication of our constitutional duty.

MOTION IN AMENDMENT

Hon. Joan Fraser (Deputy Leader of the Opposition): Therefore, colleagues, I move, in amendment, that Bill C-525 be not now read a third time but that it be amended as follows:

1. on page 5, by adding after the heading "**PUBLIC SERVICE LABOUR RELATIONS ACT**" and before line 13 the following:

"8.1. Paragraph 39(*d*) of the *Public Service Labour Relations Act* is replaced by the following:

(*d*) the authority vested in a council of employee organizations that is to be considered the appropriate authority within the meaning of paragraph 64(1.1)(*c*);**"; and**

2. on page 6, by adding after line 36 the following:

"12.1. Subsection 100(1) of the Act is replaced by the following:

100. (1) The Board must revoke the certification of a council of employee organizations that has been certified as a bargaining agent if the Board is satisfied, on application by the employer or an employee organization that forms or has formed part of the council, that the council no longer meets the condition for certification set out in paragraph 64(1.1)(*c*) for a council of employee organizations.**".**

The core is the change from paragraph 64(1) to 64(1.1). It looks small, but it is, as I say, not trivial.

An Hon. Senator: Well done.

The Hon. the Speaker *pro tempore***:** It is moved by the Honourable Senator Fraser, seconded by the Honourable Senator Munson — shall I dispense?

Senator Fraser: Dispense.

• (2030)

The Hon. the Speaker *pro tempore***:** Debate on the amendments? Senator Baker.

Hon. George Baker: Honourable senators, it will be a very brief comment. I wish I had written this in a speech because it's so important, first of all, to congratulate the chair and every member of the committee, including Senator Tannas, who came to the committee as the sponsor of the bill.

Half the provinces in Canada have a secret ballot and half of them don't. Newfoundland just switched to the secret ballot, which makes it six and four, but given a change in government, Newfoundland will switch back again to the other system, because it depends on what government is in power. So the question is should certification and decertification be done by a secret ballot? That was the question before the House of Commons when the bill was introduced.

Now, as Senator Fraser pointed out, we have dealt with this problem before in a similar manner. We had a bill that had substantial errors in it, and it was about gangs in Toronto. There was a provision that put in a mandatory minimum sentence for those people who encouraged young people under the age of 18 to join gangs, when all of the news media was filled with shootings. During the committee stage of the bill in the House of Commons, the NDP moved an amendment that was agreed to in the committee.

Let's not forget the process in the House of Commons for private members' bills. Government bills are dealt with by the Department of Justice, and there is a coordinating committee of heads of committees who vet the pieces of legislation so that there are no errors in the legislation. With private members' bills — and

we've seen a lot of them lately from this government — there is a one-pager provided by the Department of Justice as to whether or not the private member's bill is lawful, whether there are any errors in it. At the appropriate moment when it gets to committee, a motion is made, usually by the parliamentary secretary for that department, and the change is made so it will satisfy whatever law is being changed.

However, what happened with that bill, and what's happened with this bill, is that during the changes taking place in the standing committee in the House of Commons, several amendments came forward that had not been vetted by the Department of Justice, and that's where the confusion came in. All of a sudden with the previous bill that happened about three months ago, the word "coerce" was put in the wrong place in the bill so that it made no sense. It's what they call in law a "manifest absurdity." A section of the bill that was referred to no longer existed, again an absurdity.

So judges look at that and say that here is a law that applies to a section of the law that no longer exists. Well, that's an absurdity; and it's plain, so it's a manifest absurdity. So we're going to figure out what the legislature meant by passing this absurdity, and the determination is made by the court.

It was a gross error three months ago that was made by the House of Commons standing committee. We passed the bill with an observation that an amendment be made to the bill by the House of Commons to satisfy these absurdities in the bill.

What happened with this bill? A similar thing happened. You have the unfortunate headline here on the weekend saying "Senators ready to pass union bill despite drafting errors."

This bill, as I said, will determine the question: Should certification votes and decertification votes be held by secret ballot, or should it be done by a signature, with the union collecting the signatures at 50 per cent plus one? That is the subject.

The House of Commons has passed the bill. What's the intent of Parliament? The intent is to have a secret ballot on the certification and decertification of a union that's covered by three pieces of legislation that are federal in nature.

So the question becomes, should the Senate amend the bill? Senator Tannas put forward a pretty strong argument which was referenced by Senator Fraser, and Senator Tannas put it clearly. He said that when a private member's bill is amended in the Senate, it goes back to the House of Commons because the principle is that every word has got to be the same. If a bill is passed, then it must be passed with every word exactly the same in the House of Commons and the Senate.

So it goes back to the House of Commons, but where is it placed on the Order Paper? It's placed on the Order Paper in what they call the "order of precedence." There are 30 private members' business matters on the list at any given time. It's done by member's name, not by subject matter.

As Senator Tannas pointed out, if we amend the bill, it goes back to the House of Commons and becomes No. 31. You take them in the order of precedence, unless there is some deal made. Senator Tannas pointed out that it normally takes three days because there are two days of debate on each motion; so you're talking 100 days. One hundred days is six months. If you're sitting Monday to Friday, you're into July. He came to the conclusion, look, the intent of Parliament — here it is — are we going to kill the bill? That was his argument. That was the argument of Senator Plett in the last piece of legislation we dealt with. That's the question before the Senate.

Granted, I agree with the necessary amendments that are being put forward. They are manifest absurdities, because in both cases they refer to sections of the bill that no longer exist. There are errors in the bill. They no longer exist. Senator Tannas' argument is to let it go through and let the courts figure it out, but we'll make an observation that says that we recommend, as a Senate, that this be changed before this law comes into effect.

That was the additional sentence that was put on to the observation that we made in the last error that took place in the House of Commons.

The point of my intervention is this: With the advent of private members' bills substantially changing legislation in such important public matters, the process in the House of Commons is badly flawed. It is not the government's fault. It is not the fault of the sponsor of this bill that it's worded the way it is. That's not the way the sponsor worded it.

• (2040)

I went over the records with this bill because I wanted to make sure what happened here. What has transpired is plain absurdity. I congratulate Senator Bellemare for pointing out one of the errors. It was Senator Cowan who pointed out the second error. He's to be congratulated as well.

What caused these errors, and how can it be corrected? I hope the House of Commons is paying some attention because we're going to get to the point where there are so many absurdities in Canadian law that you'll wonder what is the law, if this keeps up the way it is.

How can it be corrected? The House of Commons standing committees that deal with these bills. You have in this case four amendments before the committee on one particular aspect, three of them NDP amendments put forward. The NDP amendments were the worst ones as far as cancelling out portions of bills that should not be cancelled out. So that's where the problem lies. There is no check in the House of Commons after that change is made and the bill goes to report stage. Now the damage is done. Either the Department of Justice has to step in at report stage in the House of Commons and say that there are manifest absurdities in this bill, or the Clerk's office in the House of Commons assumes another role at report stage and says that this cannot proceed the way it has proceeded.

We all know we can't trust the members of Parliament who made these mistakes. These are obvious errors; we can't trust them to make the corrections. We need somebody of some judicious nature to look at it and say there are manifest errors in this legislation. That's why I make the intervention I make today.

There are other bills. We have Bill C-290 before us. That can't be sent back.

In the case of the other bill as well, Mr. Parm Gill was the sponsor of the bill, a Conservative member who had been made a parliamentary secretary. Bill C-290 is from the Deputy House Leader, Deputy Speaker of the House of Commons, the NDP house leader. In both of those cases, if you are the Speaker or Deputy Speaker, or a parliamentary secretary, and the bill is amended in the Senate, it goes down to the bottom of the big list, so you become No. 129. If it's a private member's bill and the person is still a private member and you amend the bill here, as in this case, it goes down to No. 31 on their order of precedence.

We have to impress upon the house, and I think the committee has done a fair job of it, given the problems we faced, saying this bill should not become law until these errors are corrected. That's what this committee has done in its observations on this bill. I congratulate each member of Standing Senate Committee on Legal and Constitutional Affairs for taking that extra step on this bill.

[*Translation*]

Hon. Diane Bellemare: I would like to ask Senator Baker a question.

Senator Baker: Yes.

Senator Bellemare: I am very interested in this debate, and I spoke about this issue in committee. I do not want to speak about the substance of the bill right now, but perhaps I will some other time.

[*English*]

Do you think it would be wise that the recommendation that the committee submits to the Senate becomes a motion so that there is more pressure so that a solution is found to the present absurdity?

Senator Baker: It's an interesting question, but I will answer it this way: I have seen observations made by a committee of the Senate used in case law. In other words, I have read out to the chamber on past occasions case law from the superior courts that have said an observation was made by the committee. The observation is on the website. I know that, and it doesn't have the effect of a complete motion, but you accept what the standing committee has made as a part of the proceedings of the Senate. It is referenced in case law as being of some importance, so I think that given the matter, although it might be better to have it as a motion — it might solidify matters more — as I've seen in the past, this observation has a great effect.

The Senate is made up of a majority of government members, Conservative members. Senator Tannas' motion was that our observation go beyond previous observations and we say that not only do we want this corrected —

The Hon. the Speaker *pro tempore*: Senator Baker, your time has expired.

Senator Baker: I ask for five minutes.

The Hon. the Speaker *pro tempore*: Would the chamber grant Senator Baker five more minutes?

Hon. Senators: Agreed.

Senator Baker: I will conclude with this. I've seen it in case law. I will tell you that every month that goes by — I looked at it just this morning — every week that goes by, there are two cases in Canadian jurisprudence that quote something from this Senate, and it has increased. It has actually increased in the last two and three years.

They don't get that in the House of Commons. It's another illustration that the committees of the Senate, as far as legislation is concerned and the work we do, are really having an effect. In other words, it's used.

The Supreme Court of Canada said that our primary function is to provide sober second thought. This is sober second thought. The Senate of Canada is doing a great job, but we can't do the job unless the House of Commons is operating properly and its committee system is set up so that we don't have these manifest absurdities confronting us every third or fourth bill we have. But they will take notice of this debate and of this observation made by this committee and the Senate. I think it will go a long way when the House of Commons and all of the political parties are told that the Senate advises that this bill not be brought into effect until these corrections are made.

They may not pay any attention, but we should do it again if the occasion arises.

Senator Tannas: I want to thank Senator Baker for his intervention. As the newest member of the chamber and therefore the least experienced, it was both daunting and awesome to have such an eloquent and sharp critic as Senator Fraser, and I was very grateful to be able to listen to your intervention and hide behind your skirts. Thank you, sir.

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

Some Hon. Senators: Question.

The Hon. the Speaker *pro tempore*: It has been moved by the Honourable Senator Fraser, seconded by the Honourable Senator Munson — shall I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker *pro tempore*: All those in favour of this motion please signify by saying "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: All those against this motion please signify by saying "nay."

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker *pro tempore*: I see two senators rising.

Have the whips come to an agreement?

Hon. Jim Munson: Your Honour, we wish to have a 30-minute bell.

The Hon. the Speaker *pro tempore*: We will have a 30-minute bell, which will bring the vote at 9:19.

Call in the senators.

• (2120)

Motion in amendment negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Baker
Campbell
Chaput
Cordy
Cowan
Dawson
Day
Downe
Eggleton
Fraser
Furey
Hervieux-Payette
Jaffer
Joyal
Massicotte
Mitchell
Moore
Munson
Ringuette
Smith (*Cobourg*)
Tardif
Watt—22

NAYS
THE HONOURABLE SENATORS

Andreychuk
Ataullahjan
Batters
Beyak
Black
Martin
McInnis
McIntyre
Meredith
Mockler
Nancy Ruth
Neufeld
Ngo
Oh
Poirier
Raine
Rivard
Runciman
Seidman
Smith (*Saurel*)
Stewart Olsen
Tannas
Unger
Verner
Wells
White—43
Boisvenu
Carignan
Dagenais
Demers
Eaton
Enverga
Fortin-Duplessis
Frum
Gerstein
Greene
Housakos
Lang
LeBreton
MacDonald
Maltais
Manning
Marshall

ABSTENTIONS
THE HONOURABLE SENATORS

Bellemare
Wallace—2

The Hon. the Speaker: On debate on the main motion, the Honourable Senator Cowan.

Hon. James S. Cowan (Leader of the Opposition): Colleagues, I had not intended to speak to this bill until last week. It has been my view, and I continue to hold the view, that this is a bad bill. It is another example of this government's determination to undermine unions in this country.

Our committee heard strong, independent testimony that the reasons asserted for needing this bill do not in fact exist. Once again, we have a bill that's a solution in search of a problem and, once again, we're told that the solution itself could well bring about bigger problems than any it would solve.

In the past I've spoken at length against this government's ideological attacks on its perceived critics, including unions, but that's not why I rise to speak to you today. It's the disturbing process that this government is repeatedly using to pass legislation in this country that compels me to speak tonight.

It is, of course, not even two weeks since I spoke to the process on another private member's bill put forward by the other side. In that case, the government used its majority on a Senate committee, and then in this place, to pass a bill after refusing to permit senators to hear from witnesses who opposed or wanted to raise questions about the bill. Witnesses whose views did not align with the government were excluded from the process, shut out and, in at least one case, their submissions were buried until after we concluded our deliberations.

Think of that. We were told to vote on Bill S-219 when opposing views had deliberately been kept from us. That's wrong, and I therefore abstained from that vote because the government's actions made it impossible for me to reach a proper conclusion on the merits of the bill.

Now, once again, the government is using its majority to pass a bill — another private member's bill, not even government legislation — that they admit contains mistakes that our Legal and Constitutional Affairs Committee heard will create significant problems for the board charged with the administration of the statute being amended, namely the Public Service Labour Relations Act.

My colleague, Senator Fraser, has detailed the mistakes admirably in her speech. To briefly recap: The members of the other place amended the bill after their committee study. Unfortunately, they didn't notice that there were consequential effects to one of their amendments. The result is if we pass Bill C-525 in its current form, then two sections of the Public Service Labour Relations Act will refer to a non-existent paragraph of the act.

The implications of this, our committee was told by civil servants in carefully chosen language, are "not trivial." One of the sections in question delegates a particular regulation-making power to the Public Service Labour Relations and Employment Board. The chair of that board told our committee:

> I think the board has to prepare for the eventuality that, if it's written in this way and stays in this way, one consequence could be that we lose our regulation-making power in that area. The regulation that's already in effect would not be valid, and we would be risk-managing. What would we do in that eventuality?
>
> I don't think that we are in a position to say how the courts might deal with it in the future.

• (2130)

So a regulation-making power, duly and presumably thoughtfully and intentionally passed by Parliament, will disappear. To make matters worse, a regulation already made under this power that is now in effect would no longer be valid.

The section and the regulation deal with the board's power to certify a council of employee organizations as a bargaining agent for those organizations. It relates to how the board determines whether the council in question actually has the crucial appropriate authority vested from each of the employee organizations, one of the essential elements that has to be established before the board must — mandatory language, "must" — certify the council. So this mistake, colleagues, will impact the ability of federal workers to become certified as a bargaining agent.

This was not the purpose or intent of Bill C-525. No one on our Legal and Constitutional Affairs Committee, or in committee in the other place, heard any evidence about the merits of doing this because it was not supposed to be part of Bill C-525. It was a mistake, the result of a drafting error.

The issue raised by the second section at issue is, if anything, even more serious. That's found in subsection 100(1) of the act, where Parliament requires the board, in mandatory language, to revoke the certification of a council that has been certified as a bargaining agent if the board is satisfied that it no longer meets the conditions for certification set out in paragraph 64(1)(*c*) of the act. The problem, as we have heard, is that if we pass Bill C-525 in its current form, there will be no paragraph 64(1)(*c*). That paragraph will become 64(1.1)(*c*).

The chair of the board was asked about the impact of this, and this is what she said:

> We have reviewed this section and the effect is similar to the issue of the regulation-making powers, in that meeting the conditions for certification set out in a paragraph that no longer exists. So that section —

— which is a mandatory section, intentionally put in the act by the Parliament of Canada —

> — would pretty much lose its meaning.

She went on to cite general powers that the board could use to compensate for losing this power, as she concluded:

> . . . but the bottom line is that section 100(1) would pretty much no longer have any meaning.

So, colleagues, a mandatory direction in a statute passed by Parliament would lose its meaning. It would lose its meaning not because parliamentarians, either in the other place or here, want it to lose its meaning. To the contrary, there has been no attempt to amend that subsection at all. It would lose its meaning because of a drafting mistake.

The good news here is that the senators on the Legal and Constitutional Affairs Committee did their job. Senator Bellemare found the first mistake, and my office found the second one. The bill is not yet passed. The mistakes were caught in time, and we could have fixed them with two very simple amendments proposed in committee and again this evening by my colleague Senator Fraser.

With any other government, we'd be thanked for our sharp eyes and our careful examination. This would be a perfect example of the contribution this chamber makes to our legislative process and why we have a chamber of sober second thought. We would have saved countless hours of the Public Service Labour Relations and Employment Board turning somersaults to figure out how to get around the sudden disappearance of these sections, and in so doing, we would have saved taxpayer dollars. We would have ensured that the intended integrity of the act continues, amended only to the extent that the bill was supposed to amend it.

Unfortunately, it appears that this government is much more interested in being able to say that it passed a law than worrying about mistakes that are in the law it passes. Of course, given that this government wastes millions of taxpayers' dollars promoting programs that don't exist, it probably shouldn't come as any surprise that it won't hesitate to rack up taxpayers' dollars to fix a problem they created in the first place, and that could be easily avoided without the expenditure of a single taxpayer dollar.

So the government's majority in committee voted down these simple amendments, and now with the defeat of Senator Fraser's amendment by the government majority here tonight, this chamber has done so as well.

Why? What is the rationale for that action? When the amendments were proposed in committee, we were told not to worry about doing our job; the courts will do it for us. Cases were cited and excerpts from rulings were read during our clause-by-clause consideration of these issues. Examples were provided of the courts, as parliamentary counsel told our committee, judicially correcting perceived errors "on the basis that the corrected enactment expresses the intent of the enacting body."

Yes, colleagues will be forgiven if they wonder whether they have passed through some new mysterious looking glass in a book by Lewis Carroll, but instead of Alice's Wonderland, we find ourselves in Harperland turned upside-down. Because this government, which has so often stridently attacked the courts for failing to defer to the clear language of laws passed by the Conservative majority, is now pinning its whole argument on a hope that the courts will do just that and take upon themselves the task of rewriting a law passed by Parliament.

But it's not clear to me that the courts will act as colleagues opposite hope, or indeed whether they should properly do so. The problem is that unlike in the cases that were cited, in the case of Bill C-525 and the Public Service Labour Relations Act, the courts will not be faced with clerical errors that no one noticed. No court could properly say these are unintended mistakes. We found them, we know they are there, and if we pass the bill unamended, we are passing it with full knowledge and intent that the subsections in question will refer to non-existent paragraphs.

Let us be very clear. By voting against Senator Fraser's amendment, you have said that you know these sections will become meaningless and that is what you intend. You are hoping that a court will make an amendment to the act that the Senate has explicitly rejected. Can anyone point to a precedent for that?

Rejecting Senator Fraser's amendment will result in costs, unnecessary time, effort and money. The Public Service Labour Relations and Employment Board will have to find ways either to save the existing regulation and powers under other provisions, or work to pass new ones. All taxpayers, of course, pay their salaries as they spend their time on this utterly unnecessary task. If, as the Conservatives wish, the provisions are to be saved by the courts, that will have to be through litigation, which means someone whose rights have been affected will be forced to bear the costs of taking the matter to court. For a government that likes to trumpet its concern for taxpayer dollars, this seems absurdly wasteful to me.

Perhaps Canadians are discovering the real meaning of law and order under the Harper government — the Prime Minister orders, and bad laws get passed.

Senator Tannas, the sponsor of the bill in this chamber, defended it tonight on the grounds that it's a "common sense" bill. Colleagues, where is the common sense in passing a bill with known, identified and easily fixed mistakes? This "common sense" is nonsense.

Let's be clear, colleagues: Just as this would make no sense to us, so it makes no sense to Canadians. There have been two newspapers articles already about this "absurdity," to use Senator Baker's term. Here is the comment posted under the name Ian Coutts on the *Ottawa Citizen* website:

> Apparently we don't need our laws to be written in such a way that they can be upheld in court, just well-intended. So why don't we just pass a law that says "Bad people go to jail and good people don't."?

From June Winger in Medicine Hat, Alberta:

> Exactly how much money was spent in this process to end up with a bill that is poorly written? Canadians deserve better!

• (2140)

The last one I'll read is an excerpt from a comment that appeared under the article on *The Globe and Mail* website.

> This is the example the upper house is setting? Hey we know there are mistakes but we will pass anyway. Too bad university didn't work that way.

Indeed, colleagues, having rejected Senator Fraser's amendments, Canadians will rightly give the Senate and the government a well-deserved failing grade. That writer, the one in *The Globe and Mail*, added:

> Hey GG do your job and don't sign it as they have admitted it has errors.

That's an interesting possibility.

Colleagues, we have had many debates in this chamber about the role of the Senate. Many of them were initiated under a series of inquiries launched by our Speaker. Many fine speeches have been delivered on both sides of this chamber extolling the valuable work that is done here. The Senate's primary responsibility is legislative review. That is the meaning of our being a legislative chamber — a chamber of sober second thought.

This was confirmed — if it needed confirmation — in April by the highest court in the land, the Supreme Court of Canada, in the decision on the ***Reference re Senate Reform*** instigated by the Harper government. The court said, at paragraph 15:

> [15] The upper legislative chamber, which the framers named the Senate, was modeled on the British House of Lords, but adapted to Canadian realities. As in the United Kingdom, it was intended to provide "sober second thought" on the legislation adopted by the popular representatives in the House of Commons.

Additional roles were added — regional representation, representation of minorities, et cetera — but legislative review was the first and most fundamental role to be fulfilled by the Senate.

In the words of the Supreme Court:

> . . . the Senate's fundamental nature and role is that of a complementary legislative chamber of sober second thought.

And our work of legislative review has consistently won praise — not always from the government of the day or from the sponsor of a particular bill, since no one of any political stripe likes to see their proposal changed, but from Canadians, ranging from experts in a particular field to citizens who follow our deliberations. Professor David Smith, the well-known scholar of the Senate from the University of Saskatchewan, wrote in his book on the Senate:

> What the Canadian upper house does rather than for whom it speaks is the major source of the Senate's good report. Even the sternest critics compliment the senators for their work in the scrutiny, investigation, and revision of legislation.

Many of us, again on both sides of this chamber, have quoted the famous statement of Sir John A. Macdonald:

> There would be no use of an Upper House, if it did not exercise, when it thought proper, the right of opposing or amending or postponing the legislation of the Lower House. It would be of no value whatever were it a mere chamber for registering the decrees of the Lower House. It must be an independent House, having a free action of its own, for it is only valuable as being a regulating body, calmly considering the legislation initiated by the popular branch, and preventing any hasty or ill-considered legislation which may come from that body, but it will never set itself in opposition against the deliberate and understood wishes of the people.

Just to get this out of the way, I am quite sure no one would even suggest that the errors that we have identified represent "the deliberate and understood wishes of the people." To the contrary, I am quite confident that there is no one in the other place who would disagree with the substance of the amendments in question.

And in fact this is the perfect example of ill-considered legislation passed in haste by the other place. So, colleagues, my question is: If this is not a situation that demands that we amend the bill, what is? And if we don't amend this bill, what are we as a chamber?

I mentioned that two newspapers articles have already been published about this. Their headlines read, "Senators ready to pass union bill despite drafting errors" — that was in the *Ottawa Citizen*; and "Senators find mistake in bill, but decide to go ahead and pass it anyway" — that was the Canadian Press, from *The Globe and Mail*.

Colleagues, is that the message we want to send to Canadians — that we are not doing the job we are sent here to do for Canadians?

We all recall the circumstances of Bill C-394, which Senator Baker referred to earlier, on criminal organization recruitment, which passed this chamber only six months ago. Senator Joyal and Senator Baker found two errors in that bill. Let me remind you what Senator Plett, as the sponsor of that bill in this chamber, said at the time on June 3. He said:

> We did run into one issue during our deliberation of the bill, and that was a discovery of two oversights in the drafting of the legislation that would lead to some inconsistency in the Criminal Code. Thankfully, Senators Joyal and Baker brought those to our attention.
>
> The problem, however, with sending this back to the other place, as per the normal course, is that the author of the bill in the other place, Parm Gill, has become a parliamentary secretary since he originally introduced this bill. Parliamentary secretaries cannot introduce private member's legislation and, as confirmed by our clerk, cannot even receive their amended piece of legislation back from the Senate. In effect, that means the bill would have been killed.

My understanding at the time was that the sponsor of the bill in the Senate agreed that we would have amended the bill to correct those errors, but for the unusual situation of the sponsor in the other place then having been made a parliamentary secretary. I don't think any of us liked the idea of passing a bill with known mistakes, but in the circumstances we accepted that this was necessary or, as Senator Plett said, ". . . the bill would have been killed."

Colleagues, that was Bill C-394. No such situation exists here. Blaine Calkins, the sponsor of Bill C-525 in the other place, has not changed his status. I am not aware of any rule in the other place that would bar Mr. Calkins from receiving his amended piece of legislation back from the Senate. No advice has been received from our Clerk to any such effect.

There is also no external time pressure that would demand this bill be passed immediately. Indeed, Mr. Calkins drafted the bill to come into force six months after it receives Royal Assent. Clearly, he did not see any urgency. And in fact the bill was first tabled in the Senate on April 10, 2014, but the sponsor of the bill was not even identified to this chamber until September 23. Clearly, no one saw any objective reason to rush its consideration.

Parliament is not being prorogued or dissolved — the Harper government passed the fixed-date election law, so we can all rest easy that there will not be an election until next October. That is almost a year away — plenty of time for the members of the other place to consider and, if they agree, pass our amendments.

So why have we refused to do our job and amend the bill to correct these very simple, straightforward mistakes?

The only reason that has been put forward is, to quote from Senator Tannas in committee, "If we looked at the procedure that exists on the other side, we'll kill the bill by sending it back."

Colleagues, I simply fail to understand this argument. As I just outlined, no advice has been given to us from our procedural clerks saying the bill would be killed, for example as we received with respect to Bill C-394. As I understand it, Senator Tannas is

not arguing that the bill would actually be killed, just that on his understanding of the likely process in the other place, the bill might not come forward for a vote on the amendments.

Both Senator Fraser and Senator Baker have explained how the system works. It's possible to get our amendments there, and they would be placed at number 31 on the list and can be traded up. And if the government is so keen to get this bill passed, they can presumably exercise some influence on the Conservative members of the other place, who are higher on that list than Mr. Calkins. Our amendments could be considered and hopefully would be approved.

Colleagues, should we not properly leave matters of procedure in the other place to the members of the other place, and to the rules that they have agreed should govern their proceedings?

Senator Tannas is actually asking us to substitute our own view for that of the elected Chamber — to decide that Bill C-525 is more important than the other private members' bills that the other place has above it in its Order of Precedence. Perhaps he's asking us to assume that elected members will not agree with our amendments, or will choose somehow to not fast track or trade up the bill's progress in the other chamber. Colleagues, how is it for us to anticipate how the other chamber will decide to conduct its business? That's their business, not ours.

• (2150)

We were created as a chamber of sober second thought. Sir John A. Macdonald did not say that we would exercise our powers of review subject to whatever were the peculiarities of the *Standing Orders of the House of Commons*.

If the other side receives our amendments and chooses to "kill the bill," in Senator Tannas' words, by whatever method they choose, surely that is their constitutional right and prerogative.

Colleagues, I come back to the same base basic question: If this is not an appropriate time and circumstance to pass amendments, when would be? As has been famously said, "If not now, when?"

I remind colleagues that this is a private member's bill, not a government bill. This is clearly not a government priority or the government would have introduced it as a government bill. Remember, as well, that this bill has been in the Senate since April, and only recently has it become a matter of priority for our friends across the aisle.

As a private member's bill, it would not have received the careful scrutiny by Justice lawyers that government legislation receives. Senator Baker has explained carefully how that happens. This was multiplied by the fact that the issues before us resulted from amendments passed quickly in the committee in the other place.

No one questions the merit of the amendments that this house has just defeated. I have not heard anyone say that Senator Bellemare or I was wrong to identify the mistakes. Everyone agrees they need to be corrected and not correcting them will create difficulties, certainly for the board and possibly for others. Not fixing the mistakes now will have implications. Meanwhile, the mistakes could be fixed with simple amendments.

Colleagues, if this was not a proper case to exercise our right of amending the legislation of the lower house, to use the words of Sir John A. Macdonald, then what is? By failing to act, how are we not now, in his own words, "of no value whatever were it a mere chamber for registering the decrees of the Lower House."?

On March 26, Senator Eaton warned this chamber that:

> We should not, must not, and cannot allow ourselves to become a rubber stamp of the House of Commons.

Senator Wallace said essentially the same thing on April 29:

> Without doubt, the Senate was not created with the intention that it be a mirror image or "rubber stamp agent" of the House of Commons, quite the contrary.

Honourable colleagues will recall that we had an interesting debate at the conclusion of Senator Wallace's speech that day, no small part of it about the very question of how far reaching Senate amendments should be. In response to a question from me, Senator Wallace said:

> . . . I've wondered myself whether the role of the Senate in reviewing legislation initiated in the house is to look at the technical side of it. Is it to ensure it's not flawed in some way, but not to question the policy?

Once again, I put it to you: If we refuse to exercise our right to amend this bill, if the majority of this place refuses to pass the necessary amendments, then have we not effectively given up the central role of the Senate, namely that of legislative review? We will no longer be the independent chamber of sober second thought, but a rubber stamp of the will of the government. We will no longer be a legislative chamber, but rather a $90-million debating club. Why should anyone pay attention to what is said here if we don't take ourselves seriously enough to act upon our own recommendations?

I'm very disappointed, obviously, that the majority in this chamber chose to reject Senator Fraser's amendments. Now I realize that in making this choice, honourable colleagues were following the course recommended by our Legal and Constitutional Affairs Committee in the observations appended to its report to this chamber. I'll read to you the last paragraph of those observations:

> While regrettable, the committee proposes that the bill be adopted and that the drafting error be corrected in future legislation prior to Bill C-525 coming into force.

In passing, I would note that prior to adjourning, the committee unanimously agreed to observations that would say, "while regrettable, the committee recommends . . . ", but somehow "recommends" was transformed into "proposes." Nonetheless, I think the unanimous intent of the committee was clear. This

wording was proposed to respond to the plea that committee members heard from the Chair of the Public Service Labour Relations and Employment Board, who will be left to deal with the mess that Bill C-525 will create. She said:

> In my view, should Bill C-525 be passed in its current state, all efforts should be made to restore the board's regulation-making authority currently found at section 39(1)(*d*) of our act preferably before the coming into force of Bill C-525.

In response to this strong and unambiguous request, Senator Tannas, the sponsor of the bill, proposed that observations be appended to the committee's report. Specifically, he proposed the passage I read a moment ago as the critical final paragraph of those observations. There was discussion and the observations, including specifically this paragraph, were agreed to unanimously by the committee.

Colleagues, I saw how important this was to both the chair of the affected board and to honourable senators on our committee from both sides of the chamber. However, we now have another problem. If you look at the provisions of Bill C-525, you will realize that unless the coming into force clause of Bill C-525 is changed, this bill will automatically come into force six months after the date on which it receives Royal Assent. As it is now worded, nothing could prevent that from taking place. To give effect to the wishes of the sponsor of the bill and the unanimous recommendation of our Legal and Constitutional Affairs Committee, it is necessary that we amend that clause.

Therefore, I propose that the bill come into force on a date set by the Governor-in-Council, that is, cabinet, but not earlier than six months following Royal Assent. This change would allow the government to delay the bill's coming into force until the necessary changes are made, as requested by the Chair of the Public Service Labour Relations and Employment Board and by all members of our Legal and Constitutional Affairs Committee. I realize that this requires trust that the government will not exercise discretion we're giving it to bring the bill into force without the requisite changes being made, so long as it's at least six months after Royal Assent. I'm sure colleagues opposite have no difficulty putting their trust in the government; and with this amendment, I would be content to do the same.

MOTION IN AMENDMENT

Hon. James S. Cowan (Leader of the Opposition): Therefore, honourable senators, I move:

> That Bill C-525 be not now read a third time, but that it be amended on page 6, by replacing clause 13 with the following:
>
> "13. This Act comes into force on a day to be fixed by order of the Governor in Council, but not earlier than six months after the day on which it receives Royal Assent."

Hon. Claude Carignan (Leader of the Government): Question.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Those in favour please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those against please say "nay."

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: May I have instruction from the whips?

Hon. Jim Munson: We wish to defer the vote until tomorrow.

The Hon. the Speaker: The vote is deferred until 5:30 p.m. tomorrow.

(Vote deferred.)

• (2200)

POPE JOHN PAUL II DAY BILL

THIRD READING—VOTE DEFERRED

On the Order:

> Resuming debate on the motion of the Honourable Senator Fortin-Duplessis, seconded by the Honourable Senator Plett, for the third reading of Bill C-266, An Act to establish Pope John Paul II Day.

Hon. Serge Joyal: Honourable senators, I know it's getting late, but I committed and pledged to Senator Fortin-Duplessis and Senator Martin that I would speak today. Of course, I want to honour that commitment.

Honourable senators, this bill at first sight seems to be very simple and innocuous, but once I started reading it and reflecting upon it, I came to the conclusion that I could not support it on three counts.

I say that with the greatest of respect for the sponsor of the bill, Senator Fortin-Duplessis, and all the other senators who have spoken in support of the bill, and I certainly respect their principles and the commitment they made to have the bill passed. But, in my humble opinion, I came to the conclusion that, for the three following specific reasons, this bill should not be adopted.

The first is that this bill blurs the principle of separation of church and state, which is a fundamental tenet of the Canadian Constitution, a very serious element.

The second is that this bill legally privileges one religion over the others. That is also a very important point because it challenges section 2(*a*) of the Charter of Rights and Freedoms, the freedom of religion.

Finally and not the least important, this bill gives legislative recognition to a system of thought and religious principles that often opposes some of the core fundamental rights enshrined in the Charter and precepts that conflict, at times, with the implementation of the rule of law and the very protection of the lives of citizens.

On those three fundamental elements, honourable senators, I can't support that bill, but I would be remiss to create the impression that I am anti-clerical or that I don't recognize the value of Roman Catholic churches in Canada and, singularly, in my province.

Not that I want to defend myself against such an accusation. I will not profess my fundamental personal belief. I will just remind you what I did in the last 45 years of my life to support elements of the history of the Roman Catholic Church that is public. Some of you, especially those who happen to have lived in Quebec or know the history of Quebec, will recognize yourselves in some of the points that I want to remind honourable senators of and that are public knowledge.

In 1971, I intervened to prevent the demolition of the Church of St-Paul-de-Joliette, which Senator Bellemare knows, because the provincial ministry of public works wanted to demolish the cemetery to widen the public road. Of course, that would have affected the survival of the church.

In 1976, I intervened to prevent the demolition of the church Notre-Dame-des-Anges in Montreal, on the site of Place Guy-Favreau, because that church was originally one of the first Protestant churches of Montreal. Because we succeeded in preventing the demolition of the church, it now houses the Chinese community church in the heart of downtown Montreal.

I intervened personally to prevent the demolition of the Grey Nuns' monastery in downtown Montreal, and I intervened, less than three years ago, to prevent the demolition of Église Saints-Noms-de-Jésus-et-de-Marie in the East End Montreal riding of Hochelaga—Maisonneuve.

It's public knowledge — and I say this with the greatest humility — that I'm one of the most important Canadian collectors of religious art. I have given to many Canadian museums hundreds and hundreds of works of art of religious origin, be they silver vessels, gilded silver vessels, paintings, sculptures and the like. For any of you coming to visit the Montreal Museum of Fine Arts or the Canadian Centre for Architecture or Musée de la Civilization in Quebec City, it's for you to go to visit and see.

I have given many lectures and published many articles trying to understand the history of the Roman Catholic Church in my province and in Canada. So I'm certainly not opposed to religion, and I have committed public intervention in support of maintaining what I call the importance of churches in any society.

But, on the basis of this bill, the way it is drafted and the way that the intention of the bill is spelled out in the preamble, honourable senators, I think that we should, as the Leader of the Opposition said earlier on, and as you, Your Honour, have said, reminding us of the words of John A. Macdonald, bring sober second thought to that bill.

Why? Because, as I say, this bill blurs and muddles the principle of the separation of church and state. Read the title of the bill, and it is easy to understand that the bill is to establish a day for Pope John Paul II, a saint in the Roman Catholic Church. Honourable senators, this is not a motion to congratulate a Nobel Prize winner or a motion to welcome the Dalai Lama to visit Canada. This is a statute of the two houses of Parliament to put in the statute book of Canada forever that there should be a day in Canada to perpetuate and to honour a saint of the Roman Catholic Church. Why? Because the Pope is the Supreme Pontiff of the Roman Catholic Church. He is the religious leader, and he is, at the same time, a head of state, a state called Vatican City, that has ambassadors around the world, as we have one in Ottawa. He has all of the privileges of a head of state, elected by 122 to 135 cardinals speaking on behalf of 1.2 billion Catholics. So this is not nothing. When you put in the statute book that there will be a day forever in Canada to perpetuate the honour to be given on a specific day for all Canadians, you blur the principle of separation between the church and the state.

It is so important in our Constitution that, honourable senators, when the Queen subscribes her first oath of office — she subscribes three oaths of office — she pledges the following. Archbishop:

> Will you solemnly promise and swear to govern the Peoples of United Kingdom of Great Britain . . . Canada, Australia . . . according to their respective laws and customs?

"According to their respective laws and customs of Canada."

Honourable senators, think twice. When the Queen was sworn in as the Queen of Great Britain and Ireland, she was sworn in as a defender of the faith because she is the head of the Church of England. But when she wears the Crown of Canada, when she is the Queen of Canada, she has no such title because in our Constitution, as the oath states, according to the respective laws and customs, we don't have an established church. This is a fundamental element of our constitutional structure. It doesn't prevent the Queen of Canada, visiting Canada, from attending a service of the Anglican church of her choice. As a matter of fact, everyone will welcome the Queen in any Anglican church in Canada. When she wears the crown of Canada, as a person, she can go into any Anglican church and pay her respects. But when she wears the crown of Canada, she has no religious commitments. This is fundamental, honourable senators.

• (2210)

When the Fathers of Confederation were debating amongst themselves in terms of how to recognize minority rights in relation to religion, section 93 of the Constitution and section 29 of the Charter, the education rights for Protestants and Catholics, they did so to protect minority rights, not to recognize the structure of government being committed to one church or the other.

So it is very important that when we legislate, we question ourselves on the impact that this bill will have on that fundamental tenet of the Canadian structure.

The second point that I think is of equal fundamental importance is the fact that this bill legally privileges one religion over the other. This is very dangerous because it runs counter to the intention behind section 2(*a*) of the Charter of Rights and Freedoms. What is section 2(*a*) of the Charter of Rights and Freedoms? Freedom of religion. Everyone in Canada is entitled to freedom of religion, which means that all religions are on an equal footing. You choose whichever religion you want to follow. You may choose no religion. It is equally protected under the Charter.

What we're doing here is undermining in our legal system the objective of that very freedom by recognizing in our statute books that for all Canadians, on April 2 of each year, you will be reminded about something very specific. What will you be reminded of? You will find it in the intention of the bill. Where is the intention of the bill? It is enshrined in the preamble. You will be reminded to honour, on April 2, a leading figure in the history of the Roman Catholic Church. That is the second preamble.

Secondly, you will be encouraged to live out the teachings of Christ. Which teaching of Christ? The teachings of Christ interpreted by the Roman Catholic Church. Why? Because the Pope, according to the doctrine, is infallible. When he pronounces on the teachings of Christ, he can't make any mistakes, a principle that is not recognized by most other Christian faiths, be it Anglican, Presbyterian, Episcopalian, Unitarian, Lutheran or Orthodox. All the other religions of the Christian faith don't recognize the principle of the infallibility of the Pope interpreting the teachings of Christ. That is the intention of the bill, honourable senators. Read it. It's the third preamble.

When we ask ourselves what we are doing with this bill, what is the precedent we enshrine in this bill? There is no question that we take a stand on the recognition of one religion over the others. That's the perception created, one rooted in the doctrine of the Roman Catholic Church that there is one religion that has, to a point, a higher level of truth than the others in the Christian faith because it's the oldest one and all the other ones are dangerous. You know very well that according to a principle of the Roman Catholic Church, you are barred from marrying a Protestant. Why? Because if you marry a Protestant, you run the risk of endangering your faith, and you have to commit that you will educate your child or children under the Roman Catholic faith.

There is something innocuous in this bill, honourable senators, which I personally cannot support because I think it is a disservice to the Roman Catholic Church to instill in Canada the perception that one religion is of a different, better level than the others. It's not stated like that, but when you read it and question yourself on the impact of this bill, that's what, in fact, is put into the minds of people.

The Hon. the Speaker: Senator Joyal, would you like more time?

Senator Joyal: May I have five more minutes?

The Hon. the Speaker: Is five more minutes granted to Senator Joyal to finish his remarks?

Hon. Senators: Agreed.

Senator Joyal: But the third most important element in relation to this bill, honourable senators, is that it gives legislative recognition to a system of thought and religious precepts that often opposes some of the fundamental rights enshrined in the Charter. To me, honourable senators, this has another very serious impact.

Think of the equality of men and women. Is there an element present in Canada, all through the land, not more in the public mind these days — and forever will reach parity — than the equality of men and women? In the history of the Roman Catholic Church and Pope John Paul II, honourable senators, this has no bearing. I don't want to be too negative in relation to that, but the doctrine of the church is simple: Women should defer to men as church defers to God. Hence, women in the Roman Catholic Church are not able to have any responsibility to the altar, no ordinance and no capacity to manage at the upper level. It is a man's world. And there is the undercurrent, when you read the teachings, that sin entered the world through women.

Today, of course, in a lay society such as ours, if you vindicate the teachings of Christ as they are interpreted by the Roman Catholic Church, you run into conflict with that principle. As I said, each day we are concerned with the recognition of that principle.

The other principle of the Charter that you know as well as I do — we debated this in the chamber some years ago — is section 15. We are equal under the law, and we have the same benefit of the law. Hence, we have civil marriage. Hence, homosexuality is not a mental disorder.

Well, under Pope John Paul II, according to an amendment of the catechism in 1986, homosexuality is an objective disorder. If you are homosexual, you are a lesser person because you are objectively disordered.

You all know that we opened the doors of the public service to gays. Governments have gays; police have gays; armies have gays; institutions have gays; and fortunately in Canada we can live gay with pride and freedom, and we can marry. But in the church, this runs counter to the very principle that marriage is essentially the union of a man and woman for the purpose of procreation. You can't separate procreation from marriage. Hence, a gay marriage is not a marriage because it cannot procreate. Hence, assisted procreation, which we adopted and voted for here 10 years ago, is barred from the church. Hence, the use of condoms by a married

couple, a man and woman, cannot be used because you prevent procreation. This is the present doctrine of the church, validated by Pope John Paul II.

Hence, euthanasia. We have a bill here promoted by Senator Nancy Ruth, supported by Senator Larry Campbell, on physician-assisted death. Well, in the Roman Catholic doctrine, you should suffer your death as Christ suffered on the cross. This is a precept. Well, that precept runs counter to legislation we will be debating sometime in the next months.

• (2220)

Honourable senators, I have other elements I wanted to bring to your attention, but considering those arguments, I will move the following amendment.

MOTION IN AMENDMENT

Hon. Serge Joyal: Therefore, honourable senators, I move that:

> Bill C-266 be not now read a third time but that it be read a third time this day six months hence.

Some Hon. Senators: Hear, hear!

[*Translation*]

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

[*English*]

On debate on the motion as amended.

Question?

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: Those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: The "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: I see more than two senators rising. Whips, can I be instructed?

Hon. Jim Munson: We wish to defer this until the next sitting of the Senate.

The Hon. the Speaker: The vote will be deferred until tomorrow.

Some Hon. Senators: Oh, oh!

The Hon. the Speaker: The whips decide the timing of votes. I am ready to be polite, but the rule is the rule. They are the two people who are in charge on this matter. Unless someone disagrees with their direction, I have a definite agreement of a deferred vote, and it will be held tomorrow at 5:30.

[*Translation*]

NATIONAL SEAL AND SEAFOOD PRODUCTS DAY BILL

SECOND READING—DEBATE ADJOURNED

Hon. Céline Hervieux-Payette moved the second reading of Bill S-224, An Act respecting National Seal and Seafood Products Day.

She said: Honourable senators, I move the adjournment of the debate in my name for the balance of my time.

(On motion of Senator Hervieux-Payette, debate adjourned.)

[*English*]

BUSINESS OF THE SENATE

Hon. Yonah Martin (Deputy Leader of the Government): Your Honour, it has been proposed, as it is quite late in the evening already, that we stand the remaining items on the *Order Paper and Notice Paper*, and I see that there is agreement on the other side.

The Hon. the Speaker: Is it agreed, honourable senators, that all remaining items on the *Order Paper* stand?

Hon. Senators: Agreed.

(The Senate adjourned until Tuesday, December 16, 2014, at 2 p.m.)

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