SENATE SÉNAT

CANADA

DEBATES OF THE SENATE

1st SESSION • 42nd PARLIAMENT • VOLUME 150 • NUMBER 130

OFFICIAL REPORT
(HANSARD)

Thursday, June 8, 2017

The Honourable GEORGE J. FUREY
Speaker

CONTENTS

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

Debates Services: D'Arcy McPherson, National Press Building, Room 906, Tel. 613-995-5756
Publications Centre: Kim Laughren, National Press Building, Room 926, Tel. 613-947-0609

Published by the Senate
Available on the Internet: https://sencanada.ca

THE SENATE

Thursday, June 8, 2017

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

THE LATE WADE SMITH

Hon. Wanda Thomas Bernard: Honourable senators, I rise today to pay tribute to Wade Smith, the highly regarded African Nova Scotian high school principal of Citadel High School who passed away on Friday, June 2, after a seven-week battle with stomach cancer. He was 50 years young. This loss has shocked the community with a level of grief and sadness that is hard to articulate.

Wade Smith was an educator, basketball coach, mentor, role model, extraordinary husband, father, son, brother and friend. His teaching career and his track record as a school administrator were stellar. He was an exceptional role model as he inspired youth, their parents and the community at large. He also spent countless hours working with African Nova Scotian inmates in the various federal correctional services institutions in Atlantic Canada. Some of the inmates were former students of his and they looked forward to his visits because he did not judge them. Instead, he tried to inspire them, and he did so in an outstanding manner.

Corey Wright, a former student and inmate, when describing how much Wade made an impact on his life, is quoted as saying: "He cared and sometimes that's all it takes, for somebody to care when you are in a dark place."

The African Nova Scotian community has lost a valuable, humble leader. Wade Smith's legacy will live on forever. I know that all the great seeds he planted in our youth and his peers will help us to mourn his loss, and find a way to move forward without him.

Honourable senators, please join me in extending sympathy to his wife, Sherry Jackson-Smith, his sons, Jaydon and Jaxon, his mother, Muriel Smith, all of his family, students and hundreds of community members who mourn his loss.

I conclude with a quote from his March 27 TED talk: "Giving back was never a choice in my life. Giving back was an obligation to my community, to the young kids coming up after me."

Wade Smith, it was an honour to know you.

Honourable senators, thank you for allowing me to honour this amazing individual. I mourn with the Smith family and the community as they gather today to say farewell to this good and faithful servant.

Hon. Senators: Hear, hear.

CYBERSEX TRAFFICKING

Hon. Mobina S. B. Jaffer: PasSurMonÉcran, NotOnMyScreen.

Honourable senators, I have worked closely with the International Justice Mission, a global organization pursuing a raging war against child cybersex trafficking. I have worked and travelled with the International Justice Mission and seen their work firsthand.

Cybersex trafficking is a type of sex trafficking that exposes all children globally to countless predators. Underage boys and girls, even toddlers, are forced to perform sexual activities in front of a camera. Cybersex has become a massive industry where small children bring in big profits.

Honourable senators, I know you agree with me that we will never accept cybersex of children.

The International Justice Mission has made progress toward ending cybersex. In the Philippines, over 1,275 victims were freed and over 145 sex traffickers were arrested. This is great work, but so much more needs to be done, even in our own country.

Let me tell you about Cassie. Cassie was one of the many children abducted and trapped against her will in the cybersex world. She was saved by the International Justice Mission at the age of 17, five years after her kidnapping. In her words:

> It was really hard. I kept thinking "I want to die, I want to die" because of the pain, but I can't. My recruiter hurt me every day when I do something bad that he didn't like.

Cassie was subject to horrific sexual abuse and violence in front of a webcam. Among Cassie were other children. The youngest child was only two years old. Today Cassie is safe, but other children around the world are still suffering from cybersex trafficking. Pedophiles and child predators use the Internet to abuse children in homes.

Without a doubt, the Internet has a dark side. Children who are victims of cybersex trafficking don't get to say no, but we do.

Honourable senators, I ask you to join me in raising awareness on global child cybersex and take action by proudly displaying a #NotOnMyScreen sticker or #PasSurMonÉcran.

This malicious, destructive crime cannot be allowed, not in Canada or in any country. French and English stickers have been provided by my office to your offices to put on your mobile devices and computers to raise awareness to stop cybersex.

Every minute we wait, a young child is forced to perform sexual acts live on camera. Together we can stop this horrendous crime. Honourable senators, I ask you to join me to help end child cybersex trafficking. I ask you to put the stickers on to raise awareness. #NotOnMyScreen, #PasSurMonÉcran.

THE HONOURABLE WILFRED P. MOORE

CONGRATULATIONS ON CANADIAN FEDERATION OF HUMANE SOCIETIES AWARD

Hon. Elaine McCoy: I was not expecting to have this honour quite this soon in the rotation today. I appreciate the opportunity to rise in the chamber today to acknowledge the tremendous work that Senator Willie Moore, recently retired from the chamber, has undertaken over the years, but particularly honouring his work in the area of marine conservation.

Specifically, I wish to acknowledge his recent award from the Canadian Federation of Humane Societies presented a month or so ago here in Ottawa.

• (1340)

I found an historical anecdote which I thought you would be interested to learn; namely, the Canadian Federation of Humane Societies was actually started by a senator. He was an appointee from New Brunswick of Prime Minister St. Laurent. He started this association and this award. He retired in 1988.

His life was guided by a deep passion and commitment to animal welfare. We have seen this same passion and commitment from former Senator Wilfred Moore.

I am sure we would all be pleased to acknowledge his award because, of course, we have Bill S-203 in committee at the moment. It is designed to release whales and other mammals from captivity, and now we have this further encouragement to bring it through committee and to a vote in this chamber as soon as we can.

To continue the historical note about former Senator Wilfred Moore, his deep attachment to all things maritime goes further than just mammals because he, of course, was a major force behind refurbishing Bluenose II. He was very active in preserving lighthouses and has started the Lunenburg School of the Arts, which is on the coast. He was Canada's witness at the signing of the Hamilton Declaration, which committed Canada to the protection and conservation of the Sargasso Sea, which is a critical birthing place for eel stocks.

I invite all senators here today to join me in congratulating former Senator Wilfred Moore on his latest award and to join me in planning for a speedy passage of his bill through the process in the Senate.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of a number of representatives and members of the Association of Usher Syndrome of Quebec; Canadian Deafblind & Rubella Association — Ontario Chapter; Canadian Deafblind Association — New Brunswick; Canadian Helen Keller Centre; Canadian National Society of the Deaf-Blind; CDBA National; CNIB; Deaf-blind Association of Toronto; Deafblind Ontario Services; Lions McInnes House; and the Translation Bureau. They are the guests of the Honourable Senators Martin and Munson.

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

Hon. Senators: Hear, hear!

DEAFBLIND AWARENESS MONTH

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I rise today to celebrate June as Deafblind Awareness Month in Canada, as adopted in our chamber in 2015.

Today I had the honour of co-hosting the third annual Deafblind Awareness Month reception on Parliament Hill with our colleague, Senator Jim Munson, who co-sponsored the Deafblind Awareness Month motion along with Senator Joan Fraser.

We met with members of the deaf-blind communities today and heard about some of the challenges they face and obstacles they have overcome to be where they are today. They are truly remarkable individuals determined not to let their disability stop them from living a productive and fulfilling live.

As honourable senators may be aware, June is also the birth month of Helen Keller, perhaps the most well-known person who was deaf-blind. She was a courageous person whose admirable revolve and leadership made a difference and inspired the whole world. June 27 is known as Helen Keller Day in the United States and is celebrated every year.

The number of people living with deaf-blind challenges in Canada is quite significant. Statistics Canada reveals that there are approximately 69,700 Canadians over the age of 12 living with the dual disability of deaf-blindness or a combination of both vision and hearing losses that limit their everyday activities. Only 3,000 of them are currently being serviced by the organizations providing intervenor services. So, honourable senators, there is much more that must be done for deaf-blind Canadians, and our annual recognition of June as Deafblind Awareness Month is one of them.

I must acknowledge our former colleague, the Honourable Vim Kochhar, who opened my eyes to the importance of these courageous Canadians who deserve our recognition. It was through him that I was inspired to work with my colleagues to move the motion that our chamber adopted unanimously.

Vim Kochhar cofounded the Canadian Helen Keller Centre and Rotary Cheshire Homes, which are two examples of excellent facilities for the deaf-blind community. In fact, Rotary Cheshire Homes is said to be the only facility in the entire world where those who are deaf-blind can live independently.

I would like to commend Jennifer Robbins, Executive Director of the Canadian Helen Keller Centre, the Rotary Cheshire Homes, and all of the organizations represented, their caregivers, members of the board, volunteers and intervenors who provide such dedicated care and service to the deaf-blind community.

Honourable senators, there are many deaf-blind persons around the world who have overcome adversity and achieved leaps and bounds like Helen Keller. We must continue to bring awareness to this important cause and recognize the strength, resilience and courage that the deaf-blind and those caring for them show every day. They that a true inspiration to us all.

Hon. Senators: Hear, hear!

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Brad Smith, son of our colleague, the Honourable Senator Larry Smith. He is accompanied by Audra Mari. They are, of course, the guests of the Honourable Senator Smith.

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

Hon. Senators: Hear, hear!

PLAN 2014

Hon. Bob Runciman: Honourable senators, I rise today to express concern that political gamesmanship could jeopardize the second largest wetlands reclamation project in North American history.

Plan 2014, a new water levels management plan for Lake Ontario and the St. Lawrence River, was approved late last year by Canada and the United States and came into effect January 1, just in time for some of the worst flooding in half a century.

This spring, a heavy snow melt and runoff, along with record rainfall in both April and May, have combined to submerge and destroy docks and boathouses, causing serious damage to shoreline homes all along the river and hurting businesses, many of them small and seasonal, on both sides of the border.

That flooding and the damage it has done has opened the door to politicians who opposed Plan 2014 to claim falsely that the record flooding is the result of the plan being implemented.

Members of Congress in the Rochester, New York, area who represent flooded areas on the south shore of Lake Ontario — an area where many homes are built on a flood plain — are now calling for President Trump to back out of the agreement.

Unfortunately, their false claims of blame have been supported by no less than the Governor of New York, Andrew Cuomo. Governor Cuomo has charged that the international joint commission "blew it" with the adoption of Plan 2014. Quite simply, this is the worst kind of political distortion and misrepresentation.

A phone call to the officials who regulate the water levels would have told Governor Cuomo the implementation of Plan 2014 has had no impact on how this situation has been handled up to this point. And my office has confirmed this through frequent contact with regulators all spring.

Water levels in Lake Ontario and the St. Lawrence River are regulated by the Moses-Saunders Dam near Cornwall, Ontario. The flow through the dam has been at record levels for some time. There is no doubt this is a crisis for many along the waterway, but playing the blame game and spreading falsehoods, as Governor Cuomo has done, is no way to deal with it.

I encourage the Minister of Foreign Affairs and officials in her department to ensure that their counterparts in the United States are aware of the facts surrounding Lake Ontario and St. Lawrence River flooding, along with reinforcing their support for Plan 2014.

• (1350)

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Leizyl Sobrinho, President of the Project Management Toastmasters Club. She is accompanied by other members of their group. They are the guests of the Honourable Senator Enverga.

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

Hon. Senators: Hear, hear!

FORWARD THINKING ON INDIGENOUS ISSUES

Hon. Lynn Beyak: Honourable senators, I would like to use this time to thank Senator Christmas for his wonderful speech on Tuesday, presenting a compelling model of forward thinking on indigenous affairs. The story of his home community of Membertou and how it overcame the situation it faced is an inspiration for all of us and we should look to this as proof that change is possible.

I have heard similar stories from across Canada of how indigenous people suffered absolute complete and dependency under the Indian Act, and they desire change. Witnesses to our Standing Senate Committee Aboriginal from Saskatchewan, Alberta and B.C. told us success stories as well. Although some of them are great, none are as remarkable as the one of the community of Membertou.

In my region, we have worked together, as you did, senator, for decades. And although we still have some problems, we have our own success stories to share as well. Success stories should be the rule, not the exception.

It is clear that the status quo needs to change. Governments have spent billions of dollars over many decades and still there is no clean water or adequate housing on many reserves in Canada.

What we are doing isn't working. During the dialogue opened during the residential school debate, Canadians from sea to sea, indigenous and non-indigenous alike, told me we must find change. They pointed out the schools are but a small part of the challenge. The Indian Act, as you so clearly articulated, is the major problem. We need to take this example of success and build on it. We should be promoting others to follow the solution to prosperity and independence.

In the wise words of Chief Robert Joseph, whom I had the pleasure to meet in my office last month, with his wonderful daughter, Shelley, over time we should realize as people sharing the land, we all belong here. The sooner we discover that, the sooner we will be working together and cheering each other on.

Cheers to you, Senator Christmas, for a magnificent example.

THE SENATE

TRIBUTES TO DEPARTING PAGES

The Hon. the Speaker: Honourable senators, I wish to pay tribute to two more of our pages who will be leaving us this year.

Nicolas Daoust will be entering his third year of university studies in a Bachelor of Commerce with honours in accounting at the University of Ottawa.

[*Translation*]

Since age 11, he dreamed of becoming a Senate page and representing the Franco-Ontarian community within the page program.

[*English*]

Nicolas is grateful for his two years working as a Senate page and to finish this chapter as the Deputy Chief Page. He would like to thank all honourable senators and employees of the Senate for making his experience an unforgettable one.

Thank you, Nicolas.

Hon. Senators: Hear, hear!

The Hon. the Speaker: After three years in the Senate Page Program, our Chief Page, France Svistovski, is saying goodbye. France is graduating from Carleton University with an honours degree in law and political science. In the fall, she will be attending Fordham University's School of Law in the heart of New York City, a dream she has had since she was 16. She is excited to represent Canada in the United States.

France is incredibly thankful for having been able to represent Manitoba in the Senate and credits her acceptance at Fordham to the knowledge and experience she has gained here as Chief Page and page.

She would like to thank all honourable senators, Senate Administration and everyone on the Hill for making her time here so wonderful. For France, it has been an honour and pleasure working with the Usher of the Black Rod, and she would like to wish all her fellow pages and honourable senators the very best in the future.

Thank you, France.

Hon. Senators: Hear, hear!

[*Translation*]

ROUTINE PROCEEDINGS

CONFLICT OF INTEREST AND ETHICS COMMISSIONER

2016-17 ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the annual report of the Conflict of Interest and Ethics Commissioner on the performance of her duties and functions under the *Conflict of Interest Act* in relation to public office holders, for the fiscal year ending March 31, 2017, pursuant to the *Parliament of Canada Act*.

[*English*]

COMMISSIONER OF LOBBYING

2016-17 ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the ninth Annual Report of the Office of the Commissioner of Lobbying, for the period ending March 31, 2017, pursuant to section 11 of the Lobbying Act.

[*Translation*]

INFORMATION COMMISSIONER

2016-17 ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the annual report of the Information Commissioner for the period ending March 31, 2017, pursuant to the *Access to Information Act*.

[*English*]

COMMISSIONER OF OFFICIAL LANGUAGES

2016-17 ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the Annual Report of the Commissioner of Official Languages for the year ending March 31, 2017, pursuant to section 66 the Official Languages Act.

STUDY ON THE REPORTS OF THE CHIEF ELECTORAL OFFICER ON THE FORTY-SECOND GENERAL ELECTION

SEVENTEENTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE DEPOSITED WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. Bob Runciman: Honourable senators, I have the honour to inform the Senate that pursuant to the orders of reference adopted on November 1, 2016 and March 2, 2017, and to the order adopted by the Senate on June 1, 2017, the Standing Senate Committee on Legal and Constitutional Affairs deposited with the Clerk of the Senate, on June 8, 2017, its seventeenth report entitled *Controlling Foreign Influence in Canadian Elections*, and I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

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

Hon. Senators: Agreed.

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

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

FOURTEENTH REPORT OF COMMITTEE TABLED

Hon. Leo Housakos: Honourable senators, I have the honour to table, in both official languages, the fourteenth report of the Standing Committee on Internal Economy, Budgets and Administration, which deals with international travel.

CANADA-AFRICA PARLIAMENTARY ASSOCIATION

BILATERAL MISSION, MARCH 26-31, 2017— REPORT TABLED

Hon. A. Raynell Andreychuk: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-Africa Parliamentary Association respecting its Bilateral Mission at the Republic of Zimbabwe and the Republic of Botswana, held in Harare, Zimbabwe and Gaborone, Botswana, from March 26 to 31, 2017.

SENATE MODERNIZATION

NOTICE OF MOTION TO AUTHORIZE SPECIAL COMMITTEE TO EXTEND DATE OF FINAL REPORT

Hon. Thomas J. McInnis: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That, notwithstanding the order of the Senate adopted on Monday, December 12, 2016, the date for the final report of the Special Senate Committee on Senate Modernization in relation to its study of methods to make the Senate more effective within the current constitutional framework be extended from June 30, 2017 to December 15, 2017.

[*Translation*]

THE SENATE

NOTICE OF MOTION TO RESOLVE INTO COMMITTEE OF THE WHOLE TO CONSIDER THE ROLE OF THE COMMUNICATIONS DIRECTORATE

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

> That:
>
> 1. the next time Other Business is called after the adoption of this motion, the Senate resolve itself into a Committee of the Whole in order to consider the role of the Communications Directorate;
>
> 2. this Committee of the Whole meet at each subsequent sitting of the Senate, at the start of Other Business, until it has completed its work, without having to report progress and seek leave to sit again;
>
> 3. while this Committee of the Whole is meeting, the provisions of rule 12-33 be suspended, provided that a senator may at any point move that the committee rise, with that question being put without debate or amendment, and, if adopted, the committee then rising until the next time provided for in paragraph 2 of this order;
>
> 4. this Committee of the Whole hear from the Chair of the Standing Committee on Internal Economy, Budgets and Administration; the Director of Communications; the Director of Information Services; the Director of Human Resources; and such other witnesses as it may consider appropriate; and

5. once the committee has completed its work, the chair report as soon as convenient during Presenting or Tabling of Reports from Committees during Routine Proceedings.

• (1400)

[*English*]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO DEPOSIT REPORT ON STUDY OF THE EFFECTS OF TRANSITIONING TO A LOW CARBON ECONOMY WITH CLERK DURING ADJOURNMENT OF THE SENATE

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

> That the Standing Senate Committee on Energy, the Environment and Natural Resources be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate, between June 15 and June 23, 2017, a report relating to its study on the transition to a lower carbon economy, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Chamber.

QUESTION PERIOD

NATIONAL DEFENCE

DEFENCE POLICY REVIEW

Hon. Larry W. Smith (Leader of the Opposition): My question today is for the Leader of the Government in the Senate.

Yesterday, the Minister of National Defence unveiled the government's new defence policy. I think we can agree that many of the initiatives are potentially important to ensure that the Canadian Armed Forces are able to sustain key core capabilities in the decades ahead.

However, there will be a need for the government to actual follow through. For instance, there is a decided lack of clarity when it comes to renewing Canada's national fighter capability. The defence policy document indicates that the budget of the new fighter program has been enhanced to ensure that the Royal Canadian Air Force can acquire 88 new fighters; yet under the government's plan, those aircraft, if and when ordered, will not arrive until a decade from now. In the meantime, the life of the current CF-18 fleet will have to be extended, and the government is also still musing about the possibility of purchasing Super Hornet fighters from Boeing — or possibly not.

First, what is the combined projected cost of the CF-18 life extension and the Super Hornet acquisition? Second, will additional money be allocated to cover these costs, or will National Defence be forced to fund these programs from existing reference levels?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. Before I get to the question, I salute him for having his son in the chamber. I'm sure he's grateful for that. I'm equally grateful that my son is not in the chamber for my response.

Let me reassure all honourable senators that the statement made yesterday by the Minister of Defence on behalf of the government represents a very forward-looking and robust response to changing global security threats. It does commit the government to a new set of very long-term priorities, and as the honourable senator notes, defence spending as a result of this proposal will increase about 70 per cent over the next 10 years, from $18.9 billion to $32.7 billion. As well, there is projected growth in the regular forces and in investments that will be required to acquire, maintain and upgrade CF-18 capabilities.

With respect to the interim arrangements, those are still being discussed. The minister will be making an announcement when appropriate. But the overall direction of the government is clear: to ensure that the commitments being stated from a policy point of view also match the commitments anticipated from this budget and future budgets to align the policy of the Government of Canada to ensure a strong, secure and engaged military.

FIGHT AGAINST ISIL—FRONT LINE ROLE

Hon. Larry W. Smith (Leader of the Opposition): Thank you, Mr. Leader.

The government has discussed the need for Canada to pull its weight internationally. The Minister of Foreign Affairs recently stated that in order to have weight, we must also pull our own weight.

Yet one of the first steps the government took when it assumed office was to withdraw the CF-18 fighters from the campaign against ISIL. The government indicated at the time that Canada should only play a supporting role in that campaign, not a front-line role.

Leader of the Government in the Senate, given the change of heart that the government appears to have had, is it prepared to back up its words with action? Specifically, is the government prepared to reconsider its position and recommit Canadian CF-18s to a front-line role against ISIL?

Hon. Peter Harder (Government Representative in the Senate): I again thank the honourable senator for his question.

The government is and continues to be committed to the fight against ISIL. The change in orientation of the Canadian participation is one that was discussed and agreed to among the participating allies. The government continues to be part and parcel of the allied efforts with respect to ISIL. As those efforts evolve over time, they will evolve in the context of those collaborative discussions.

It is important for all Canadians to recommit in the cause of the challenge we face with ISIL. The Government of Canada in this

statement and in previous statements has been at the forefront in the fight against ISIL, Daesh or however you wish to characterize it.

IMMIGRATION, REFUGEES AND CITIZENSHIP

VEGREVILLE CASE PROCESSING CENTRE

Hon. Betty Unger: Senator Harder, we seem to be on a bit of a pattern here. I ask a question about the unnecessary and devastating closure of the Vegreville Case Processing Centre, and you provide me with incorrect answers.

Yesterday, you indicated that the department of immigration was having difficulty recruiting employees. This is false. In fact, last year, the CPC had 274 employees, the highest number of employees over the last four years. If more are needed, there are more workers available in Vegreville.

You also said that 42 per cent of workers will be reaching retirement in the next five years. Again, this is false. It appears to be the conclusion of a bureaucrat consulting a spreadsheet instead of talking to actual employees.

You suggested that moving the CPC will save money. Again, this is false.

You indicated that the current facility is too small and is unable to accommodate growth. This is false.

I could go on and on, but we have limited time. Suffice it to say, the government is clearly misleading you and this chamber when the livelihood of so many families and the future of a community are at stake.

Are you not concerned that the government is providing you and the Senate with incorrect information? So much for openness and transparency. Will you commit to going back to the minister to ask him to abandon this wrong-headed business case?

Hon. Peter Harder (Government Representative in the Senate): I will not.

Senator Unger: The Liberal government's claim to be open and transparent is a myth. You are just proving it.

The town of Vegreville received no public consultation before being abruptly notified that the Vegreville Case Processing Centre would be closed. Government bureaucrats actually spent six months planning and doing case studies behind closed doors, and yet they did not bother talking to the people of Vegreville.

How is this either open or transparent? Will you ask the government if they are willing to relaunch their examination of this facility in order to properly consult with the people of Vegreville to get their facts straight?

And I don't think "no answer" is an answer.

Senator Harder: To the question being posed, yes I will.

• (1410)

FOREIGN AFFAIRS

INTERNATIONAL ROLE

Hon. Mobina S. B. Jaffer: Honourable senators, my question is also to the Leader of the Government in the Senate. Leader, for this question, I don't think there is anybody more knowledgeable in our country about foreign affairs than you.

In her speech on June 6 in the House of Commons, Minister Freeland stated that Canada must pursue foreign policy, one that advocates cooperation on a multitude of fronts, such as supporting a rules-based international order, investing in our military and strengthening trade relationships.

I note that Minister Freeland focused her attention on our western allies, such as NATO, the EU and NAFTA, but she hardly mentioned the two most important institutions that we have always worked with, and that is the Commonwealth and La Francophonie. Has our focus changed? Are we not going to be working as much with the Commonwealth and La Francophonie? What is our focus now?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her question.

The references made to multilateral institutions are not an exhaustive list; it is representative of the government's participation in multilateral organizations. Certainly the Prime Minister's participation last year at the francophone summit in Madagascar is an indication of the Prime Minister and his government's commitment to La Francophonie. The support for and dedication of the new Secretary-General of La Francophonie in the person of the Right Honourable Michaëlle Jean is an expression of Canada's commitment to multilateralism, and similarly with respect to the Commonwealth heads of government, which the Prime Minister has been and will continue to participate in.

I think the context of the minister's excellent foreign policy outline describes the appropriate Canadian participation in this wide range of multilateral institutions, and her vigorous defence of multilateralism is at the heart of Canada's foreign policy interests.

Senator Jaffer: I have a supplementary question. Leader, I think I've almost memorized the minister's speech, and I am most disappointed because when the new government came in, we said Canada was back. That was not a speech of Canada is back. That was a speech of Canada working with western allies, increasing our military and doing trade. I'm convinced that was not a speech of Canada is back because you don't even mention the Africa

Union. We do so much work with them, yet it is not a multilateral organization the minister deemed necessary to mention. Is Canada back?

Senator Harder: I thank the honourable senator for her question and her ongoing interest in these matters of foreign policy.

I read the speech differently, and in response, I want to speak directly to a quote from the speech where the minister reviews the previous challenges of earlier generations with respect to the threats they face and the challenges that Canada faces as those challenges themselves have altered.

She said that the international order that earlier generations built face two new challenges, both unprecedented. What is the first one? The rapid emergence of the global South and Asia:

> . . . and the need to integrate these countries into the world's economic and political system in a way that is additive, that preserves the best of the old order that preceded their rise, and that addresses the existential threat of climate change. This is a problem that simply cannot be solved by nations working alone. We must work together.
>
> I have focused these remarks on the development of the postwar international order—a process that was led primarily by the Atlantic powers of North America and Western Europe.
>
> But we recognize that the global balance of power has changed greatly since then—and will continue to evolve as more nations prosper.

The speech goes on to reference the role of the G20 and other new models of multilateralism that are both referenced, including specific references to Latin American countries, the Caribbean, Africa and Asia, which are on the ascent.

[*Translation*]

OFFICIAL LANGUAGES

2016-17 ANNUAL REPORT—INFRACTIONS

Hon. Claude Carignan: To revisit the words of Senator Jaffer who declared that Canada "is back," I would say, rather, that Canada "is going back," and I have two reports tabled in this chamber today to back me up.

The first, the report from the Interim Commissioner of Official Languages, reveals that the number of admissible complaints under the Official Languages Act practically doubled, increasing from 550 in 2014-15 to 1,018 in 2016-17, and that this trend is steady in most Canadian provinces and territories.

How does the government plan to enforce the Official Languages Act and ensure that the number of infractions under this legislation drops to an acceptable level, which would be zero?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question and his commitment to official languages.

I want to reiterate the commitment of the minister responsible for official languages for her dedication to not only improving the results to which he refers and learning from the report that was tabled today, but I also note the commitments made in anticipation of the fiftieth anniversary of the Official Languages Act, to examine a refreshment of the act so that it responds more fully to the needs and circumstances of today.

[*Translation*]

INFORMATION COMMISSIONER

2016-17 ANNUAL REPORT— GOVERNMENT TRANSPARENCY

Hon. Claude Carignan: Another report was tabled today, namely the report from the Information Commissioner of Canada, Suzanne Legault. I would like to refer you to an article in the *Journal de Montréal* that talks about the fact that the culture of secrecy continues to reign in Ottawa. The article also says, and I quote:

> Despite promises of "openness and transparency" from Justin Trudeau's Liberals, the federal government is more opaque today than it was in the last year of the Stephen Harper Conservative government . . .
>
> In her annual report tabled Thursday, Suzanne Legault notes a "decline" in government transparency at a time when Canadians are increasingly interested in what is going on in the various departments.

According to the *Journal de Montréal*, among the factors that should be considered when assessing the quality of requests, the commissioner noted the following:

> Overall, in 2015-16, institutional performance in relation to compliance with the Act showed signs of decline.
>
> Last year, 24 per cent of requests were disclosed in full, which is a three per cent decrease from 2014-15.
>
> Red alert status was even given to two departments whose refusal rates were around 40 per cent: the Department of National Defence and Health Canada.

Other parts of the Information Commissioner's report show that there is a culture of secrecy and a lack of transparency and openness within the government. However, the Liberal Party was elected on the promise that it would be transparent, that it would make specific commitments, and that it would take decisive action.

Could the Leader tell us what specific actions the government has taken, since it took office, in order to be more transparent from a legislative and monetary perspective? What concrete actions has it taken? We are not seeing any, Mr. Speaker.

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. With respect to the Access to Information Act and the report of the commissioner, it does speak to the need for a refreshment of the act and the process by which access is provided.

The government, in its election commitments and in the mandate letters of the respective ministers, made this a priority. The minister responsible, the President of the Treasury Board, is deeply committed to this, and I would expect announcements in the very near future with respect to how the campaign commitments and the mandate letters can be fulfilled.

• (1420)

HEALTH

AUTISM SUPPORT AND FUNDING

Hon. Jim Munson: My question is for the Government Leader in the Senate.

Senator, I never thought I would have to ask this question — and actually, I really don't want to ask this question — because I felt that, in March, when we had the budget, those of us who work in the autism community held out a strong hope, a really strong hope, that the government would approve — in the scheme of things, with the billions of dollars that are being spent — a modest amount of money, less than $20 million over a four- or five-year period, for a Canadian Autism Partnership — a partnership that was put in place by the Conservative government and through my work with Conservative MP Mike Lake. That was a modest amount of money, $2 million over two years. That partnership, which was established by CASDA, Canadian Autism Spectrum Disorders Alliance, brings together the overwhelming majority of autism groups across this country. Through that partnership, we wanted the federal government to take the national lead in working on research, surveillance, indigenous groups — you name it — across this country so that we can build upon the foundation we have now.

Alas, the money was not in this budget. However, I don't give up hope. None of us give up hope; we sincerely hope.

How do you see the federal role in the future in terms of leading a partnership with the autism community?

Hon. Peter Harder (Government Representative in the Senate): Senator Munson, let me first thank you for your question and for your ongoing advocacy for the disabled generally, and the autism community in particular.

As I have said in response to several other questions on this matter, autism spectrum disorder is an area of significant concern for the ministers responsible. There is specific funding in Canadian Institutes of Health Research on the research side, about $8 million.

With respect to the funding that the honourable senator is speaking of, I will certainly raise that with the minister responsible. The government is taking other initiatives, including those of general application to families with disabled, in terms of the Canada child benefit and other measures, but I understand exactly the question being asked and I will endeavour not only to seek an answer but to ensure that the question is asked with the advocacy of your question.

Senator Munson: I thank you for that answer, because I don't think one can ever give up hope. You have to remember as well, Senator Harder — and I think you do understand — that it was the Senate of Canada, all of us in this room, who approved a Senate report called *Pay Now or Pay Later: Autism Families in Crisis*. That was almost 10 years ago now. Yes, incrementally there have been a few things there, but it was the Senate that urged the government — all governments — to get involved. When we made that push at that particular time, the Conservative government took it upon themselves, with the Public Health Agency of Canada, to work on these things.

I can't help but express real disappointment. When we began this quest, 1 in 150 had some form of autism; now it is 1 in 68. There is a crisis in this country. Everybody has a neighbour down the street, somebody in their family, somebody they know. People are moving across the country to get better services, from Atlantic Canada to Alberta. People are remortgaging their homes and, sadly, a lot of parents have divorced because of the stress that's involved.

This is a request to implore you to talk to the ministers involved. I have spoken with both of them, and I'm hoping there is some sort of concrete announcement where, again, the federal government leads and works with the provinces, because we cannot continue to work in silos in this country.

NATIONAL DEFENCE

ARCTIC SOVEREIGNTY

Hon. Nicole Eaton: Leader, I was kind of surprised; I was thrilled that Minister Sajjan launched a new military thrust, because I do believe our military is in crisis. What surprised me more was the absence of emphasis on the North.

When you look at the Chinese and Russians building icebreakers, and Denmark and everybody circling around, I don't think the United States has given us ownership completely of the Northwest Passage. That is still questionable. Yet, there is no emphasis or mention of the Northern Rangers, or building more icebreakers, or any emphasis at all on the North.

How do you feel about that? Why is that absent in Minister Sajjan's report?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her question. In my reading of the report, and in the minister's statements and questions, I do not see that absence. It starts, after all, with the defence of Canada and North America, which certainly includes the North, as the first priority of the Government of Canada.

The investment in equipment reflects the ability to serve that priority, whether that is with aircraft or vessels, but, more important, increasingly with the investment being made in space and technology that will allow surveillance and other forward-looking, forward-advancing interests of Canada's sovereignty and expression of our commitment to defence to be engaged primarily in the defence of the country, which of course references a good deal to the North.

Rather than seeing an absence, I see a complete, robust thrust in the North, including with new technology, satellites and other modern approaches to utilization of space.

DEMOCRATIC REFORM

ELECTORAL FINANCING

Hon. Linda Frum: My question is for the Leader of the Government in the Senate.

Leader, today the Legal and Constitutional Affairs Committee released a report that highlights the significant gaps in the Canada Elections Act that enable foreign entities to influence Canadian elections. Both the Commissioner of Canada Elections and the Chief Electoral Officer acknowledge that under the current electoral financing regime, third parties can receive unlimited foreign funds, provided they accept the funds six months and one day prior to a writ period.

In the eyes of Elections Canada, once the foreign funds are mingled with Canadian funds, it no longer matters if the funds come from Russia, the United States or Iran; they are considered usable during an election.

This is an outrageous loophole that undermines our national sovereignty. That is why last week I tabled Bill S-239, the eliminating foreign funding in elections act. This act will close the loophole and ensure that Canada's electoral process belongs to the Canadian people and only to the Canadian people. The intent of this legislation is now supported by the Senate report released today.

My question to you, leader, is this: Will the Government of Canada listen to the recommendations by the Legal and Constitutional Affairs Committee and support Bill S-239?

Hon. Peter Harder (Government Representative in the Senate): Thank you, senator, for your question. Let me begin by congratulating you for not only tabling the legislation but advancing it as quickly as you have. It is entirely appropriate that the Senate do that.

As you would expect in the normal consideration of legislation coming from the Senate through Senate public bills, there is a process by which the government determines whether or not, as a government, to support those private initiatives.

I have brought your bill to the attention of the appropriate ministers and would expect that, upon appropriate review and deliberation, I will be in a position to inform the Senate of the position the government is taking. However, I want you to know, and all senators to know, that this is a serious question, which the government, and the responsible minister in particular, are very much seized with.

[*Translation*]

HEALTH

MEDICAL ASSISTANCE IN DYING— INDEPENDENT REVIEW

Hon. Claude Carignan: My question is for the Leader of the Government in the Senate. This time last year, the Senate was in the middle of a debate on Bill C-14 on medical assistance in dying. This bill was finally passed, on division, and was given Royal Assent on June 17, 2016. The bill provided for an independent review of certain issues in the months following its passage, namely those set out in section 9.1, which are mature minors, advance requests, and requests where mental illness is the sole underlying medical condition.

• (1430)

The media has recently reported on some heart-wrenching cases of people dealing with serious challenges. On May 19, Véronique Dorval, a young woman from Saguenay suffering from serious mental illness who was denied medical assistance in dying, took her own life in Quebec City in tragic circumstances.

On March 10, 2017, a Quebecer in his 40s, Sébastien Gagné-Ménard, had to pay $35,000 to receive medical assistance in dying in Switzerland, far from his loved ones.

On December 13, 2016, the Trudeau government quietly announced that it had implemented a legislative review process and mandated the Council of Canadian Academies, a not-for-profit organization, to conduct independent reviews of these three particularly complex and sensitive issues. The organization had to first discuss the scope of its work and then develop a detailed plan.

My question is as follows: what is the status of the work of this organization that is acting for and on behalf of the government? Furthermore, did this organization publicly disclose its detailed review plan?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. He is correct in referring to the mandate that the ministers have given to the

Canadian academies, and I would be happy to determine an update and report to the Senate and to the senator.

ORDERS OF THE DAY

CANADIAN HUMAN RIGHTS ACT
CRIMINAL CODE

BILL TO AMEND—THIRD READING—
DEBATE CONTINUED

On the Order:

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

Hon. Donald Neil Plett: Honourable senators, I rise today to speak at third reading to Bill C-16.

Since I last rose to speak on this topic, we have had an in depth study of this legislation at committee. Witnesses gave impassioned pleas to the committee and made substantive contributions.

This legislation was not studied in the House of Commons, so I would like to start my speech by saying that I am proud of the thorough work that the Senate has done on this legislation to date. If I had to sum up the witness testimony in a few short sentences it could be characterized by the following: Trans people face discrimination and marginalization in Canadian society; this legislation could have a disproportionate impact on women; and, third, the interpretation of this bill and its surrounding policies will likely constitute the most egregious infringement on freedom of speech in Canadian history.

My speech today will focus on this last issue because, colleagues, this cannot be swept under the rug.

I raised this concern — the issue of compelled speech — at second reading, and it was expanded upon in great detail by several witnesses at committee, including litigators, law professors, constitutional experts and a free speech advocate from the transgender community.

Some proponents of the bill have tried to get around this point by stating that there is nothing written in the bill that compels speech. After all, the bill simply adds two grounds — gender identity and gender expression — to the Canadian Human Rights Act and to the Criminal Code.

As the same proponents know, the problem is when we leave the interpretation of these new grounds to the Canadian Human Rights Commission.

Most of us have worked with legislation for long enough to know that the appropriate level of analysis is not the words written on a page. The analysis we must provide, at a most basic level, as legislators, includes how the bill will likely be interpreted and how it will impact Canadians.

As Senator Jaffer stated earlier this week, the minister herself denied the infringement upon freedom of speech by referring to the hate speech provisions in the Criminal Code.

None of the arguments that have been made with respect to the compelling of speech have anything to do with the Criminal Code amendments, despite senators at the table disingenuously claiming that this bill is only about genocide.

One senator, who I respect immensely, was furious at two witnesses who testified about the infringement upon freedom of speech, implying that they were okay with inciting genocide of trans people. This was truly appalling, and I received letters from both witnesses afterwards, one of whom is a trans woman, about the treatment that they received from this senator and the insinuations he had made. The two were just there to talk about the impact this legislation would have on freedom of expression.

I cannot believe that I would even need to say this, but let me be perfectly clear: Opponents of the legislation, including myself and witnesses who appeared at committee, do not believe in discrimination against transgender people and do not believe in the promotion of genocide of transgender people. The insinuation is absurd and insulting.

However, as I said, it is clear that the minister does not even understand the "compelled speech" concern raised repeatedly by legal experts at committee as she responded by making reference to the hate speech provisions in the Criminal Code.

For Canadians who are paying attention and who still have questions about how the words on the page in front of us get us to compelled speech, let me explain. The origins of Bill C-16 can be found in the same legislation at the provincial level, including the Ontario Human Rights Code. When a new ground of protection is added to the Canadian Human Rights Act, like the Ontario Human Rights Code, the respective commissions are tasked with setting the surrounding policies and guidelines.

There is a long documented history of the federal policies mirroring those found at the provincial level when interpreted by the commission. With respect to this particular bill, the government's intention was made expressly clear through a Department of Justice review of Bill C-16 published on their website. The review includes a question and answer section in which the government states:

> Definitions of the terms "gender identity" and "gender expression" have already been given by the Ontario Human Rights Commission, for example. The Commission has provided helpful discussion and examples that can offer good practical guidance. The Canadian Human Rights Commission will provide similar guidance on the meaning of these terms in the Canadian Human Rights Act.

Colleagues, this statement of intent is perfectly clear. The Ontario Human Rights Commission has produced a policy on gender identity and expression and what constitutes harassment and discrimination, including refusing to refer to a person by their self-identified name and personal pronoun.

With the passage of Bill C-16 in its current form, if one encounters a person in a sphere of activity covered by the federal code and addresses that person by a pronoun that is not the chosen personal or preferred pronoun of that person, your action can constitute discrimination.

As Jared Brown stated in his legal analysis, "In the event that your personal or religious beliefs do not recognize genders beyond simply male and female (for example, your beliefs do not recognize non-binary, gender neutral or other identifies), you must still utilize the non-binary, gender neutral or other pronouns required by non-binary or gender neutral persons, lest you be found to be discriminatory."

The pronouns I am referring to include words like "zi," "zir," "they," et cetera, but the list is truly infinite as the pronouns accompany the 70-plus genders that exist to date. Any such pronouns are at the sole discretion of the non-binary or gender non-conforming individual.

• (1440)

These are words that are not yet even in the dictionary. Nevertheless, this is effectively changing language by statute, which means that language is now in the purview of the state.

Honourable senators, this is so wrong in a free country. When Jared Brown testified before committee on freedom of expression issues, he stated:

> It's a foundational issue. We all know that section 2(b) of the Charter sets out that everybody has the fundamental freedoms of thought, belief, opinion and expression. We all know that the government has successfully restricted freedom of expression over the years. But what if, rather than restricting what you can't say, the government actually mandated what you must say? In other words, instead of legislating that you cannot defame someone, for instance, the government says, "When you speak about a particular subject, let's say gender, you must use this government-approved set of words and theories."

The American jurisprudence clearly defines this as unconstitutional compelled speech. In Canada, honourable senators, the Supreme Court has enunciated the principle that anything that forces someone to express opinions that are not their own is a penalty that is totalitarian and as such alien to the tradition of free nations like Canada.

Some proponents have claimed this issue to be a red herring, stating things like "Professor Jordan Peterson would never actually find himself before the courts for his stance on the gender spectrum or for failing to use a gender neutral pronoun."

With respect, this is simply incorrect. First, Professor Peterson made his initial video stating he would not use the zie or zir pronouns, language that he regards as part of an ideological linguistic vanguard.

The University of Toronto's legal department — not an administrator — sent him two letters ordering him to cease and desist in his public utterances because they believed he was not only violating the university's standards of conduct but was also violating the relevant provisions of the Ontario Human Rights Commission.

As Professor Peterson said in committee:

> . . . that vindicated the statement I made when I made the video to begin with, that the act of making the video itself was probably already illegal.

Second, as Professor Peterson publicly criticized the Ontario policy, the OHRC clarified its policy with respect to pronoun use and went even further by setting out the following:

> . . . refusing to refer to a trans person by their chosen name and a personal pronoun that matches their gender identity or purposely misgendering will likely be discrimination.

So what is the big deal? What happens to an individual who is found to be discriminatory by the Human Rights Tribunal? There are a number of possible sanctions the tribunal can order, including both monetary and non-monetary orders. Non-monetary orders can include forced apologies, gag orders, publication bans and orders to undertake sensitivity and anti-bias training.

If you, as an intellectual dissenter, fail to complete one of these reprehensible and backward court orders, the likely consequence is prison time. In fact, failure to comply has led to jail time at both provincial and federal levels. This is truly outrageous. It is particularly appalling when it comes to an issue like this, when we are talking about a new ground that is not based on immutable characteristics but on a social science theory about social construction and a spectrum of gender.

While I knew why I would be reluctant to undergo court-mandated sensitivity training, I asked Dr. Peterson to elaborate why someone like him who dissents as an intellectual and as a practitioner would have an objection to taking such training. His answer was rather enlightening:

> I have a profound objection to undergoing such training. In fact, I would flatly refuse under all conditions to undergo it, and there are multiple reasons for that. The first reason is that the science surrounding the so-called charge of implicit bias that's associated with the perception is by no means settled . . . .

He later continued:

> Where's the evidence that anti unconscious bias training works? There's no evidence, and what little evidence there is suggests it actually has the opposite effect because people

> don't like being brought in front of a re-education committee and having their fundamental perceptions . . . altered by collective fiat.

Honourable senators, language evolves as we use it and as it becomes relevant in a modern society. Think of the word "Ms." The term was born out of a need to fix a clear problem. Many women didn't want their marital status unnecessarily disclosed, and wanted the option to not define themselves based on their marital status. This was a natural societal evolution, and the language evolved organically. It did not evolve by legal force.

Some senators tried to call into question the certainty of these policies by highlighting other segments of the incoherent Ontario Human Rights Code that were less specific than the clauses I read out. The fact that the policy is full of internal contradictions does not make for a strong argument, especially considering that the most detailed guidance was clarified after Jordan Peterson rose to public consciousness.

On this point, University of Toronto Professor Brenda Cossman, a proponent of the bill and a witness at committee, has said this regarding Bill C-16:

> . . . pronoun misuse may become actionable, through Human Rights Tribunals and courts.

Another supporter of the bill, Law Professor Kyle Kirkup, answered a question about a person who wants a non-traditional pronoun used, and whether that person would have a case before the Human Rights Commission. Kirkup replied with this:

> So we haven't seen cases on that at this point, but I would say absolutely . . .

Honourable senators, there is another concept that came up a lot at committee, and that is the notion of respect. We do not legislate respect, honourable senators. Respect is earned. It is ludicrous to suggest that it is harassment to refuse to refer to an individual by a made-up word that they have chosen for themselves.

On this point, constitutional expert Jay Cameron weighed in:

> In our society, which is a free and just society, we do not compel respect. It is not the government's role to compel us to respect each other. There is no case law that says I must respect any person or that they must respect me. I'm a lawyer. I don't require people to speak to me as "esquire" or "Mr. Cameron" or "barrister and solicitor." If they refuse to address me as such, I would have no legal recourse against them. Neither does a doctor, neither does a professor, neither does a knight, neither does a senator.

Professor Peterson also weighed in on the question of respect:

> I would say that the very idea that calling someone a term that they didn't choose causes them such irreparable harm that legal remedies should be sought, rather than regarding it as a form of impoliteness, that legal remedies should be sought, including potential violation of the hate speech codes, is an indication of just how deeply the culture of victimization has sunk into our society.

Personal or intellectual dissenters of the gender spectrum theory or the social constructionist viewpoint would not be afforded any special accommodation. Even though the science is overwhelmingly in favour to the point where the social constructionist theory has been all but disproven, the law would not accommodate this perspective. The law and its future interpretation will only accommodate proponents of the flawed and self-contradictory social science theory of the infinite gender spectrum.

• (1450)

This is the same theory that is predicated on the notion that sex, sexual orientation and gender identity all vary independently of one another and, thus, that one has no influence on the other.

There are lots of valid reasons to not want to use ideologically driven gender-neutral language, and none of them have to do with a regressive, backward or ignorant perspective.

Evolutionary biology professor Dr. Gad Saad told the committee that the tenets of evolutionary biology — namely, the scientifically proven distinctions between men and women — are already viewed as micro-aggressions and as systemic violence on some university campuses.

From a scientific and academic perspective, he has grave concerns with being forced to use gender-neutral language that implies a passive endorsement of this theory.

Likewise, Theryn Meyer told the committee:

> As a trans woman myself, I take advantage of the freedom of speech that this amazing country has granted me to argue for tolerance and understanding for my fellow man, and to explore how best to negotiate integration of my transgender brothers and sisters into society.

Meyer later stated:

> The reason I am here is because I have witnessed first-hand the unprecedented ideological motivations behind the terms being used, the way they're used and the way they are defined.

The question that we need to consider is whether the benefits of this legislation outweigh the drawbacks. In my opinion, given that the Canadian Human Rights Commission has already stated that trans people are protected in Canadian human rights law, and given the impending outrageous infringement on freedom of expression, the answer is clear.

However, I know that there are members of the trans community who feel that the passage of this legislation will be the final piece of the puzzle in Canada's multi-jurisdictional

human rights regime. Many also feel that the symbolic gesture of this legislation means that Canada is recognizing the legitimacy of transgender people as equal under the law.

Honourable as those goals may be, they do not detract from the problem that we have before us. We do not have the wherewithal to define the surrounding policies and guidelines in this place, but we can make Parliament's intent clear. As Senator Baker has pointed out a number of times, the courts constantly make reference to the Senate when determining Parliament's intent. In this case, we have an obligation to make our intention clear, or make no mistake, we will have compelled speech at the federal level upon the passage of this bill.

Witnesses pleaded with us to make an amendment. The minister herself said this legislation is not intended to compel speech. For that reason, the government should have no problem accepting an amendment in this regard and, in fact, should welcome it.

In committee, Senator Pratte stated to Queen's law professor Bruce Pardy:

> . . . there is nothing in the legislation that mandates pronouns or nouns. There is nothing in the legislation that says that.

Professor Purdy responded with this:

> It sounds like you interpret the statute as though it does not require speech and should not require speech. I agree with you. All I'm saying is it does leave open that possibility because of the control the commission has, and there is an easy way to make sure that your objective and mine are met, and that is to insert a very simple amendment saying what you just said.

Let's make our intention clear.

Before I conclude, I need to make reference to a couple of issues that tremendously disappointed me at committee.

I already spoke of the one incident in which a senator angrily replied that the witnesses were okay with the incitement of genocide of transgender people. But later, I wanted to append an observation stating the following:

The committee heard from witnesses who raised serious concerns regarding interpretations of this legislation by the Canadian Human Rights Commission, specifically with respect to the compelling of gender-neutral speech from persons who may or may not subscribe to this particular theory of gender.

I felt that it would be a gross mistake on the part of the committee to not include a note about the very serious concerns raised about compelled speech.

The arguments put forward by some esteemed members of the committee were that we did not want to imply that there was any credibility or validity to the arguments raised by the six experts who raised these concerns.

I found this fascinating. The senator who raised this point was not even present for the meeting on compelled speech, and it was even more surprising that not one senator could come up with a single argument to dispute these claims. That is very telling.

Senator Joyal's argument against this observation was not that there were not valid concerns, but that if we were putting in observations every time we have serious concerns, we would have too many observations. And Senator Mitchell's objection was that we would be giving credence to these concerns without giving similar credence to the proponents of the bill.

As I stated then, the committee's passing of the bill without amendments was a fairly good indicator that the proponents' testimony was heard. This bizarre attempt to pull the wool over the eyes of Canadians on this issue is disturbing, to say the least.

I asked Senator Harder last week about why the Department of Justice web page linking Bill C-16 to the reprehensible Ontario policies disappeared mysteriously after Peterson's concerns gained traction. I am looking forward to receiving that answer as to why, and at whose direction, the page was removed. As one witness pointed out, this page was really the smoking gun.

The concern is not hypothetical, as some have tried to suggest. It is very real. As we know, many proponents are acknowledging this is precisely how the legislation will be interpreted. They just somehow manage to believe that giving language control over to the state is a good idea. It is happening currently at the provincial level, and based on the statement of intent from the government and the usual course of federal human rights policies mirroring their provincial equivalents, we have absolutely every reason to suspect a similar interpretation at the federal level.

All we have to do is make our intention clear.

When Senator Joyal asked Professor Bruce Pardy about letting the courts decide whether there is an infringement on freedom of speech rather than introducing a clarifying amendment, Professor Pardy responded:

> But it's even not clear what it is you're trying to do. Is the bill intended to force speech or not? People are saying, "No, no, it doesn't do that." If that's what you mean, then say so. If you do mean that, then let's say that. Why would you want the courts to be making the law in the country? You're the legislature. Legislate.

Colleagues, Canadians are watching. There is a reason that thousands of people tuned into the particular committee hearing on compelled speech live, and over 400,000 people have watched the hearing on YouTube since. Canadians are concerned, engaged and paying attention. They are listening today. In fact, in my eight years in the Senate, I have never seen such a strong and engaged response from Canadians of all political stripes who are concerned about this infringement on their freedom of speech and the general precedent this represents. If you believe in sending a strong message to the Canadian Human Rights Commission that Canadians should be free from having to mouth opinions and ideologies that are not their own, while enshrining explicit protection for trans people under the law, I look forward to your support on the following amendment.

I will leave you with one final comment from Professor Pardy at committee:

> . . . forced speech is the most egregious infringement of freedom of speech, and freedom of speech may be the most important freedom that we have. Compelled speech puts words in the mouths of citizens and threatens to punish them if they do not comply. When speech is merely restricted, you can at least keep your thoughts to yourself. Forced speech makes people say things with which they do not agree.

MOTION IN AMENDMENT

Hon. Donald Neil Plett: Therefore, honourable senators, in amendment, I move:

> That Bill C-16 be not now read a third time, but that it be amended on page 2, by adding the following after line 3:
>
> "2.1 The Act is amended by adding the following after section 4:
>
> 4.1 For greater certainty, nothing in this Act requires the use of a particular word or expression that corresponds to the gender identity or expression of any person.".

Thank you.

• (1500)

Hon. Chantal Petitclerc: Would the honourable senator take a question?

Senator Plett: Yes**,** certainly**.**

Senator Petitclerc: Thank you very much, Senator Plett. I feel I have to ask this question because your speech resonates strongly with me.

As someone who has been in a wheelchair for 35 years, I have been called many things. I have been called a person with a disability, handicapped, crippled. When I used to go to France, we were called "invalid." Now when I go to France I'm called "less valid," which I guarantee I don't like, but I can assure you that I never took anyone to court because I knew that the intent was never to be hurtful or discriminatory.

The best answer to that was from my friend Rick Hansen. We had this discussion, and at one point he said, "Why don't people just call us Rick or Chantal?"

Why are we trying to complicate something that is quite simple, when we will continue to have the freedom to choose to call someone just by their name?

Senator Plett: Thank you very much, Senator Petitclerc.

Let me say I agree 100 per cent with your observation. The bill, however, according to the Ontario Human Rights Commission, will compel me to call people certain things that I don't agree with.

I'm fine that I shouldn't call you something that you don't want to be called. My argument is this bill will require me — not in your case, but in the case of transgender people — to call them by what they tell me to call them. It won't just be "he" or "she."

I'm fine if the bill would say that if someone identifies as a woman to call them "Miss." I have always called Theryn "Theryn." Theryn is a transgender woman, and we had a perfectly good relationship. I called her Theryn, and I think that's perfectly acceptable. Senator Pratte brought this up a few times.

But this bill will compel me to call a person "zi" or "zir," if that's what they want to be called. That is what I object to.

This is not taking away freedom of speech; this is compelling speech. This is the opposite.

Senator Petitclerc, I agree with you entirely. If you want to be called "Senator Petitclerc," I should respect you and call you exactly that.

The Hon. the Speaker: Senator Mitchell, on debate on the amendment.

Hon. Grant Mitchell: Thank you very much. I would like to address a couple of points that Senator Plett has used to build his case for an amendment, which I'm in profound disagreement.

He bases his arguments largely on the testimony three witnesses: a lawyer, Brown; a lawyer, Pardy; and a psychology professor, Jordan Peterson. They stated the case that Senator Plett is trying to make, but in each case, they didn't give us a single example of where their concern has ever been realized, in real time in the real world. Even though this provision has existed in 12 jurisdictions across this country, it has never come to the level of anything beyond the hypothetical.

In the case of Mr. Peterson, who has made a great deal of his concern that he might lose his job, that he might be forced to say "zi" or "zir," and I have read the letters he received. There was no threat to his job. There was a suggestion that he be careful about the respect with which he treats his students. Not only has he not lost his classroom, he still has his classroom. It sounds like a significant forum for free speech. The University of Toronto gave him another room where Dr. Cossman was able to debate him. That sounds like a significant place where you can have freedom of speech. In fact, he was invited to the Senate of Canada, one of the most public places in the country, to say whatever he wanted to. That sounds like he has very little prohibition on his freedom of speech.

He has never said that he was forced by any of his students to say "zi" or "zir," but I would say as a father of children, who have been to university, and a student, as all of us have been, would a professor not want to create a respectful and accommodating environment to his or her students? He said that if they ask in a respectful way, he might use those pronouns.

The second point I want to make is this idea that somehow we are changing or compelling speech. I will get into that in more

detail, but I'm struck by the fact that about 45 per cent of the members of this Senate are women, because almost 100 years ago there was a very powerful case where the courts ultimately compelled speech. They said that when you say "person," you don't just mean men; you mean men and women. Isn't it ironic that 40 per cent or so of the people in this very room are here because of exactly that kind of legislative and rights initiative?

Senator Plett talks about social construct. It's very difficult to understand any of the arguments that any of the witnesses made when they used the term "social construct." But I will say about social construct arguments is that each of them were trying to dismiss the case for this bill by saying that somehow it was premised upon a social construct, and what are social constructs? They are not real.

Well, if someone out there buys into the social construct that they don't like trans people, and they discriminate against them or beat them up or harass or bully them, then that social construct is entirely real. That's exactly what this bill deals with. It gives protections and rights and some sense of equality and accommodation that people like Brown, Pardy and Peterson, and like each of us accept almost every day of our lives without question. When we fight it, we fight it for other people.

This bill is about fighting for the rights of other people, and in doing so, the great and wonderful irony is that we enhance and strengthen the rights of all people. That's how human rights work. They are not a zero-sum game. There are trans people in this country who fundamentally need our help, our embrace and the protections we can extend with this bill.

I fundamentally disagree with what Senator Plett's amendment attempts to do, and I say that Bill C-16 in no way compels speech or the use of any words, including pronouns. It simply requires us all to refrain from behaving in a way that discriminates against or harasses a person on any of the specified grounds in certain environments like workplaces and provisions of public services.

• (1510)

Words matter. It is widely understood. Every one of us absolutely and fundamentally knows that even the most benign words, when used inappropriately or perniciously, can hurt, harm and rise to the level of harassment. The most benign words can do damage if they are not used in a respectful way. If words like "sweetheart" or "dear" are used in a workplace to demean or patronize anyone, we all know that is absolutely unacceptable. If someone wanted to demean a trans person, one very effective and particularly damaging way of doing that would be to continuously misgender them, calling a woman "he" or "him" continuously against their will would be harassment whether that person were trans or not.

If, on the other hand, somebody feels unable to refer to a woman as "her" because it is somehow inconsistent with their values, this can be resolved simply by calling them by their first name. How in our society, known for its respect, decency and acceptance, could the very remote possibility — hypothetical possibility — of being asked to use a person's first name ever be a reason to oppose protections so desperately needed by one the most vulnerable, alienated, bullied and harassed groups in our society?

To include this special amendment or this special provision that Senator Plett is providing to the two new grounds that are being brought forward in Bill C-16, would, in fact, be to invoke a technique that is not used for any of the other grounds specified in the human rights codes or Criminal Code.

For example, we do not include a list clarifying what religious leaders might be able to say. We don't do that because the specifications of their religious freedoms absolutely suffice. We have a sophisticated legal and rights system in this country with institutions, courts and tribunals that are expert in determining the parameters of the grounds protected in our legislation and in meshing and managing when rights bump up against each other. These courts and tribunals do not do it in the abstract of debate in places like this. They do it with specific cases, contexts and facts and with specific discussion about those facts, contexts and cases. They have done it many times across this country for many decades, and they have done it with great success. That is one of the reasons we have the remarkable human rights record and human rights privileges in this country today.

I want to make and emphasize a fact. The Canadian Human Rights Act is a human rights law which evolves with society. It is a remedial law, not a punitive one. Its goal is to address discrimination, not to punish anyone.

For those who raise a concern about freedom of speech, each of us already has significant protections in the law for our freedom of speech. Speech, of course, is a form of expression. Yet, opposing Bill C-16 denies trans people protections for their freedom of gender expression. On the one hand, when somebody denies or opposes Bill C-16 on this basis, they are really saying: "Well, I want my protections for the freedom of my form of expression, but I don't want that person over there to have protections for the freedom of their form of expression."

The real beauty of our human rights experience in Canada is it is simply not a zero-sum game and we do not prioritize one person's freedom of expression over someone else's. We work it out respectfully and politely. There will be exactly the same process invoked by the application of these provisions of Bill C-16. There is simply no need for this amendment. Our rights experiences in general and the two specific codes that Bill C-16 strengthens have served Canadians well, and they have enhanced our quality of community, respect and life immensely, for every single one of us.

Today, with this bill, we extend more of that to more people, and, in doing so, we strengthen the rights of everyone in this country. We can be leaders in the world of doing that.

Some Hon. Senators: Hear, hear.

Senator Plett: Would Senator Mitchell take a question?

Well, Senator Mitchell, you spent 10 minutes arguing my argument for me. You are arguing for freedom of speech, and I didn't argue against freedom of speech. I support that. In my answer to Senator Petitclerc, I 100 per cent supported freedom of speech.

This is not about freedom of speech; it is about compelling speech. You used the analogy of our being called "persons." I

don't think there is any law for me to call you a person. I think I can call you a man; I can call Senator Petitclerc a woman, a lady. I'm not compelled to call you a person. I'm not sure where this argument is. I would like you to explain how that even equates to this particular bill.

You talk about calling people by their first name. I agree with you entirely. I said in my remarks that I had a good relationship with Theryn Meyer, and I'm happy to call Theryn Meyer "her." She identifies as a woman, and my argument isn't against that.

My argument is against my being compelled to use names and pronouns that are not even in the dictionary. Somebody can simply make up a word, and I'm supposed to call them that. You talk about just calling them by their first name. I agree with that, but the bill doesn't say that.

So, Senator Mitchell, I'm not sure why you wouldn't support the amendment because I'm not arguing against the rights of transgenders and having protection under the law.

I am asking you, Senator Mitchell, where in my speech do I suggest we should not be respectful? Where does using the term "person" have anything at all to do with what I said? It's not a compelled term.

I'll leave it there for now. I might ask another question, but please.

Senator Mitchell: It seems to me, Senator Plett, although I'm sure this is wrong, that you are not aware of the Persons Case. It's the Persons Case I was referring to. It is because the Persons Case was won, interestingly enough, by the grandfather of Senator Nancy Ruth, that she was allowed to sit in this very chamber. The implication was that prior to the Persons Case, "persons," when you used that term in that context, and, of course, all terms are used in a context, meant only men. After that, we were compelled to say when we use the word "person" in that context that it meant men and women. This is not particularly new. In fact, it's intrinsic to who we are and what we are as an institution.

There is another assumption that you make, which I find hypothetical and a "sky is falling" default to disaster kind of assumption. It might be. I have been working closely with the trans community and trans people for probably five years now, and I have never once heard of anyone asking anyone else to use the words "ze" or "zir." I expect that almost all of us will live our entire lives never being asked to use "ze" or "zir" by anyone.

But in the event that someone actually did that, the Ontario human rights group, which you refer to frequently, has said that if you don't want to use that, you can use "they," and if you don't want to use "they," simply use their first name. I might say tongue in cheek, to lighten things for a moment, that, of course, in the Senate this is no problem whatsoever because if you can't remember a senator's first name you just call him or her "senator."

If it got to the point where somebody wanted to be called "ze" or "zir," which, again, is fundamentally hypothetical, why is it that you assume the tribunal would rule in their favour and against the other party? Again, it's just a purely hypothetical assumption. When I consider the damage and the harm and the hurt that is done to trans people every day —

• (1520)

The Hon. the Speaker: Excuse me, Senator Mitchell, your time has expired. I know there are a couple of other senators who want to ask a question. Are you asking for more time?

Senator Mitchell: Sure.

The Hon. the Speaker: Five more minutes?

Hon. Senators: Agreed.

Senator Mitchell: The pain those people feel is so significant and profound it is almost — and I don't want to be aggressive about this — embarrassing that we are in any way, shape or form suggesting that Canadians, who we know to be fundamentally, respectful, wonderful, accommodating, embracing people, would ever get to a point over something like zi and zir, where they would be called before a tribunal. It seems to me to be almost a sky-is-falling argument that really and truly doesn't behoove this level of debate and does not make the case against this bill.

You make one other point, and Senator Baker makes this point all the time. The courts often refer to us and quote us, but it is not necessarily that they have to refer to an amendment or quote an amendment. It's not as though your words and arguments aren't on the record, and it's not as though the Supreme Court and other courts don't go through the record. That's what they quote. Yes, that's another way to make your point, but it can have unintended consequences and is not good law because we don't use it anywhere else. In fact, it would be intrinsic discrimination to use this kind of provision to further clarify a grounds when, in the particular case of trans people and gender, no other grounds are clarified in these two codes in that same way.

The Hon. the Speaker: Honourable senators, I know there are a couple other senators who want to ask questions, but if you want to ask a question, please ask a question. If you want to make a statement, enter the debate and take your full 15 minutes. If you are asking a question, get to your point, please.

Hon. George Baker: Is it correct that in every province in Canada and every territory except one, this same change to the Human Rights Act in every single other jurisdiction is in effect and has been in effect for a decade in some provinces, with no problems that arise? Is it not correct that some of the witnesses before the committee actually were complaining about the provincial legislation, about matters that had not arisen in the past decade, when that legislation has already been taken into account?

Senator Mitchell: Yes**,** in fact there are 12 jurisdictions. Nine, almost ten, actually have both gender expression and identity, and three have gender identity. There have been no examples of this problem.

Senator Plett mentioned Gad Saad who was quite perturbed about this legislation having an effect on him in his classroom, no

t realizing that since 2010, Quebec has had gender identity and gender expression in their provincial legislation, which covers his classroom. He has never once confronted the problem that he thinks he is going to confront when this passes, even though it doesn't have any jurisdiction over his classroom or that particular feature of his life at all. It was vacuous and irrelevant testimony.

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

Hon. Marilou McPhedran: May I ask a question of Senator Plett?

Some Hon. Senators: No.

The Hon. the Speaker: Sorry, it's too late for that, Senator McPhedran.

Senator McPhedran: May I respond?

The Hon. the Speaker: Are you entering the debate on the amendment?

Senator McPhedran: Yes**,** thank you, on the amendment.

I would like to speak to this from a particular perspective and slice of my life. I'm a former Chief Commissioner of Human Rights in a province, and I'm a former member of the Canadian Human Rights Tribunal, having responsibility for interpreting the Canadian Human Rights Act. I'd like to comment on the proposed amendment with a number of observations.

My first observation is that beginning in 2013, surveys of Canadians of what is the strongest symbol of being Canadian, the Charter and the flag match up almost equally at the top of the list.

The whole concept of a Charter of Rights and Freedoms in this country that is aligned at the provincial and territorial level, with similar codes, with protections for the people who live in this country, is core to who we are.

I want to take a moment to reflect on some of the decisions that have occurred across this country, because they have recurring themes directly pertinent to the point being made in this amendment.

But I also need to observe that thus far, to the best of my knowledge, those who have spoken in support of versions of this amendment, those mentioned by Senator Plett in moving the amendment, are each and every one in a level of both privilege and power in our society that makes this a highly relevant aspect of the amendment.

The amendment is being made, spoken to and proposed from the perspective of a man of privilege and power. The examples given to us to support and to persuade us on the amendment are based also all on men, all in positions of privilege and power; a tenured professor, an editor at a major news outlet, lawyers, a senator.

There is a huge difference between what is being termed "compelled speech" and speech that is questioned because of its context and its impact.

These are very important elements of the jurisprudence in this country that deals with so-called hate speech. If you have a friend who is Black, a co-worker who is Chinese or Korean, or you are socializing with people who are not the same race as you, and you choose to call them a horrible name like nigger, like kike, et cetera, you are exercising your freedom of speech. While there may be social consequences for what you have chosen to do in such a hurtful and disrespectful and discriminatory way, it is highly unlikely that you will be able to successfully argue that your speech has been compelled in some way. It is also very unlikely that even if you were challenged regarding those particular comments that you would be held to be in any way censured.

It is also ridiculous in the references in support of this amendment that somehow people end up going to jail because they don't use a particular pronoun.

When the jurisprudence in this country at the provincial level, the territorial level and the national level has examined the concept of hate speech, it has required looking at impact, the effects, the results and the context.

Just turn the lens slightly away from these privileged, powerful men who don't want to anyone to question how they get to use language. Ask a question about impact; put it in context.

• (1530)

Where there have been findings of hate speech with any kinds of censure, any kind of consequences attached to those, we have in this country jurisprudence that demonstrates that there must be proof of damage done and that the nature of the challenge is such that someone forgetting to use a proper pronoun doesn't meet the standard of any of the decisions where there has been any level of censure in this country.

This is an amendment built out of a perception of privilege and power in our society to say whatever those who hold those positions of power and privilege wish to say. It is a fabrication in terms of any kind of actual legal cases that have evolved in this country based on the existing hate speech that used to operate in the Canadian Human Rights Act and still does operate at the provincial level.

So I would simply ask colleagues in the chamber to think very carefully about the significant difference between personal inclinations and responsibility not to inflict harm on others through the use of language, particularly for those of us who hold positions of power and privilege.

I would therefore invite all of us to decline to support this particular manifestation of power and privilege.

Some Hon. Senators: Hear, hear!

Senator Plett: Would you accept a question, senator?

Senator McPhedran: Of course, senator.

Senator Plett: Thank you. I clearly understand, senator, how you feel about privileged men; that was quite evident in your comments at the beginning.

Would you put Theryn Meyer, a transgender woman, into that same category? She was also one of the people who came and testified and supported Dr. Gad Saad, Dr. Peterson, the lawyer that we had here, and other professors. Is Theryn Meyer in the same category as the rest of them?

Senator McPhedran: Let me clarify that I was responding, senator, to the examples that you chose to use in your arguments in support of your amendment. Therefore, I observed the men have power privilege, but I would include anyone in a position of power and privilege who would feel that he or she or they could use any language they wish as a result of their position of power and privilege.

Hon. Linda Frum: Honourable senators, I rise today to speak to Senator Plett's amendment to Bill C-16, An Act to amend the Canadian Human Rights Act and the Criminal Code by adding the words "gender identity" and "gender expression" as prohibited grounds of discrimination.

Regardless of whether one supports or opposes this legislation, I know that there is a unanimous view in this chamber that hostility and discrimination against transgendered persons is completely unacceptable and must not be tolerated in a just and caring society like our own.

The intent of this legislation is to protect the rights of transgender and gender nonconforming persons. I believe that this is a virtuous intent because there should be no person in our country who feels unsafe due to their gender or their sexual identity.

Although there is a lack of consensus among transgendered individuals, the gay and lesbian community, and the feminist community on the value and efficacy of this legislation, there are a large number of people who do believe that this legislation is required to protect their rights.

It is for this reason that I voted to support this legislation at the clause-by-clause stage in committee.

To those who believe that Bill C-16 will make them safer and more protected against bigotry and hatred, it is my sincere hope that it succeeds in doing so. However, we would be fooling ourselves to believe that this legislation is any kind of panacea to end the extremely elevated depression and suicide rates among transgendered people. It does not have the power to stop bullying in schools nor on social media. It will not end transphobia.

Those are issues that need to be dealt with on a societal and educational level. Unfortunately, every social ill cannot be remedied through well-meaning legislation.

This has been our experience provincially, where the Ontario Human Rights Commission's addition of gender identity and gender expression has not had an impact on the suicide, depression or discrimination rate.

My support for this bill does not mean that I have no reservations about it. I remain concerned that due to its overly broad language and the Justice Minister's failure to provide definitions for the vague terms "gender identity" and "gender expression," there is reason to be worried that this bill will have a chilling effect on the right to freedom of speech.

The compelled use of pronouns, a potential consequence of Bill C-16 — and I think we heard just now the argument that Bill C-16 will not compel speech but that it is okay if it does — that is what I heard — because benign words can do damage and misgendering is harassment. Compelling pronouns may seem harmless to some, but for those of us who cherish the supreme ideal of free speech, the slippery slope is obvious and alarming.

Our committee heard testimony to this effect from a number of academics, including Professor Bruce Pardy from the Queen's University law school who said:

> Any speech that is compelled is, by definition, unreasonable. If you had a statute, for example, that compelled people to say 'hello' and 'please' and 'thank you,' all of which are perfectly reasonable things to say, the statute would be totalitarian because it puts words in the mouths of citizens. In a free country people, decide for themselves what to say, and as soon as you take that right away from them, you cannot claim to be living in a free society any longer.

Because I wholeheartedly agree with this sentiment, I support Senator Plett's amendment that makes it clear that the purpose of this legislation is not to compel speech but, rather, to protect individuals against workplace and other forms of discrimination.

The text reads:

> **4.1** For greater certainty, nothing in this Act requires the use of a particular word or expression that corresponds to the gender identity or expression of any person.".

This simple sentence makes clear Parliament's intent: This bill is designed to combat prejudice and discrimination, not to infringe on the freedom of speech.

Colleagues, most Canadians are not concerned with this bill's intent. Rather, many Canadians have legitimate concerns about the effects Bill C-16 will have on their right to speak freely. We have the opportunity to alleviate those concerns without hindering the intent of this legislation.

If we pass the amendment before us today, we will ensure a clear-minded focus on what this debate should be about: protecting transgender and gender non-conforming persons.

I applaud Senator Plett for bringing this amendment forward and urge all honourable senators to support me in supporting it.

Hon. Frances Lankin: Will you take a question, Senator Frum?

Senator Frum: Yes.

Senator Lankin: Thank you very much. I am in agreement with you with respect to support for the bill and the intolerance we should show to discrimination against the transgender community.

I am having a hard time following the argument — I wanted to ask Senator Plett, but time went on — that this is compelled speech somehow.

I have listened to what others have said. You just made a comment that the senator who said continuous misgendering is harassment. That is not compelled speech. It restricts you from misgendering someone.

Everyone has said that if you are uncomfortable using pronouns that are not within our historical speech, you can always call a person by their first time. You can even always say, "Hey, you."

There is nothing that compels you to use a particular word. There is a restriction in a context, as Senator McPhedran said, from being hurtful, harmful, harassment in workplaces and situations such as that.

Please tell me how this actually compels, as Senator Plett and you are concerned about. I understand your concern, but how does this legislation actually do that?

Senator Frum: We are muddying the intent in this debate. We are opening up the possibility that it is all about being labelled by the right pronoun, that the legislation is there to protect people against potential misgendering.

What we know is that while heretofore most of us are accustomed to the idea that there are two genders, what we now know, in modern parlance, is that is there could be up to 72 different forms of gender.

• (1540)

When you say people will not be compelled to use either "he" or "she," but an individual may decide that in order to be properly recognized and properly gendered, they do need to be called some word and we can't even imagine what that word is right now. And if that individual is not called by that label or by that term, that can be deemed a form of harassment. I think the possibility is there.

It is a real possibility and I think I have also heard in the debates on this floor that that is, in fact, what this chamber would like to see happen.

The Hon. the Speaker: Senator Lankin, are you going to ask a question or enter the debate?

Senator Lankin: I have a question.

You haven't said how the legislation compels the use of speech.

If I were to call you "him" and you objected to that, and I did it consistently and you found that very objectionable or if I, for some reason, didn't want to use the word "she" or "her," which is how you wanted to be referred to, I could call you "senator" or "Linda." I have options. I am not compelled to use the term that you want me to.

By the way, when I was a minister of the Crown, MPP Ruprecht consistently asked me questions and called me Mr. Minister. It was very bizarre. I didn't take an affront because of the MPP that it was coming from and how he used speech, but if I found that objectionable, I suppose he could have used said "minister of health" and not be compelled to call me Madam Minister.

Senator Frum: I think we are thinking about this largely in the context of academia. It is easy to imagine a situation where a professor stands at the fronts of the room and says, "Can everyone please take his or her seat," or, "Can everyone please pick up his or her or their" — and what if that doesn't cover me?

But now you're inhibiting my speech. I'm in the habit of saying pick up "his" or "her" or "their" and then I am told I am harassing an individual in the room. This is a real fear that people in the academic environment have, and there is a real reason they fear it.

Senator Plett: Senator Frum, Senator Lankin asked you a question about how this compels speech. The government has said that the Canadian Human Rights Commission will provide similar guidance on the meaning of terms in the Canadian Human Rights Act. They are referring, of course, to the Ontario Human Rights Code.

The Ontario Human Rights Commission has produced a policy on gender identity and gender expression and what constitutes harassment and discrimination, including refusing to refer to a person — it's not free speech here, compelling — by their self-identified name and proper personal pronoun.

Would you call that compelling speech?

Senator Frum: Thank you for the question. Yes, I would.

Senator Plett: Thank you.

Hon. Marc Gold: I'd like to begin by thanking Senator Plett for raising this issue. I know words like that are often greeted with some skepticism, as in "Thank you for your question" after you have been skewered by somebody.

But I mean it sincerely. I started my academic career as a law professor writing about equality. I wrote about the Canadian Bill of Rights, because I am old, and later the Charter. But I was always mindful of the importance of other rights and freedoms and, in particular, I attach enormous importance to freedom of thought, freedom of speech, opinion and expression. These are fundamental — I would say foundational — to our constitutional democracy. I take very seriously the argument that Bill C-16

" might infringe freedom of speech by forcing someone to say something that they object to, the issue of compelled speech. It is a serious question and one that we should not ignore.

Let me confess that I have struggled with this issue, and I know I am not the only one. We have all struggled with this issue.

I do thank you sincerely for raising this. It has forced me to think about it, and think about it long and hard. I have thought about it and I can't support the amendment, and I want to tell you why.

I don't agree with your characterization that this is actually an issue of forced speech. And, furthermore, I can't support the amendment because, in my judgment, it's not desirable from a human rights perspective and frankly, it's not necessary in order to protect freedom of expression as we constitutionally understand it and as it is constitutionally protected.

It's not desirable from a human rights perspective because there are certain circumstances in how we speak to each other and, yes, even the pronouns we may use that may well amount to harassment and, therefore, a discriminatory practice under the Canadian Human Rights Act, but would constitute, in my opinion, a reasonable limit on our freedom of expression.

Second, the amendment is not necessary because our current human rights processes and our court system are both well designed to strike the appropriate balance between competing constitutional rights and freedoms and thereby ensuring that our constitutional right to speak freely will not be unjustifiably compromised by the provisions of a bill like Bill C-16.

Honourable senators, let's begin by placing this issue in its full context. First, it's clear to all of us that the issue of pronoun use is not at the core of what Bill C-16 is all about. The focus of the bill and therefore most of the complaints — if not all — that will be brought under it will be in relation to alleged discrimination against trans and non-binary persons in relation to denials of employment, housing, services and so on. Truth be told, the pronouns that we may use with one another lie somewhat at the margins of this bill.

[*Translation*]

Second, as several senators have mentioned during this debate, nobody is obligated to use a specific pronoun. One can always choose to address others by their last name.

[*English*]

Simply put, this really isn't a case of forced speech.

[*Translation*]

Third, we must be very clear about what is really an issue in this case and what isn't. Bill C-16 will not prevent an individual, such as Professor Petersen, from expressing his objection to using gender-neutral pronouns.

Here is what Justice Rothstein of the Supreme Court said about hate speech in the 2013 *Whatcott* decision:

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

[*English*]

Professor Peterson, as an intellectual, remains free to criticize the social science underlying the notion that gender is more fluid than we all grew up believing or understanding. He is free to criticize this bill and the use of pronouns. That is not at issue here. I think we need to be clear — and happily so — that is not at issue here.

Let's concede that everything I have just said, and much of what has been said in this debate, does not fully address the concerns of those who say that the bill would still nonetheless expose someone who failed to use the pronoun of choice to liability under the under the Canadian Human Rights Act.

Let's concede further — and it has been noted here today — that there are some circumstances that might amount to harassment and, therefore, a discriminatory practice under the act. The question remains when? When are those circumstances? When would the failure to use the appropriate pronoun amount to discrimination under the act?

Much has been made of the policy statements issued by the Ontario Human Rights Commission and this is understandable. Let's be clear: These are statements of policy; they are not statements of law. They don't bind the Ontario Human Rights Commission. They certainly don't bind the Canadian Human Rights Commission, but they are important. They signal an orientation. They are worthy of serious consideration, so I take them seriously, and we should.

• (1550)

We have heard already what the Ontario Human Rights Commission said about its policy on gender-neutral pronouns in its April 14, 2014 release, and I won't repeat it. Senator Plett stated it on two occasions, and that is correct. But let me add what it also said about what harassment is, because the Human Rights Act of Ontario and the Canadian Human Rights Act are about harassment as a discriminatory practice. So what do we mean by harassment? The Ontario Human Rights Commission defined harassment as "engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome."

During a committee meeting examining the bill, I asked the following question of a witness:

> . . . If I turn to you and say, look, please call me "they" because that's how I see myself now, because it's hurtful for you to call me "sir" or "miss" or whatever it would be, but you refuse. I say, "Okay. If you're uncomfortable with that

> because you're not comfortable with that, call me Marc." And you refuse. Were you to continue to call me by the name that I'm telling you is hurtful to me —

it isn't who I am —

> is that not something that the law can properly address?

— dare I say should properly address?

Honourable senators, is that example so different than continuing to call an African-Canadian man "boy," knowing that the intent is to hurt and diminish him? Is it so different from continuing to call a female employee "sweetheart" after she tells you, as if you didn't know already, that she finds this demeaning?

In my opinion, the repeated and intentional misgendering of a person — that is, using a term for them that they have told you does not reflect who they are and is hurtful to them, especially in an environment like the workplace or some other public environment — would likely amount to harassment and, therefore, constitute an offence under the act; and, in my judgment, it would be considered a reasonable limit on our freedom to say whatever we want to say, just as are the laws of libel and slander.

You notice I didn't mention hate speech, because I have trouble with the hate speech provisions. A lot of my friends in my community don't like when I say that. I have called myself a free speech guy — I got a nasty email after I said that at a committee meeting, but I stand by it. They have been held to be constitutional, but that doesn't mean they're great laws. We are entitled to differences of opinion.

But the laws of libel and slander . . . We are not allowed to say things that cause damage to others. It is as simple as that. It all depends on the context on the intent.

Let us agree that the way we speak in some contexts and circumstances can amount to harassment and, therefore, discrimination, even if it falls short of hate speech under the Criminal Code. Let's further agree that this raises a free speech issue but one that is not — and, again, I must insist — one of forced speech. But it is a free speech issue nonetheless.

Honourable senators, if this is a relatively clear case, others will be more difficult. Let's acknowledge that as well.

[*Translation*]

Now, what if the person had no ill intentions, but simply had a personal problem using the desired pronoun?

[*English*]

Some words don't trip off the tongue, that's for sure.

[*Translation*]

What if it wasn't a behaviour pattern, but rather an isolated case?

Additionally, what about complaints filed in bad faith before the commissions, because unfortunately that does happen, with the sole purpose of getting back at the alleged aggressor?

What about those cases? Should we not be concerned about the repercussions those cases would have on freedom of expression?

This brings me to the second reason I oppose this amendment. It is simply not necessary to protect our rights to freedom of expression.

[*English*]

Honourable senators, we have to have some confidence in our administrative and legal processes, and in our legal system itself. Let's remember that Bill C-16 didn't invent out of whole cloth a new process for human rights inquiries for human rights adjudication. There is a system of law that is well established with rules and processes that are well-known.

[*Translation*]

The Human Rights Commission has experience assessing claims and selecting the complaints that warrant consideration and those that should be rejected. Furthermore, freedom of expression is just one of many rights and freedoms protected in legislation. These co-existing rights sometimes come into conflict with one another and require arbitration. In that respect, the commission and the tribunals have accumulated plenty of experience dealing with these conflicting situations, whether in relation to equality, religious freedom or other seemingly contradictory situations.

[*English*]

Third, and most important, the commission and the tribunals are bound by the Canadian Charter of Rights and Freedoms, and the protection for freedom of expression that it guarantees. This is a crucial point, and one that is often overlooked, frankly, in discussions of this nature: We tend to focus on the role of the courts in protecting our rights and freedoms, and striking the appropriate balance between competing rights — and understandably so.

But ensuring compliance with the Constitution and the Charter is not only the responsibility of the courts. We know that here in this chamber, because it's our responsibility, too. Both the Human Rights Commission and the Human Rights Tribunal — federal and provincial — are required by the Constitution and by law to ensure that their actions and their acts are consistent with all rights and freedoms, including the freedom of expression guaranteed under the Canadian Charter. We have every right to expect that the commission will take this into account when it's deciding whether or not to proceed with a complaint. We have every right to expect that a tribunal will take this into consideration when it decides a case before it.

At every stage of the human rights process, the question of the constitutional right to freedom of expression will be considered and has to be considered in assessing whether there has been discrimination under the act.

Of course, a decision of a tribunal may be appealed to the courts and, ultimately, to the Supreme Court of Canada.

This is and has long been our process under the Canadian Human Rights Act, and Bill C-16 doesn't change that one bit. Of course, there will be hard cases, and of course things are not entirely always clear. Why should we be surprised? The law, like life, is complicated and messy. But we have a legal system, and a sophisticated one, that is hardwired to deal with these hard cases where rights may conflict. When hard cases arise, the courts will be there to sort them out.

Let's return to the main objectives and the likely impacts of Bill C-16. It's not on the free-speech rights of persons who refuse to respect people's desire to be addressed as who they are.

The Hon. the Speaker: Senator Gold, I apologize for interrupting you, but your time has expired. Are you asking for more time?

Senator Gold: May I have five more minutes?

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

Hon. Senators: Agreed.

Senator Gold: Thank you. The objective is to afford protection from the persistent and cruel discrimination that the trans community experiences on a regular basis. We have the tools to address the hard free-speech cases that arise. Let's finally give ourselves the tools to help protect some of the most vulnerable members of our society.

Honourable senators, this amendment is not needed nor is it desirable. I'm going to vote against it. I encourage you to do the same.

• (1600)

Senator Plett: Would you take one question, Senator Gold?

Senator Gold: Of course.

Senator Plett: You thanked me for bringing this forward, and I thank you for making my argument for the last while. Clearly with the hand you received, everybody agrees with it.

You were speaking about freedom of speech, and I support freedom of speech. You were not talking about compelled speech; I was. You said it doesn't compel speech; I say it does. Brenda Cossman, your former colleague, says it compels speech. The Ontario Human Rights Commission says it compels speech. If it doesn't compel speech and if you believe in freedom of speech, what is the harm in simply saying "for greater certainty"? The minister said that, so what is the harm in saying that?

I'm not suggesting anything against the bill. I'm not changing the bill. "For greater certainty," it does not do this. You say it doesn't do that, so what is the harm in putting it "for greater certainty"?

Senator Gold: Thank you, Senator Plett, for your question. This is not a case of compelled speech, which I have tried to explain. I disagree with your characterization, and therefore, I do not think this amendment is necessary. Senator Mitchell and others have explained more eloquently than I can why it's not necessary and why indeed it would be deleterious, and I'm content with that answer.

As a practical matter, I think the time has come, considering there is no need for this amendment, to pass this bill as it stands, and finally, after so many years and so many attempts, to put this behind us and allow us to move forward.

Hon. Joan Fraser: Would Senator Gold take another question?

Senator Gold: Indeed.

Senator Fraser: I was not part of the study of this bill, but I wonder if you could explain to me whether, if we adopt Senator Plett's amendment, which basically refers only to gender identity or expression — in other words, if we're inserting a particular protection in connection with gender identity and expression but not for all the other categories against which discrimination is prohibited, are we not setting up an imbalance in the law, which is generally considered to be undesirable?

Senator Gold: Thank you for your question, Senator Fraser. I think that is correct. It would certainly give rise to an argument that this in and of itself offends the Charter. How that would work its way through the system, I don't know. It seems to me it would be an unfortunate waste of time and resources and introduce far greater uncertainty into the law than is necessary.

Hon. Yonah Martin (Deputy Leader of the Opposition): I have one question before I take adjournment in the name of Senator Tannas.

The Hon. the Speaker: Senator Gold has a minute left in his time, so your question will have to be quick.

Senator Martin: I'll say something on debate instead, then, because of the time. So I'll take adjournment in the name of Senator Tannas, who wishes to speak to this amendment.

Some Hon. Senators: Question!

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

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: I see two senators rising. Do we have an agreement for the time?

Senator Plett: One hour.

The Hon. the Speaker: One-hour bell. The vote will take place at 5:04. Call in the senators.

• (1700)

Motion agreed to and debate adjourned on the following division:

YEAS
THE HONOURABLE SENATORS

Ataullahjan
Baker
Batters
Bellemare
Bernard
Beyak
Boisvenu
Bovey
Brazeau
Campbell
Carignan
Christmas
Cordy
Cormier
Dagenais
Day
Dean
Downe
Eaton
Eggleton
Enverga
Forest
Fraser
Frum
Gagné
Galvez
Gold
Greene
Griffin
Harder
Hartling
Housakos
Jaffer
Joyal
Kenny
Lankin
Lovelace Nicholas
Maltais
Marshall
Martin
Massicotte
McCoy
McInnis
McIntyre
McPhedran
Mégie
Mitchell
Moncion
Munson
Ngo
Ogilvie
Oh
Petitclerc
Plett
Poirier
Pratte
Ringuette
Runciman
Saint-Germain
Seidman
Smith
Stewart Olsen
Tardif
Unger
Watt
Wells
Wetston
Woo—68

NAYS
THE HONOURABLE SENATORS

Nil

ABSTENTIONS
THE HONOURABLE SENATOR

White—1

• (1710)

COMMISSIONER OF OFFICIAL LANGUAGES

MOTION TO APPROVE APPOINTMENT WITHDRAWN

On Government Business, Motions, Order No. 106, by Honourable Peter Harder:

> That, in accordance with Section 49 of the *Official Languages Act*, R.S.C., 1985, Chapter 31 (4th Supp.), the Senate approve the appointment of Madeleine Meilleur as Commissioner of Official Languages.

(Motion withdrawn.)

ADJOURNMENT

MOTION ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of June 7, 2017, moved:

> That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, June 13, 2017, at 2 p.m.

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

Hon. Senators: Agreed.

(Motion agreed to.)

NON-NUCLEAR SANCTIONS AGAINST IRAN BILL

THIRD READING—ORDER RESET

The Senate proceeded to consideration of the third reading of Bill S-219, An Act to deter Iran-sponsored terrorism, incitement to hatred, and human rights violations.

Hon. Yonah Martin (Deputy Leader of the Opposition): Senator Tkachuk has asked me to reset the clock on this item as it is at day 15.

The Hon. the Speaker: Is it agreed, honourable senators, that this item be reset?

Hon. Senators: Agreed.

(Order reset.)

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, it being 5:15, I must interrupt proceedings, pursuant to rule 9-6. The bells will ring to call in the senators for the taking of the vote unless we have agreement to do otherwise.

[*Translation*]

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): I would like to inform honourable senators that we have an agreement to go straight to a vote now.

[*English*]

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

Hon. Senators: Agreed.

NATIONAL ANTHEM ACT

BILL TO AMEND—THIRD READING—MOTION IN AMENDMENT NEGATIVED—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Lankin, P.C., seconded by the Honourable Senator Petitclerc, for the third reading of Bill C-210, An Act to amend the National Anthem Act (gender).
>
> And on the motion in amendment of the Honourable Senator Plett, seconded by the Honourable Senator Wells:
>
> That Bill C-210 be not now read a third time, but that it be amended in the schedule, on page 2, by replacing the words "in all of" with the words "thou dost in".

The Hon. the Speaker: The question is as follows: It was moved by the Honourable Senator Plett, seconded by Honourable Senator Wells:

> That Bill C-210 be not now read a third time, but that it be amended in the schedule, on page 2, by replacing the words "in all of" with the words "thou dost in".

Motion in amendment negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Ataullahjan	Oh
Batters	Patterson
Beyak	Plett
Carignan	Poirier
Eaton	Runciman
Enverga	Seidman
Housakos	Smith
Martin	Unger
Ngo	Wells—18

NAYS
THE HONOURABLE SENATORS

Baker	Hartling
Bellemare	Jaffer
Bernard	Joyal
Bovey	Kenny
Brazeau	Lankin
Campbell	Lovelace Nicholas
Christmas	Massicotte
Cordy	McCoy
Cormier	McPhedran
Day	Mégie
Dean	Mitchell
Downe	Moncion
Duffy	Munson
Eggleton	Petitclerc
Forest	Pratte
Gagné	Ringuette
Galvez	Saint-Germain
Gold	Tardif
Greene	Watt
Griffin	Woo—41
Harder	

ABSTENTIONS
THE HONOURABLE SENATORS

Boisvenu	Marshall
Dagenais	McInnis
Fraser	McIntyre
Frum	Stewart Olsen—9
Maltais	

(On motion of Senator Martin, debate adjourned.)

• (1720)

CRIMINAL CODE

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Hervieux-Payette, P.C., seconded by the Honourable Senator Joyal, P.C., for the second reading of Bill S-206, An Act to amend the Criminal Code (protection of children against standard child-rearing violence).

Hon. Jim Munson: Honourable senators, I realize it's late, but I have been preparing this speech and I think it's important. I will agree to adjourn this item in the name of Senator Martin after I've spoken. It stands in her name.

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

Hon. Senators: Agreed.

Senator Munson: Honourable senators, I know it's late on a Thursday. I will not be here next week, and I'm concerned, as the clock winds down in June, that I will not get this on the record.

Honourable senators, I am speaking today to support Bill S-206, an act to repeal section 43 of the Criminal Code of Canada.

As written, section 43 violates the basic human rights of children. It permits, in this day and age, physical punishment of children which leaves them dangerously exposed to a spectrum of violent treatment from a parent that remains legal unless we repeal this section of the Criminal Code.

Children in this country should have the same protection from physical assault as Canadian adults and children in many other countries. It is irrational that an outdated defence — over 125 years old — legalizes the use of force on children, when current research has overwhelmingly shown that physical punishment is both harmful and ineffective as discipline.

Honourable senators, there is no clear evidence of any benefit from the use of physical punishment on children. There is, however, strong evidence that physical punishment of children has both immediate and enduring negative outcomes. This has been extensively shown by the *Canadian Joint Statement on Physical Punishment of Children and Youth* developed by a coalition of six national organizations led by the Children's Hospital of Eastern Ontario, CHEO. Nearly 600 respected Canadian professional child care, health and education organizations have affirmed the research and call for the repeal of section 43.

Research has shown that physical punishment is largely ineffective at achieving its intent. Even if it results in immediate compliance, the effectiveness of that punishment is time-limited and the risk of the escalation of future physical punishment is high. The use of force does not significantly change the targeted behaviour, but it is significant in the sense that it is linked to worrisome and preventable harm, including physical injury, impaired relationships with parents, anti-social attitudes, aggressive behaviour, poorer cognitive development and mental health problems.

Childhood experience of physical punishment has long-lasting negative effects such as an increased likelihood of aggression, criminal behaviour and poorer adult mental health. Those who are physically punished as children are more likely to exhibit violent behaviour later in life toward their own children and intimate partners. They also show a greater tolerance for violence as an adult and can perceive seriously abusive behaviour as normal if it was part of their early personal experience.

Section 43 provides legal validation for this normalization and perpetuation of violence in our society.

In his speech on this bill, Senator Sinclair reminded us of a horrific chapter of our country's history where "reasonable force" was dangerously interpreted. In Indian residential schools, children suffered unimaginable violence. Those children were not sufficiently protected from assault, and their horrifying experiences have an enduring impact on indigenous communities today.

The experiences at residential schools have shown, beyond any doubt, that using force to try and change a child's behaviour simply does not work. It is cruel. Our country learned that lesson at a terrible cost, and we cannot forget it.

The Supreme Court of Canada has acknowledged that section 43 is too broad to protect children from physical violence. Their ruling in 2004 arbitrarily limited factors such as the type of assault and age of the child. According to the court's criteria, a slap to the head is criminal, but a slap elsewhere is somehow corrective parenting. Hitting a child older than 12 or younger than 2 is criminal, but hitting a child of 4 is constructive. It is confusing, not to mention dangerous, for the Supreme Court to validate some types of violence and criminalize others based on when and where children can be assaulted.

These limits to section 43 send confused messages about physical assault and are completely inadequate to protect the rights and dignity of children.

Opponents of this bill have agreed that child abuse is abhorrent behaviour, but they have argued that section 43 allows reasonable discipline from a parent while still criminalizing serious physical assault.

However, their argument assumes that physical discipline of a child can be completely controlled and constructive. In most cases, the use of force on a child is not a rational response on the part of a parent but an emotional one. The more anger a parent feels in response to conflict with a child, the more likely it is that physical punishment will occur.

As a result, the physical force used on a child is often more forceful than intended and subject to dangerous escalation that is

harmful to not only the child but also to the parent. Parents often feel intense guilt after using physical force on a child.

Research shows that the force used does not effectively correct a child's behaviour but results in negative effects on both the short-term behaviour and long-term development of the child, and neither the parent nor the child benefit in any way from physical punishment. Instead, physical punishment impairs healthy child-parent relationships.

There is absolutely no reason to cling to the idea that forced used on a child can be permissible just because that is what we have known or allowed or grown up with, in circumstances that are awful, to be honest with you. It is irresponsible of us to say that because this violence can be called "punishment" and happens behind closed doors, who are we to interfere?

Parenting is personal. No one likes being told how to raise their children, but those sentiments fall woefully short of justifying the force allowed under section 43. Section 43 leaves children dangerously exposed to unjust and violent treatment from their parents. It permits force that should not be used by any parent.

Some are reluctant to act on this issue because they are hesitant to legislate people's home lives, but when it comes to violence, the state can legislate an activity that takes place in a "home" setting. The state once turned a blind eye to the assault of women by their male partners. Spousal and intimate partner abuse is a crime. No matter where you are violent, even if the violence is perpetrated by your spouse in your own home, that violence is still a crime.

It is time for us to stop turning a blind eye to child abuse. Why do we not extend the same protection against violence, available to all adults in both public and private life, to children?

• (1730)

Children are vulnerable members of our society. Those who oppose this bill are afraid that repealing section 43 would infringe on a parent's so-called right to use force to discipline a child. But violence is not a parental right. Violence in the guise of discipline is still violence. Parents are fully capable of protecting, educating and correcting their children with non-violent, positive parenting techniques.

But it is a child's right to live free from all forms of violence, according to the UN Convention on the Rights of the Child, the Universal Declaration of Human Rights and the Canadian Charter of Rights and Freedoms.

Canada, if you can believe it, is behind other countries that have prohibited physical punishment in all forms and settings. Fifty-two countries prohibited all physical punishment of children and 54 more have committed to doing so.

Canada ratified the UN Convention on the Rights of the Child in 1991 and committed itself to protect children from all forms of violence, act in the best interests of children, and protect the child from degrading treatment or punishment.

We have not kept our promise to put into place:

> . . . all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse . . .

Our inaction has caused the UN Committee on the Rights of the Child to increasingly urge Canada to repeal of section 43.

In closing, honourable senators, the repeal of section 43 is long overdue. It is inconsistent with the commitment our country has made to protect the basic human rights of children. It is also contrary to Canadian values, global attitudes and extensive research.

Honourable senators, we have been talking about this issue for a long time. It is our duty to ensure that Canadian children finally receive full legal protection from assault. So I would encourage you to support this bill at second reading so that we can send it to committee and give it the proper study it deserves.

(On motion of Senator Martin, debate adjourned.)

PARLIAMENT OF CANADA ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Joyal, P.C., for the second reading of Bill S-234, An Act to amend the Parliament of Canada Act (Parliamentary Artist Laureate).

The Hon. the Speaker: Are honourable senators ready for the question?

Some Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Moore, seconded by the Honourable Senator Joyal, that this bill be read the second time.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Bovey, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.)

SENATE MODERNIZATION

SIXTH REPORT OF SPECIAL COMMITTEE—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Tannas, seconded by the Honourable Senator Wells for the adoption of the sixth report (interim) of the Special Senate Committee on Senate Modernization, entitled *Senate Modernization: Moving Forward (Speakership)*, presented in the Senate on October 5, 2016.

Hon. Joan Fraser: Honourable senators, I believe Senator Day wants this item to stand adjourned in his name.

The Hon. the Speaker: It was moved by the Honourable Senator Fraser, seconded by the Honourable Senator Baker, that this matter stand adjourned in the name of Senator Day until the next sitting of the Senate.

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

Hon. Senators: Agreed.

(On motion of Senator Fraser, for Senator Day, debate adjourned.)

[*Translation*]

STUDY ON THE CHALLENGES ASSOCIATED WITH ACCESS TO FRENCH-LANGUAGE SCHOOLS AND FRENCH IMMERSION PROGRAMS IN BRITISH COLUMBIA

FOURTH REPORT OF OFFICIAL LANGUAGES
COMMITTEE AND REQUEST FOR GOVERNMENT
RESPONSE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Tardif, seconded by the Honourable Senator Joyal, P.C.:
>
> That the fourth report of the Standing Senate Committee on Official Languages, entitled *Horizon 2018: Toward Stronger Support of French-language Learning in British Columbia*, tabled in the Senate on May 31, 2017, be adopted and that, pursuant to rule 12-24(1), the Senate request a complete and detailed response from the government, with the Minister of Canadian Heritage being identified as minister responsible for responding to the report, in consultation with the Ministers of Public Services and Procurement, Families, Children and Social Development, Innovation, Science and Economic Development and Immigration, Refugees and Citizenship.

Hon. Raymonde Gagné: Honourable senators, it is once again with great enthusiasm that I rise here on this Thursday. The night > is still young, but I'm going to follow the advice of the Speaker and keep it brief and to the point.

Dear colleagues, I would like to add some of my own thoughts about *Horizon 2018: Toward Stronger Support of French-language Learning in British Columbia* to the detailed presentation given by the chair of our committee, the Honourable Senator Tardif, on Tuesday.

I would like to reiterate Senator Tardif's words of thanks to the staff of the Senate and the Library of Parliament, as well as to the communications team that supported our committee in this study. It was a real pleasure to work with such dedicated and competent individuals. On behalf of myself and all of my committee colleagues, I also want to thank and congratulate the Honourable Senator Tardif, the committee chair who led this study.

Honourable colleagues, our committee's trip to British Columbia and our visits and public hearings in Vancouver and Victoria greatly enriched our report.

I am grateful that the committee was able to travel to the area and see the unacceptable state of many of the francophone schools in British Columbia. In her speech, Senator Tardif described the substandard and outdated infrastructure of these schools that accommodate more students than they have space for.

We were also able to see with our own eyes the striking contrast between these overcrowded dilapidated buildings and the bright smiles and eyes of the children who study there. Honourable colleagues, the communities we visited are certainly not declining in numbers. They need infrastructure that can accommodate their continued growth.

[*English*]

The committee was able to hear from francophone parents and school boards who have had no choice but to turn to the courts to obtain for their children what we tend to take for granted, or want to take for granted; that is, the right in this country to an education in your official language.

Honourable senators, I know there is a strong and, dare I say unanimous, belief in this chamber that in Canada, children should be able to obtain a quality education in their official language; that this education should take place in classrooms that are just as comfortable, well-maintained and conducive to learning as those occupied by their friends and neighbours studying in the other official language down the street. That this is not the case, and has not been the case for some time, is an unsettling reality.

The evidence is not anecdotal; as it appears in our report, the shortcomings are glaring. As the Supreme Court of British Columbia has found, the issue of underfunding is systemic.

• (1740)

The committee was also able to hear from the growing number of francophile and allophone parents who want to provide their children with the opportunity to learn and live a part of their lives in French. In that network as well, the demand far exceeds the offer.

What I take from this trip, and this study, is that British Columbia could be a fantastic success story. It is a largely anglophone province with a sizeable and diverse immigrant population where demand for French language education, both under section 23 of the Charter and within the French immersion programs, is booming and shows no sign of slowing down. This should be good news for both the province and the country.

In this one hundred and fiftieth anniversary of Confederation, this should be celebrated and supported, yet the government, despite decisions by the courts, including the Supreme Court of Canada, is not providing equal resources to these children.

[*Translation*]

Senator Tardif presented the committee's 17 recommendations, which aim to improve access to francophone schools; increase bilingualism among youth; review the funding mechanism and improve accountability; and support the vitality of francophone communities.

During the press conference we held to release the report, we saw how welcome our recommendations were. Since then, we have heard from people across the country. The challenges we identified in our study are not unique to British Columbia. Francophone parents across the country are fighting for their children's right to be educated in French, which is a Charter right.

Thousands of francophile and allophone parents also want their children to have the opportunity to learn French. Thus, in their own way, they are helping to achieve the goals laid out in the Official Languages Act, whose purpose is to foster the full recognition and use of both English and French across Canada.

Honourable colleagues, it is high time all of these parents saw the federal government as an ally. Our recommendations would go a long way toward achieving that.

My esteemed colleagues, I hope that this chamber will adopt this report before the summer break, and I very sincerely hope that the government will follow up with concrete action.

Thank you.

(On motion of Senator Jaffer, debate adjourned.)

RELEVANCE OF FULL EMPLOYMENT

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Bellemare, calling the attention of the Senate to the relevance of full employment in the 21st century in a Globalized economy.

Hon. René Cormier: Honourable senators, given that this item is at day 13 and I am still consulting my community, combined with the fact that I am fully aware of how important this inquiry is for job creation in all regions of Canada, I seek leave of the Senate to reset the clock.

(On motion of Senator Cormier, debate adjourned.)

[*English*]

NATIONAL SECURITY AND DEFENCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Mobina S. B. Jaffer, for Senator Lang, pursuant to notice of June 6, 2017, moved:

> That the Standing Senate Committee on National Security and Defence have the power to meet for the purposes of its study on Bill C-22, Act to establish the National Security and Intelligence Committee of Parliamentarians and to make consequential amendments to certain Acts, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

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

(Motion agreed to.)

(The Senate adjourned until Tuesday, June 13, 2017, at 2 p.m.)

CONTENTS

Thursday, June 8, 2017

PAGE

SENATORS' STATEMENTS

The Late Wade Smith
Hon. Wanda Thomas Bernard . . . 3297

Cybersex Trafficking
Hon. Mobina S. B. Jaffer . . . 3297

The Honourable Wilfred P. Moore
Congratulations on Canadian Federation of Humane Societies Award.
Hon. Elaine McCoy . . . 3298

Visitors in the Gallery
The Hon. the Speaker . . . 3298

Deafblind Awareness Month
Hon. Yonah Martin . . . 3298

Visitors in the Gallery
The Hon. the Speaker . . . 3299

Plan 2014
Hon. Bob Runciman . . . 3299

Visitors in the Gallery
The Hon. the Speaker . . . 3299

Forward Thinking on Indigenous Issues
Hon. Lynn Beyak . . . 3299

The Senate
Tributes to Departing Pages.
The Hon. the Speaker . . . 3300

ROUTINE PROCEEDINGS

Conflict of Interest and Ethics Commissioner
2016-17 Annual Report Tabled . . . 3300

Commissioner of Lobbying
2016-17 Annual Report Tabled . . . 3300

Information Commissioner
2016-17 Annual Report Tabled . . . 3300

Commissioner of Official Languages
2016-17 Annual Report Tabled . . . 3301

Study on the Reports of the Chief Electoral Officer on the Forty-Second General Election
Seventeenth Report of Legal and Constitutional Affairs Committee Deposited with Clerk During Adjournment of the Senate.
Hon. Bob Runciman . . . 3301

Internal Economy, Budgets and Administration
Fourteenth Report of Committee Tabled.
Hon. Leo Housakos . . . 3301

Canada-Africa Parliamentary Association
Bilateral Mission, March 26-31, 2017—Report Tabled.
Hon. A. Raynell Andreychuk . . . 3301

PAGE

Senate Modernization
Notice of Motion to Authorize Special Committee to Extend Date of Final Report.
Hon. Thomas J. McInnis . . . 3301

The Senate
Notice of Motion to Resolve into Committee of the Whole to Consider the Role of the Communications Directorate.
Hon. Pierrette Ringuette . . . 3301

Energy, the Environment and Natural Resources
Notice of Motion to Authorize Committee to Deposit Report on Study of the Effects of Transitioning to a Low Carbon Economy with Clerk During Adjournment of the Senate.
Hon. Richard Neufeld . . . 3302

QUESTION PERIOD

National Defence
Defence Policy Review.
Hon. Larry W. Smith . . . 3302
Hon. Peter Harder . . . 3302
Fight against ISIL—Front Line Role.
Hon. Larry W. Smith . . . 3302
Hon. Peter Harder . . . 3302

Immigration, Refugees and Citizenship
Vegreville Case Processing Centre.
Hon. Betty Unger . . . 3303
Hon. Peter Harder . . . 3303

Foreign Affairs
International Role.
Hon. Mobina S. B. Jaffer . . . 3303
Hon. Peter Harder . . . 3303

Official Languages
2016-17 Annual Report—Infractions.
Hon. Claude Carignan . . . 3304
Hon. Peter Harder . . . 3304

Information Commissioner
2016-17 Annual Report—Government Transparency.
Hon. Claude Carignan . . . 3304
Hon. Peter Harder . . . 3305

Health
Autism Support and Funding.
Hon. Jim Munson . . . 3305
Hon. Peter Harder . . . 3305

National Defence
Arctic Sovereignty.
Hon. Nicole Eaton . . . 3305
Hon. Peter Harder . . . 3306

Democratic Reform
Electoral Financing.
Hon. Linda Frum . . . 3306
Hon. Peter Harder . . . 3306

Health
Medical Assistance in Dying—Independent Review.
Hon. Claude Carignan . . . 3306
Hon. Peter Harder . . . 3306

PAGE

ORDERS OF THE DAY

Canadian Human Rights Act
Criminal Code (Bill C-16)
Bill to Amend—Third Reading—Debate Continued.
Hon. Donald Neil Plett . . . 3307
Motion in Amendment.
Hon. Donald Neil Plett . . . 3311
Hon. Chantal Petitclerc . . . 3311
Hon. Grant Mitchell . . . 3311
Hon. George Baker . . . 3313
Hon. Marilou McPhedran . . . 3314
Hon. Linda Frum . . . 3315
Hon. Frances Lankin . . . 3315
Hon. Marc Gold . . . 3316
Hon. Joan Fraser . . . 3319
Hon. Yonah Martin . . . 3319

Commissioner of Official Languages
Motion to Approve Appointment Withdrawn . . . 3320

Adjournment
Motion Adopted.
Hon. Diane Bellemare . . . 3320

Non-Nuclear Sanctions Against Iran Bill (Bill S-219)
Third Reading—Order Reset.
Hon. Yonah Martin . . . 3321

PAGE

Business of the Senate
The Hon. the Speaker . . . 3321
Hon. Diane Bellemare . . . 3321

National Anthem Act (Bill C-210)
Bill to Amend—Third Reading—Motion in Amendment Negatived—Debate Continued . . . 3321

Criminal Code (Bill S-206)
Bill to Amend—Second Reading—Debate Continued.
Hon. Jim Munson . . . 3322

Parliament of Canada Act (Bill S-234)
Bill to Amend—Second Reading . . . 3323
Referred to Committee . . . 3323

Senate Modernization
Sixth Report of Special Committee—Debate Continued.
Hon. Joan Fraser . . . 3324

Study on the Challenges Associated with Access to French-Language Schools and French Immersion Programs in British Columbia
Fourth Report of Official Languages Committee and Request for Government Response—Debate Continued.
Hon. Raymonde Gagné . . . 3324

Relevance of Full Employment
Inquiry—Debate Continued.
Hon. René Cormier . . . 3325

National Security and Defence
Committee Authorized to Meet during Sitting of the Senate.
Hon. Mobina S. B. Jaffer, . . . 3325

Published by the Senate

Available on the Internet: https://sencanada.ca