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The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Thursday, March 12, 2020

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

[English]

Prayers.

[Translation]

I hope that I can count on every one of you to do the same. In fact, I dream of a day where one of my fellow citizens whose first language is not French might rise up, and loudly and proudly celebrate Francophonie Month and International Francophonie Day.

Thank you.

[Translation]

I wish everyone a happy Francophonie Month!

Hon. Senators: Hear, hear!

SENATORS' STATEMENTS

FRANCOPHONIE MONTH

Hon. René Cormier: Honourable colleagues, March is the month of spring. It's also Francophonie Month, and International Francophonie Day is celebrated every year on March 20.

With plenty of events like the Rendez-vous de la francophonie, this month is a time for celebrating the Acadian and francophone communities' contributions to our country's development. That's why, year after year, we highlight the importance of the French language, as well as its richness, its vitality and the central place it holds in our identity and culture. We can be proud of that.

[English]

That said, Francophonie Month should not be seen as an event for francophones and francophiles only. The history of the francophonie transcends language boundaries and touches each and every one of us as Canadians. It has shaped our society, our relationships, our identity and our country's political, economic, cultural and social development.

[Translation]

This March 20 will mark the fiftieth anniversary of the Organisation internationale de la Francophonie. It's an opportunity to affirm that, beyond the language itself, the Francophonie provides a space for cooperation and collaboration on human rights.

With over 140 million women in its ranks, the Francophonie has created programs like the Réseau francophone pour l'égalité femme-homme to advocate for women's rights. To mark the thirtieth anniversary of the United Nations Convention on the Rights of the Child, it also passed a resolution reiterating its commitment to promoting and defending full respect for the rights of children.

It is also taking decisive action to ensure that the rights of the LGBTI community are respected.

Honourable senators, the Francophonie gives us a fantastic forum for discussion and reflection about ourselves, about our own relationship to human rights, here and around the globe. Now more than ever, we are being challenged to lead the way by ensuring respect for these basic rights here in Canada.

On March 20, I will be celebrating the Francophonie for offering the roughly 300 million French speakers around the world a space for dialogue and action on human rights.

NURSES ASSOCIATION OF NEW BRUNSWICK

Hon. Percy Mockler: Honourable senators, as a parliamentarian, I believe that no one's rights and liberties should ever be breached, violated or undermined, especially with respect to the Official Languages Act in Canada's only bilingual province, New Brunswick.

I want to acknowledge the extraordinary work done by a group of francophone nurses in New Brunswick.

We are concerned that the licensing exam to evaluate nurses, the NCLEX-RN, being used by the various regulatory bodies in the provinces and territories, other than Quebec and Yukon, places francophones in minority communities across Canada at a disadvantage.

• (1340)

I join the working group in asking the Commissioner of Official Languages for New Brunswick, Shirley C. MacLean, to grant the request of the group of francophone nurses in New Brunswick and consider the unacceptable challenge posed by the NCLEX-RN exam.

I would like to draw her attention to the New Brunswick Official Languages Act, which was passed in 1969 and modernized in 2002. It reads, and I quote:

41.1(3) No person shall be placed at a disadvantage by reason of exercising his or her right to choose an official language in which to fulfill requirements imposed by a professional association.

New Brunswick's francophones must be recognized for their efforts to promote their language rights while ensuring the social and cultural cohesion of our people.

Honourable senators, we now need to encourage the professional order, the Association des infirmières et infirmiers du Nouveau-Brunswick, to seriously examine the proposal to implement a new exam that is fair to members of New Brunswick's and Canada's official languages communities.

We are prepared to discuss this. I want to take this opportunity to sincerely congratulate the nurses' group and assure them that we will support them in defending the rights of francophones under the Official Languages Act.

Thank you.

[*English*]

BEEF INDUSTRY CHALLENGES

Hon. Robert Black: Honourable senators, I rise today to speak about the ongoing concerns of the beef sector. We should all be concerned. The implementation of the Comprehensive Economic and Trade Agreement with the European Union and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership have cut into the markets for Canadian beef.

During the negotiations for CETA, one of the major draws for Canada was that our producers would enjoy increased market access by increasing the quota of tariff-free pork, beef and other agricultural products allowed into the EU. However, since CETA's implementation, producers have been reporting that their exports have barely increased and that they have not been able to fill their quotas.

Meanwhile, the EU is taking advantage of the trade deal and enjoying significantly increased access to our market for beef, pork, veal, cheese, wheat and more. We can only expect the gap to widen once the Canada-United States-Mexico Agreement comes into force. Beef farmers faced further challenges when China blocked Canadian beef imports along with canola and pork last year.

An additional challenge has been created by the closure of Ryding-Regency Meat Packers Ltd. I mentioned this in a question I asked Senator Harder in December. This plant closure has led to a major shortage in our beef processing capacity here in Ontario, but cattle from the Maritimes, Quebec and Manitoba were also processed in Toronto, so the issue affects those provinces as well.

In urban areas we don't often see the full effect of these changes and market uncertainties, but farmers certainly do. Farmers are price takers. They don't set their own prices; instead of passing any extra costs on to consumers, their own profits take a hit. This makes the difficult job of farming even harder, especially for small family farms. It also puts Canada at a competitive disadvantage.

I bring up these issues today because I think it's important that senators and all Canadians understand these challenges — which most of us here are quite removed from — that have deep impacts on the daily lives of our primary producers. Our federal government needs to step in and manage the short- and long-term effects of these trade agreements, solve the beef slaughter capacity issue here in eastern Canada and address other domestic and international events impacting the beef industry. Thank you. *Meegwetch.*

[Senator Mockler]

THE LATE JOHN MCKEE OLDS

Hon. Mohamed-Iqbal Ravalia: Honourable senators, I rise today to recognize the late Dr. John McKee Olds; a husband, father, surgeon, and unlikely folk hero to my beloved Twillingate.

Although born a true Connecticut Yankee, in his third year at Johns Hopkins Medical School John Olds was placed at Twillingate's remote hospital through a summer study program. He had an experience to which I can very much relate: Twillingate stole his heart.

Upon his graduation in 1932, Dr. Olds left the New England world that had raised him, instead returning to Twillingate with his wife, Betty. At the ripe age of 28, he soon found himself as the chief physician of Twillingate's 90-bed hospital in the depths of the Great Depression. He had to find a way to pay for salaries, purchase equipment and provide medical services to this remote community. Colleagues, in this traditional fishing down, patients still often paid for medical services with quintals of fish or bushels of berries. Unfortunately, berries didn't pay salaries and medical supplies weren't lining up to trade stethoscopes for cod.

In response, John Olds came up with a revolutionary plan where each subscribing man, woman and child paid 44 cents annually in exchange for full medical services at the hospital. The plan worked spectacularly, and predated Tommy Douglas's Medicare plan in Saskatchewan. To reach rural residents, he developed a floating clinic using a 55-foot boat which included an examining table, a dentist's chair and an X-ray machine. Each summer the *Bonnie Nell* would make a complete circuit of Notre Dame Bay, and in the winter he would travel to patients' homes on skis pulled by dogs.

John Olds represented a Canada where communities looked after each other — where everyone, regardless of barriers, could access essential services, whether that involved pulling homemade surgical tools over the winter pack ice or finding a way to turn berries and cod into salaries and X-ray machines.

I had the privilege of meeting with this legend in the summer of 1984. I continue to feel a profound sense of gratitude for Dr. Olds' skill, devotion and resilience. His passing left a huge void in my community.

Thank you, Dr. John Olds, for your 40 years of service, dedication and inspiration to the people of Notre Dame Bay. Thank you. *Meegwetch.*

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 a coalition of fertility experts and advocates. They are the guests of the Honourable Senator Moncion.

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

Hon. Senators: Hear, hear!

THE LATE JAMES ALEXANDER (JIM) SMITH

Hon. Jane Cordy: Honourable senators, I am honoured and pleased to rise today to speak about Dr. Jim Smith, who passed away on January 18, 2020.

Dr. Jim was a family physician who later became a provincial MLA and minister. He was first elected as one of only six Liberals to win in the 1984 election. Considering that 1984 was not a great year for Liberals provincially or federally, that was quite a feat. Jim Smith was held in very high esteem by the voters of Dartmouth East. In his political life, Jim would criticize the policies but not the person, and that's not a bad plan for all of us.

Jim Smith was very well respected by the people of the riding of Dartmouth East and the people of Nova Scotia. He was kind, compassionate and dedicated to the people he served. He also had a great sense of humour.

Jim served as Minister of Community Services and Minister of Housing and Municipal Affairs under Premier John Savage, and under Premier Russell MacLellan, Jim served as Minister of Health and then Minister of Justice. In public life and private life he was committed to fairness and justice and to standing up for what is right. Dr. Jim chose a life of politics to serve the people of Dartmouth East and Nova Scotia. Over the years, he was recognized on many occasions for his work as a family physician and for his community involvement. His legacy includes advocating and championing for the improvement of the lives of children and youth through his many years of working with the Boys and Girls Club.

• (1350)

Honourable senators, Dr. Jim Smith was a role model of decency, kindness and caring. Jim Vibert, a reporter for the *Chronicle Herald* wrote of him:

He was an honest, decent, honourable man. We were all a little richer for having him, just as we're a little poorer now that he's gone.

To Jim's family, my husband Bob and I extend our condolences. It was our privilege to have known him for many years. Thank you.

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 the members of the University of Victoria associated with the Victoria Forum. They are the guests of the Honourable Senators Munson, Woo and Martin.

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

Hon. Senators: Hear, hear!

VICTORIA FORUM 2020

Hon. Jim Munson: Honourable senators, I am pleased to rise today to speak about a partnership between the Senate of Canada and the University of Victoria to cohost an exciting initiative, and this is an initiative endorsed by our Speaker, Senator Furey, which we appreciate very much.

The Victoria Forum, to be held from November 12 to 14 later this year, will bring together policy-makers, business leaders, academics, youth community groups, non-governmental organizations and Indigenous communities to generate ideas for a better world. This international gathering builds on the success of the inaugural Victoria Forum, which took place in 2017. About 500 participants gathered to take stock of the state of diversity and inclusiveness in this country on its one hundred fiftieth anniversary.

The 2020 Victoria Forum — and I hope you will call come and we'll talk about it more as time goes on — will be held under the theme of "Bridging Divides: Turf, Truth and Trust." More and more, humanity faces critical problems. Political, social, economic and ideological polarization hinders our collective ability to develop innovative and creative solutions. Increasingly, a cross-section of leaders recognize issues of climate change, social discrimination and economic inequalities for the sustainable development of their organizations, communities and societies.

Place matters. As our world becomes more fractured and polarized, Canada continues to reaffirm its collective identity as a nation where people cannot only share and accept their difficult historic relationships, but also work to move from the bad feelings that are created by past divisions to create a society enriched by diversity.

The Victoria Forum has evolved into an inclusive space that convenes evidence-based conversations and stimulates creative thinking and innovative solutions to urgent environmental, economic and social challenges. Attendees will hear from regional, national and international change makers with different identities, perspectives and expertise — all united by a commitment to making a shared home together.

Honourable senators, the Senate of Canada recognizes the increased anxieties and fears that these societal divides are creating in people both in Canada and around the world. We understand that for solutions to be effective and long-lasting, citizens must have trust in their democratic institutions to enact fair and balanced laws based on truth and evidence, respecting the values that define us as a country.

The Senate is committed to helping build the necessary trust to bridge the divides that the 2020 Victoria Forum will be addressing. After all, we are Canada's original think tank, so what a partnership to have. And I sincerely mean this: When it comes to November this year, I hope we can all be there to have

the Senate point of view expressed. I hope we can all look forward to continuing the conversation and developing solutions for a better world at the University of Victoria. Thank you.

[English]

[Translation]

ROUTINE PROCEEDINGS

PARLIAMENTARY BUDGET OFFICER

THE GOVERNMENT'S EXPENDITURE PLAN AND MAIN ESTIMATES
FOR 2020-21—REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the report of the Office of the Parliamentary Budget Officer entitled *The Government's Expenditure Plan and Main Estimates for 2020-21*, pursuant to the *Parliament of Canada Act*, R.S.C. 1985, c. P-1, sbs. 79.2(2).

[English]

COMMISSIONER OF LOBBYING

REPORT ON INVESTIGATION OF BENJAMIN BERGEN, COUNCIL OF
CANADIAN INNOVATORS, TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the Report on Investigation of the Office of the Commissioner of Lobbying entitled *Benjamin Bergen, Council of Canadian Innovators*, pursuant to the *Lobbying Act*, R.S.C. 1985, c. 44 (4th Supp.), s. 10.4.

[Translation]

PUBLIC SECTOR INTEGRITY COMMISSIONER

FINDINGS IN THE MATTER OF AN INVESTIGATION INTO A
DISCLOSURE OF WRONGDOING (CORRECTIONAL
SERVICE OF CANADA)—REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the report of the Office of the Public Sector Integrity Commissioner entitled *Findings of the Public Sector Integrity Commissioner in the Matter of an Investigation into a Disclosure of Wrongdoing (Correctional Service of Canada)*, pursuant to the *Public Servants Disclosure Protection Act*, S.C. 2005, c. 46, sbs. 38(3.3).

[Senator Munson]

COMMISSIONER OF LOBBYING

REPORT ON INVESTIGATION OF DANA O'BORN, COUNCIL OF
CANADIAN INNOVATORS, TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the Report on Investigation of the Office of the Commissioner of Lobbying entitled *Dana O'Born, Council of Canadian Innovators*, pursuant to the *Lobbying Act*, R.S.C. 1985, c. 44 (4th Supp.), s. 10.4.

[Translation]

IMMIGRATION, REFUGEES AND CITIZENSHIP

2019 ANNUAL REPORT TABLED

Hon. Marc Gold (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the 2019 Annual Report to Parliament on Immigration, pursuant to the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, sbs. 94(1).

[English]

NATIONAL SECURITY AND INTELLIGENCE COMMITTEE OF PARLIAMENTARIANS

REVISED 2019 ANNUAL REPORT TABLED

Hon. Marc Gold (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the Annual Report of the National Security and Intelligence Committee of Parliamentarians for the year 2019 (revised version pursuant to subsection 21(5) of the *National Security and Intelligence Committee of Parliamentarians Act*), pursuant to the Act, S.C. 2017, c. 15, sbs. 21(2).

REVISED SPECIAL REPORT TABLED

Hon. Marc Gold (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the report of the National Security and Intelligence Committee of Parliamentarians entitled *Special Report on the Collection, Use, Retention and Dissemination of Information on Canadians in the context of the Department of National Defence and the Canadian Armed Forces Defence Intelligence Activities* (revised version pursuant to subsection 21(5) of the *National Security and Intelligence Committee of Parliamentarians Act*), pursuant to the Act, S.C. 2017, c. 15, sbs. 21(2).

ARCTIC

REPORT OF SPECIAL COMMITTEE PURSUANT TO RULE 12-26(2) TABLED

Hon. Patricia Bovey: Honourable senators, pursuant to rule 12-26(2) of the *Rules of the Senate*, I have the honour to table, in both official languages, the report of the Special Committee on the Arctic, which deals with the expenses incurred by the committee during the First Session of the Forty-Second Parliament.

(For text of report, see today's Journals of the Senate, p. 422.)

THE SENATE

MOTION PERTAINING TO THE *SENATORS ATTENDANCE POLICY* ADOPTED

Hon. Patricia Bovey: Honourable senators, with leave of the Senate and notwithstanding rule 5-5(j), I move:

That subsections 5(2) and (3) of the *Senators Attendance Policy* not apply with respect to any sitting day up to the end of June 2020 or such later date as may be established by the Speaker after consultation with all leaders and facilitators in the Senate; and

That the Speaker inform the Senate of any decision to extend the period during which this order applies at the first sitting after the decision is made.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

(Motion agreed to.)

QUESTION PERIOD

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

INTERNATIONAL TRAVEL RESTRICTIONS

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, my question today is for the Leader of the Government in the Senate and it concerns the coronavirus, which was declared a pandemic yesterday by the World Health Organization.

Last night, leader, the Trump administration announced a travel ban for much of Europe to the United States, which goes into effect Friday and will last for at least 30 days. This decision could not only impact those countries but our own country as well.

Leader, could you please tell us if the Government of Canada was informed in advance of the White House's announcement last night? What is the Government of Canada's response to this decision? Is there any consideration within your government of putting in place a similar ban prohibiting European travellers from entering our country for a period of time? Have you assessed whether the U.S. would close its border to Canada if we don't bring forward such travel restrictions? Is that being discussed with the Americans?

• (1400)

Hon. Marc Gold (Government Representative in the Senate): Thank you, senator, for the questions.

This is such a fast-moving situation that I will not have all the answers to all of your questions. I am advised that the Canadian government is in regular contact with its American counterparts, and indeed others, to both understand the measures other countries are putting into place and to advise them of the measures that we are putting into place as well.

With regard to your question about a travel ban within Canada, the position of the government remains that this is not an advisable situation for Canada to adopt. Notwithstanding that other countries have done so — not only the United States, Australia and others — the Government of Canada's position is that the decision must be made in the best interests of the public health of Canadians.

In terms of what the best evidence tells us, including the recommendations of the World Health Organization and notwithstanding that the situation is now considered a pandemic, it is not in the public interest or in the interest of Canadian health to seal our borders through the device of a travel ban. It runs against the best advice of medical experts in the field. It may also run afoul of international obligations that Canada has assumed under the appropriate regulations.

The government is monitoring this situation by the minute, hour and day, and for the moment I am not advised of any plans to change the government's position with respect to travel bans.

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

CORONAVIRUS SCREENING AT AIRPORTS

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, any European wanting to travel to the United States need only come to Canada and travel there from here, and we will be implicated in helping them come to the United States.

Leader, your government has repeatedly assured Canadians that proper screening is taking place at our airports. Yesterday afternoon, after Air Canada's last flight from Italy — until

May — landed at Montreal-Pierre Elliott Trudeau International Airport in Montreal, passengers reported that no one had been screened upon landing; no one asked them questions in Montreal. They had simply been handed a piece of paper with coronavirus information.

Leader, some of these passengers had come from northern Italy, which has been a major centre of the spread of coronavirus. This is a very serious matter. Canadians expect our government to lead on this. Does your government consider what happened at the Trudeau Airport yesterday to be adequate? If not, what are you going to do to improve the health screening at our airports?

Hon. Marc Gold (Government Representative in the Senate): Again, thank you for your question and for underlining the concern that all of us as Canadians feel in the face of this growing challenge.

I have been advised that enhanced screening and detection processes are being added at all international airports, and that would include the Trudeau Airport in my hometown, as well as at land, border, ferry and rail ports of entry. I'm also advised that Canada Border Services Agency agents are visually inspecting all travellers for signs of illness and will refer them to appropriate authorities as required. In that regard, the CBSA is working in close cooperation with the Public Health Agency of Canada to implement and operationalize best practices.

If I may add one final comment with regard to the challenge or the merits of a travel ban. I will quote Canada's Chief Public Health Officer, Dr. Theresa Tam, who noted recently:

... as the number of countries increases, border measures are less effective and less feasible. So trying to focus on one country versus another can be much less reasonable as an approach, or effective.

CORONAVIRUS PREPAREDNESS

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, the Prime Minister, provincial and territorial leaders were expected to focus on the threat posed by COVID-19 at a meeting today that, understandably, has been cancelled. Although the Prime Minister has announced \$500 million in funding for provincial and territorial health care, there were few details yesterday about how this funding will be distributed.

Leader, how was this amount of \$500 million determined? How does your government intend to allocate this money for the provinces and territories? Will it be based on a per capita basis or on the number of confirmed cases? How long will it take to get this money to the provinces?

Hon. Marc Gold (Government Representative in the Senate): Thank you. These are important questions. Obviously, announcements need to be translated into actions, but the actions need to be coordinated with all the relevant authorities in the provinces and the territories, and then within a given province with the health care system and supporting system. The details of how the money will be distributed, to whom, and how it will be allocated, by necessity, has to be — and should be and will be —

a function of the discussions that have been ongoing between the federal government and their counterparts in the provinces, in the territories and in the health care sectors that are affected.

I know that we are all concerned about this issue, as we are about the health and well-being of the Prime Minister and his spouse. I feel confident, notwithstanding that the meeting had to be cancelled today, that it will not stop the ongoing discussions and consultations to make sure the various types of support that the Prime Minister announced this week will find their way into the system as quickly as possible.

Senator Martin: Yes. I hope that at the next opportunity we can expect the response and we will have these details. I'm sure we'll be watching the news.

Senator, I'm going back to what we were discussing in regard to the screening centres at airports or at borders. In the event of a surge in cases that we may have to deal with across this country, two very important preparations that we need to make have come to my attention. This is based on an experience from another country.

I had a call from someone who has seen what happened in South Korea. The question is regarding Canada's preparations with screening, not just at those places but in various regions, urban and rural, because the ability to test and screen will be essential, as well as providing space in hospitals or perhaps other facilities. The beds will be essential. Right now we are monitoring very carefully, but there is the risk of a potential surge.

Would you speak to whether these two things are being carefully monitored and prepared for in each of the provinces and regions? Again, the meeting is not happening, but would you speak to these particular items?

Senator Gold: Thank you for the question. Again, I can only share what I know.

Let me speak for my own city and province. I'm on the latter question now of resources and beds. For some weeks now, the health centres in Quebec, particularly in Montreal, have been focusing on a number of hospitals, including the Jewish General Hospital in Montreal, which have been designated as places for receiving and properly isolating those who are infected and are, therefore, in the hospital. I'm confident that every province and every territory is doing the same to make sure their resources are in a state of readiness for the unpredictable numbers we're likely to face, however large they are.

With regard to testing, one of the things that Canadians should be comforted by, reassured by — if it's possible to be reassured in these times — is that Canada has done a very good job, compared to many countries in the world, in terms of testing and early testing. Many parts of the world are not testing at all, and therefore the numbers or the lack of reporting of incidents is misleading, and dangerously so. But Canada continues to do a good job, thanks to our provinces, territories and the institutions therein, to test as effectively as we can.

• (1410)

With regard to what you were alluding to, I watched the news and saw people being tested in their cars at checkpoints and things like that. I don't know whether those things are being contemplated at this point. It is important to note that at least for the moment, the Public Health Agency of Canada is still reporting and advising that the risk to the Canadian population remains at a relatively low level, though that may change. It's being monitored carefully and regularly. Thank you for the question.

TREASURY BOARD

SUPPORT FOR WORKERS AFFECTED BY CORONAVIRUS MEASURES

Hon. Ratna Omidvar: Honourable senators, my question is to Senator Gold, the Government Representative in the Senate, and it too is about the coronavirus. As a Canadian, I was relieved that the Prime Minister announced a \$1-billion plan to deal with the economic impact of the coronavirus threat. The plan includes \$5 million to speed up access to Employment Insurance by waiving the one-week waiting period.

That certainly works for individuals who qualify for EI, but if you work in the gig economy as an Uber driver, in food delivery or as a caregiver, you will likely not be eligible for EI because you're not on payroll. You also may not have sick leave benefits. You may have no extended health plan benefit. You may have no vacation days. How do you cope?

My question to you is this: What measures is the government considering to provide protection to these gig economy workers, most of whom are in what we would call precarious employment?

Hon. Marc Gold (Government Representative in the Senate): Thank you very much for that question. It's timely, not only because of the crisis, but because we in the chamber are being reminded of the precarious situation of many of our workers in the gig and changing economy.

There are two things I want to say. First, the Treasury Board president has announced, and I want to repeat, that the government will be announcing further support for workers, families and businesses, and this includes possible measures in Budget 2020, which will be released at the end of this month. But, pardon the expression, breaking news, because to the best of my knowledge, you will be the first to hear this. I am advised that with regard to those in the gig economy, or other modes of employment that are precarious, the government is exploring other measures — in addition to those measures that will likely show up in the budget — to support Canadians affected by COVID-19, such as income support for those who are not eligible for unemployment benefits. The government is actively exploring those options and is seized with the issue, but the details are not yet public.

Senator Omidvar: Thank you for that surprise and welcome answer. Let me continue to ask you questions to which you have similarly surprising answers. Thank you very much.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

ARCTIC SOVEREIGNTY

Hon. David Richards: Honourable senators, my question is for the government leader in the Senate. Senator Gold, there are now six countries in the Arctic vying for mining exploration rights along the continental shelf, including big players like Russia, China and the U.S.A. While our own present position is certainly precarious, when might we learn what is being done to ensure any type of Canadian sovereignty?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. I missed half of the last sentence. I know it's about the Arctic sovereignty, but may I ask you to repeat the last part of your question so I can do my best to answer it?

Senator Richards: The major countries I'm talking about are China, Russia and the United States, all claiming sovereignty over the Arctic. I'm wondering what Canada is doing to ensure its own sovereignty in a place we have claimed for 150 years.

Senator Gold: Thank you for clarification. Canada's position on its sovereignty of the Arctic is clear and unequivocal. Canada is also aware of the increasing activities of other countries. In addition to the diplomatic efforts that Canada continues to pursue in order to assert its sovereignty, it is also taking concrete steps to defend it in more tangible ways, and that includes its participation in and with NORAD, which is the cornerstone of our North American defence and security force, as it has been for over 60 years. We work with our closest allies in NORAD to defend not only physical threats against the continent, but also as a manner and measure of asserting our sovereignty. Other measures include: joint exercises in the Arctic, so that we're present; the purchase of six Arctic offshore patrol ships which will be delivered later this year, in 2020; and enhancing our surveillance and intelligence capacity in the Arctic so that we can understand in real time what actual initiatives may be taken by those who would challenge our sovereignty in the Arctic.

HEALTH

AVAILABILITY OF MEDICAL SUPPLIES

Hon. Judith G. Seidman: Honourable senators, my question is for the Leader of the Government and also concerns the coronavirus pandemic. Yesterday the Minister of Health, Patty Hajdu, told the Health Committee of the other place that 30 to 70% of Canada's population could become infected with COVID-19. These figures correspond with modelling released from the University of Toronto researchers earlier this week.

In Italy, it has been reported that about 10% of their coronavirus patients have required admission to ICUs and the use of a ventilator due to severe lung failure.

A survey conducted in 2009 found that Canada had just under 5,000 ventilators across 286 hospitals.

Senator Gold, does Health Canada or the Public Health Agency of Canada have more up-to-date figures on the number of ventilators across Canada? If so, what are they? What is the plan, if any, to help the provinces and territories acquire more ventilators?

Hon. Marc Gold (Government Representative in the Senate): Thank you for the question. I cannot answer personally the number of ventilators, however, I am confident that the issue of ventilators and all other critical health equipment is the subject of ongoing discussions to which I alluded in an earlier answer.

The only other point to underline is that the government did announce this week half a billion dollars; \$500 million is going to the provinces and territories for critical health care system needs, and that would include providing funds for additional testing and other equipment as necessary, as well as enhanced surveillance and monitoring.

As this money is available, discussions and negotiations with provincial and territorial partners in the health care system is ongoing, and I have every confidence that the health care needs as identified by the professionals will be treated with priority in this process.

Senator Seidman: Thank you. As we know, time is of the essence here, and money is all very well and good. But my question is, does the government believe we have enough test kits, masks and protective equipment? Do governments have the ability to access more before we see increased community spread of COVID-19 across Canada?

Senator Gold: Again, senator, that's the right question and a very good question. I have every confidence that's exactly the kind of question that governments are asking of themselves and asking of their suppliers both nationally and internationally. I fully expect that as the discussions continue, now that the resources are available, our governments have the capacity, professionalism and certainly the will and devotion to the well-being of Canadians to answer those questions expeditiously and effectively.

FINANCE

FISCAL STIMULUS

Hon. Larry W. Smith: Honourable senators, my question is for the Leader of the Government in the Senate, as we enter into the next challenges that we're faced with: fiscal debt and the threat of recession. Last week, the Bank of Canada lowered its overnight borrowing rate to 1.25%, signalling a poor outlook for economic growth in Canada due to many factors, including the COVID-19 virus. Canada's economy grew at an insignificant rate of 0.3% in the last quarter of 2019.

[Senator Seidman]

• (1420)

There was yet another blow to the Canadian economy this week as the fallout from the meeting of the Organization of the Petroleum Exporting Countries triggered a price war, causing global oil prices to plummet. Economists are slashing growth projections for Canada and are calling for billions of dollars in fiscal stimulus to ease contractionary pressures and induce economic activity, warning that the window to act is small and closing rapidly.

Thus, Senator Gold, given the government's sustained fiscal deficits over the last five years, is there any more room for fiscal stimulus at this point? Could you please provide explicit details of the government's plan to manage the threats of a recession?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. I think many of the answers are going to be much clearer and more evident in the forthcoming budget, which the Finance Minister will be tabling relatively soon.

It is the position of the government that, notwithstanding the investments that have been made over the last number of years, Canada's financial situation is still sufficiently healthy to give it a *marge de manœuvre* to deal with this emerging and challenging crisis. It is worth underlining the fact that there are many different measures of this fiscal health and capacity, not the least of which is our federal debt-to-GDP ratio, which I remind senators is hovering around 30%. It's the lowest among G7 countries. As compared with many other advanced economies, it is dramatically lower.

It's the position of this government that it retains the ability to make the necessary adjustments to cushion the blow of these economic challenges and, as I say, more details will become apparent when the budget is released.

Senator Smith: The buildup of bottlenecks in the global supply chain, as well as global production cuts due to the COVID-19 virus, pose inflationary risks to the Canadian economy. I think you might want to check using the debt-to-GDP ratio, because your numbers are low, and they have been changing over the last two- to three-week period with what we're facing here.

In tough economic times, the Bank of Canada tries to cut interest rates. When you cut interest rates, you cause inflation to rise. How does the government plan on mitigating any potential risk of inflation due to the virus and the potential recession that we face?

Senator Gold: Thank you again for the question. I think that some of the answers will certainly be provided in the budget, as well as different measures, because there are a number of different levers that governments and central banks have to deal with challenges like these.

I'm sure senators would join me in looking forward to an opportunity to have the Minister of Finance appear before us during Question Period at such time as we pass the motion that would allow us to invite ministers to appear.

HEALTH

MANAGING HEALTH CARE STAFF

Hon. Marty Deacon: Honourable senators, my question is for the government leader in the Senate and it continues on the topic and our care around the COVID-19 virus.

While I appreciate that you can't answer all questions, we care about a lot of issues related to capacity. Today I had the opportunity to meet with two leaders from different countries who are surrounding countries that are high on our list and they are experiencing dramatic increases in cases. One of the things they're taking a close look at is the capacity of their medical personnel from coast to coast to coast.

We talk about overcapacity in many of our Canadian hospitals. I'm not sure about all, but we do talk about capacity at the best of times. Strategically, other countries are looking at pulling 30% to 50% of their staff back for two or three weeks while their front line is part of their medical population and then shifting people in and out so they can have the capacity over the longer term. I am interested in what Canada's strategy or approach might be in that area.

Hon. Marc Gold (Government Representative in the Senate): Thank you for the question. To the best of my understanding and knowledge, the decisions about how to manage staff in any given institution or network of institutions are taken by those close to the ground who are responsible for managing, whether it's a hospital or group of hospitals or a region. Every province has different ways of organizing their health care system.

It is fundamental that care be taken to make sure there is a long-term, sustainable workforce to provide the care that Canadians want. These are decisions that are not really taken at the national level but much closer to the ground, with those who have both the knowledge and the responsibility for managing the institutions under their responsibility.

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

CORONAVIRUS PREPAREDNESS

Hon. Leo Housakos: Honourable senators, we're really treading into some dangerous territory right now with COVID-19. The government continues to insist that the best way to deal with this issue is by telling people to wash their hands and to commission pamphlets for educating Canadians how to avoid getting COVID-19, which is fine and dandy. But the reality of the matter is every single case in Canada has been a case of Canadians who have been exposed to or have brought the virus back with them from various parts of the world where the virus is prevalent.

Will the Canadian government continue to hide its head in the sand or will they accept once and for all that we have to take measures like Germany, India and the United States have and buffer Canadians from this virus, which is clearly penetrating our country from various places of the world where it's prevalent?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. The sad but inescapable fact is that the virus is now spreading through and within communities. It is neither correct nor would provide real security to assume that sealing our borders or some measure like that would arrest and stop the challenges that we're facing.

In this regard, I'd like to return to a point I made earlier that those with expertise in public health remain of the view that it would not be in Canada's best interest to do so. For example, Steven Hoffman, Professor of Global Health, Law and Political Science at York University and a Scientific Director of the Canadian Institutes of Health Research, stated within the last week that closing our borders to countries would not enhance Canada's protection. He says that it's contrary to evidence-based decision making, contrary to the advice of the World Health Organization and, arguably, as I said before, a breach of Canada's legal obligations and to the International Health Regulations that came into force in 2007 and require countries to work together.

The Government of Canada is not sticking its head in the sand. It's making decisions based upon the best advice from health care and public health care professionals around the world. The fact that other countries have taken other measures should not deter Canada from doing what is the best thing for the well-being of Canadian public health.

The Hon. the Speaker: I'm sorry, Senator Housakos, but the time for Question Period has expired.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Marc Gold (Government Representative in the Senate): Honourable senators, I have the honour to table the answers to the following oral questions:

Response to the oral question asked in the Senate on December 12, 2019 by the Honourable Senator Plett, concerning the World Health Organization — BSE Status.

Response to the oral question asked in the Senate on December 12, 2019 by the Honourable Senator Black (*Ontario*), concerning the support for beef and dairy industries.

AGRICULTURE AND AGRI-FOOD

WORLD HEALTH ORGANIZATION—BSE STATUS

(Response to question raised by the Honourable Donald Neil Plett on December 12, 2019)

Canada will submit its application for BSE negligible risk status to the World Organization for Animal Health (OIE) in July 2020.

The success of the submission will depend on Canada demonstrating the effectiveness of its BSE control programs in preventing and mitigating the risks of that animal disease in Canada. Building this case requires close collaboration

between federal and provincial governments and industry partners to gather the necessary data and information to support a strong and comprehensive submission to the OIE.

Canada's submission in July 2020 will present the most robust submission possible to the OIE.

All stakeholders are working constructively together and meeting on a regular basis to advance the submission, with a common goal to produce a high quality submission by July 2020.

SUPPORT FOR BEEF AND DAIRY INDUSTRIES

(Response to question raised by the Honourable Robert Black on December 12, 2019)

Agriculture and Agri-Food Canada (AAFC) is working with the industry and the government of Ontario to address the processing capacity issue in Eastern Canada. Recently, industry representatives suggested a set-aside program (designed to delay slaughter of certain animals to balance the number of cattle for slaughter with slaughter capacity) and subsidy to offset costs of transporting cattle outside of Ontario to be processed. The government is working with the sector to better understand the economic picture and to explore options concerning producer losses and the number of cattle implicated by the issue.

The industry has identified regulatory issues and labour shortages as major challenges. Ontario currently has one cost-shared Canadian Agricultural Partnership program that could potentially help industry modernize facilities. On the impact labour availability is having on the beef industry, the Agri-Food Immigration Pilot will help address meat processing labour needs, with the aim of attracting experienced, non-seasonal workers. Filling the approximately 1,700 vacancies at meat processing plants across Canada will increase the productivity and efficiency of these plants, creating opportunities for additional facilities or expansion of existing operations.

ANSWERS TO ORDER PAPER QUESTIONS TABLED

PUBLIC SAFETY—ROYAL CANADIAN MOUNTED POLICE— DRUG RECOGNITION EXPERTS

Hon. Marc Gold (Government Representative in the Senate) tabled the reply to Question No. 1, dated December 10, 2019, appearing on the *Order Paper and Notice Paper* in the name of the Honourable Senator Boisvenu, respecting drug recognition experts.

HEALTH—CANNABIS PRODUCERS WHO HAVE BEEN ISSUED A LICENCE

Hon. Marc Gold (Government Representative in the Senate) tabled the reply to Question No. 2, dated December 10, 2019, appearing on the *Order Paper and Notice Paper* in the name of the Honourable Senator Boisvenu, respecting cannabis producers who have been issued a licence by Health Canada.

• (1430)

[*Translation*]

ORDERS OF THE DAY

ADJOURNMENT

MOTION ADOPTED

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of March 11, 2020, moved:

That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, March 24, 2020, at 2 p.m.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*English*]

MODERN SLAVERY BILL

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Miville-Dechéne, seconded by the Honourable Senator Klyne, for the second reading of Bill S-211, An Act to enact the Modern Slavery Act and to amend the Customs Tariff.

Hon. Mary Coyle: Honourable senators, I rise today to add my voice in support of Bill S-211, the Modern Slavery Act.

I want to commend Senator Miville-Dechéne for her leadership in sponsoring this important bill and bringing to our attention the modern-day travesty of widespread forced labour and the extensive use of child workers in our global supply chains.

Slavery was officially abolished in 1981 when Mauritania finally outlawed the practice. Forced labour itself was first tackled by the International Labour Organization in 1957, when they passed the Abolition of Forced Labour Convention. But we know it still exists today in many forms; some more hidden and subtle than others. Many view this as a problem for less developed countries, but complex supply chains are reinforcing the practice around the world.

As the Business & Human Rights Resource Centre report noted:

In fact, modern-day slavery is everywhere: from the construction of World Cup stadiums in Qatar to the cotton farms of Uzbekistan, from cattle ranches in Paraguay to fisheries in Thailand and the Philippines to agriculture in Italy, from sweatshops in Brazil and Argentina to berry pickers in Sweden. The production chains of clothes, food and services consumed globally are tainted with forced labour.

In Senator Boyer's recent speech in support of this bill, she reminded us of the scourge of human trafficking in our own country, particularly the sexual exploitation of Indigenous women and girls.

Knowing for certain that no slavery was involved in the final product we buy, or service we pay for, is far more difficult than one may think. A final product may go through several producers, manufacturers, distributors and retailers. And any type of stress on the supply chain could lead to rush orders and subcontract work.

Finding out what company produced your favourite T-shirt is a lot simpler than knowing what types of labour practices are in place on a cotton farm.

[*Translation*]

However, companies have a moral obligation to understand their own supply chain and take steps to ensure that no slavery is involved in the production of their products.

[*English*]

There have been recent media accounts of shocking allegations of coerced labour and child labour.

The Guardian reported earlier this month that:

High street coffee shop giant Starbucks has been caught up in a child labour row after an investigation revealed that children under 13 —

— some as young as 8 —

— were working on farms in Guatemala that supply the chain with its beans.

Channel 4's "Dispatches" filmed the children working 40-hour weeks in gruelling conditions for a daily wage little more than the price of a latte. The beans are also supplied to Nespresso,

owned by Nestlé. Hollywood's Nespresso marketing face, George Clooney, has indicated a concern with the findings of the investigation, as have both companies, of course.

The Globe and Mail reported earlier this month that:

Bombardier Inc. says it is concerned about a new report —

— by the Australian Strategic Policy Institute —

— that links it and other companies to the evident forced labour of Muslim minorities in China.

In a recent CBC "Sunday Edition" segment, Clare Church of the Winnipeg-based International Institute for Sustainable Development, raised a red flag on the issue of green conflict minerals.

According to Ms. Church:

[*Translation*]

Demand for green energy technologies—and corresponding demand for the materials needed to build, transport and install these technologies—is predicted to increase dramatically in the years and decades ahead.

[*English*]

Demand for materials like cobalt, lithium and rare earth ore is expected to grow at unprecedented rates due to their strategic role in the production of wind turbines, electric vehicles and energy storage. Unfortunately, not all strategic reserves of these minerals are found in countries applying international best practices to mining sector management. On the contrary. The mining of cobalt in the Democratic Republic of the Congo has so often been connected to violence that the mineral has been dubbed the "blood diamond" of this decade. Further, some rare earth mines have been called sites of exploitation due to incidents of child labour, high levels of exposure to toxic substances and dangerous working conditions.

Ms. Church says that with many of the world's mining companies headquartered in Canada, and with Toronto seen as the top global hub for mining finance, that Canada could be a huge force for change. Canada could be a leader.

As Senator Lankin, in her recent speech on this bill said:

However, the more access to information consumers and investors have, the more socially responsible behaviour they can demand of the companies they buy from and invest in.

A House of Commons report on child labour found that, in 2016, 1 in 10 children had been part of some form of child labour. This represents 152 million children around the world.

Senator Omidvar provided us with a devastatingly clear picture of the nature and extent of the international modern slavery tragedy in her speech earlier this week, and she reminded us that women and children account for 71% of modern slaves.

As signatories to the 1989 Convention on the Rights of the Child, Canada agrees with Article 32 and recognizes that children have the right:

. . . to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

In 2016, World Vision published a Supply Chain Risk Report for Canada. It found that:

Canadian imports of 50 common products at risk of child and forced labour were worth \$34.3 billion in 2015.

These products include items such as: bananas, I had one this morning; blueberries, I had some today; fireworks; minerals; silk; and toys. Hope to be playing with some of those next week.

There are at least 1,264 companies operating in Canada with links to goods and countries with high incidences of child and forced labour.

Colleagues, when we know better, we must do better.

Bill S-211 will go a long way in addressing this systemic issue. It is not the only step needed, of course. Work must continue to empower governments and communities to take the necessary actions to protect their children. But it represents a step in the right direction.

To quote Senator Miville-Dechéne:

It is a bill that will help Canada to more strictly adhere to the letter of its international commitments.

It does this by introducing requirements for large companies to produce an annual report that they will publish on their website and file with the Minister of Public Safety on how they are preventing and reducing the risk of forced or child labour in their supply chains.

This bill also details the penalties for non-compliance with the reporting requirements; a necessary step in ensuring our supply chains are free from child and forced labour.

[*Translation*]

Other governments, such as those in the United Kingdom and Australia, have introduced similar bills. These legislative measures relate to information disclosed by companies to report any increased risk in their supply chains and any changes to their supply chains, if the information indicates cases of abuse.

[Senator Coyle]

• (1440)

[*English*]

One of the goals with this reporting is to leverage the information gathered in the hopes that suppliers choose to change their practices at the risk of losing their contracts.

This is not a new practice, colleagues. Non-financial corporate reporting has been increasing over the past few years, and in 2017, 78% of the world's largest companies disclosed some form of non-financial information within their annual reports. In many instances, this came from pressure from the stock market as a desire for corporate responsibility increased.

Private corporations have already started working with civil society groups to address problems in their supply chains and have already introduced voluntary measures to address those problems. Moreover, several Canadian companies are already obligated to report on their supply chains as they operate in jurisdictions with supply chain transparency legislation, including the U.K., California, and Australia.

Canada has committed to eliminating modern slavery by 2030, along with human trafficking, forced labour and child labour, as part of our commitment to meeting the Sustainable Development Goals.

In line with this commitment and in response to the report of the House Subcommittee on International Human Rights, entitled, *A Call to Action: Ending the Use of all Forms of Child Labour in Supply Chains*, last June Canada began a consultation process on labour exploitation in global supply chains.

Bill S-211 is not perfect, and there are areas of further study that will be helpful to explore to make this legislation stronger. We received a submission on this subject from the International Justice and Human Rights Clinic of UBC's law school. Examining and recommending improvements is what the committee will be charged to do.

In closing, I would like to quote Aminata Diallo, the main protagonist in Lawrence Hill's brilliant tome, *The Book of Negroes*: "That, I decided, was what it meant to be a slave: your past didn't matter, in the present you were invisible and you had no claim on the future."

Colleagues, let's support this next step on our complicated human path towards justice to ensure that all women, men and children everywhere can value their past, be alive and visible in the present and can count on a future free of bondage and exploitation.

I support Bill S-211, and I hope you will agree to send it to committee as soon as possible.

Thank you, *wela'liog*.

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to speak to Bill S-211, An Act to enact the Modern Slavery Act and to amend the Customs Tariff.

[*Translation*]

I would like to thank Honourable Senator Julie Miville-Dechêne for sponsoring this important bill. As the senator stated several times, this bill is just the first step.

[*English*]

Honourable senators, I wish to tell you about a 15-year-old from Bangladesh called Bithi. Bithi worked with thousands of Bangladeshi children piecing together designer jeans destined for stores in Canada and other developed countries. She remembered her first day of work at the garment factory three years ago when she was 12 years old:

The first day I felt bad, I thought it wasn't good. That first day I cried. . . when I see other girls in their blue and white checkered school uniforms, my heart breaks. But now I just dream of standing on my own feet.

In Bithi's case, abject poverty and a sick father forced her parents to send her to the garment factory. In 2014, more than 406 companies imported textiles and apparel goods, similar to products Bithi works on, into Canada. Desperate girls like Bithi are pushed to work for very low wages, and some are brought into these industries under the false promises of earning decent wages, meals, training and schooling.

The International Labour Organization estimates that there are over 150 million child labourers globally and 25 million victims of forced labour worldwide. Women and girls make up 71% of victims. A study released by World Vision Canada stated that 1,200 companies in Canada imported goods at risk of being produced by child and forced labour.

In 2018, the Subcommittee on International Human Rights of the House of Commons of the Standing Committee on Foreign Affairs and International Development undertook a study on child labour in supply chains, and it stated:

Virtually no progress was made globally between 2012 and 2016 to end child labour. . . . Furthermore, there has been no change in the number of children subject to forms of modern slavery.

Honourable senators, these children are not only missing out on education, reaching their potential and enjoying their childhood, but they are being enslaved and mistreated, and many are working in hazardous conditions just to afford food for their families.

Honourable senators, from the products we use to the clothes we wear, how many involve using children to make them?

In 2016, Canada imported \$39 million worth of coffee from Honduras. Eleven-year-old Melvin works in a coffee farm in Honduras. He has been working there for four years. His father was killed when he was a baby, which is why Melvin, at age seven, stepped up to be the breadwinner of his family. He recounts:

Back then when I started, it was more difficult to cut coffee because my hands were not tough.

Melvin works 12 hours a day, and his hands have toughened to cut the coffee. Honourable senators, do we know if the coffee picked by Melvin has ended up in our stores?

We know the supply chain is complicated and can include many touch points, and it is very difficult to follow. For example, coffee beans might grow and be harvested in one place, travel elsewhere to get roasted, travel again to be packaged in a different facility and continue to travel to other places before being shipped to Canada.

It is only through transparency, close monitoring and reporting that we can tell if the coffee beans Melvin picked are sold at our local grocery store.

The proposed modern slavery bill tackles child labour and forced labour with the aim of ending such practices. It requires large Canadian companies to ensure that their supply chains are transparent and don't rely on child labour. It imposes an obligation on them to report on measures taken to prevent child and forced labour.

I am very glad that the bill also proposes amendments to the customs tariff to ban goods manufactured or produced by child or forced labour.

This bill is indeed a very good first step in realizing a much-needed improvement in workers' and children's rights. Canada should not be falling behind on its commitments to uphold human rights and end these practices.

• (1450)

In 2017, we endorsed the U.K.'s call to action to end forced labour and trafficking and modern slavery. In 2018, we endorsed the G20 strategy to eradicate child labour, forced labour, human trafficking and modern slavery in the world of work. As part of Canada's G7 presidency, we made similar commitments.

Many countries have advanced, like the U.K., the Netherlands, France and others. Honourable senators, it is time for Canada to also act.

In 2013, after the Rana Plaza collapse and the world became aware of what is happening, Canadians rose in protest against companies implicated in violating workers' rights. More and more Canadians are taking action, sometimes by boycotting products. But we know that boycotts are not the solution for it puts millions out of work, adding to their poverty, so we must enact legislation to protect those workers.

In 2015, when I was part of the Standing Senate Committee on Human Rights that investigated the garment industry and corporate social responsibility in Bangladesh, we heard witnesses and experts over several meetings. What they said then is still true today. The testimony of witnesses from both the Canadian government and civil society organizations led us to the conclusion that while the Canadian government and Canadian companies have taken a number of measures to address the rights of garment workers, we still have a long way to go.

[*Translation*]

Honourable senators, in countries the world over, plant operators often exploit their workers knowing that those in need will accept low wages and bad working conditions because they have no choice.

[*English*]

Those in need will not waste their fear on hazardous, unsafe, work environments. They have no choice. They and their families have to eat. As a first step in trying to correct unspeakable conditions for millions of people, honourable senators, I ask that we support the modern slavery bill to protect children and end forced labour.

Moving forward, there is still much to be done. Let us start with Bill S-211 and continue to take the necessary steps to end modern slavery.

I would like to remind you of a quote by Senator Omidvar the other day when she also spoke on Bill S-211. She quoted Frederick Douglass, the famous abolitionist:

No man can put a chain about the ankle of his fellow man without at last finding the other end fastened about his neck.

Honourable senators, it is Canadian values that need to be applied. We as Canadians take pride that we have certain values. These values now have to be applied to protect against child labour and forced labour.

(On motion of Senator Ringuette, for Senator Duncan, debate adjourned.)

GREENHOUSE GAS POLLUTION PRICING ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Griffin, seconded by the Honourable Senator Verner, P.C., for the second reading of Bill S-215, An Act to amend the Greenhouse Gas Pollution Pricing Act (farming exemptions).

Hon. Robert Black: Honourable senators, I rise today to speak in support of Bill S-215, An Act to amend the Greenhouse Gas Pollution Pricing Act relating to farm exemptions.

[Senator Jaffer]

First, I want to thank Senator Griffin for introducing this important and timely legislation. We have been hearing a lot about this issue from the agricultural sector in all corners of this country, and it is something that must be addressed. As we all know, the carbon tax, or a price on pollution, came into effect last year in New Brunswick, Ontario, Manitoba and Saskatchewan. It has since come into effect in Alberta as well.

Now that we have had a full growing season under the carbon tax, we are really starting to see the effects on farmers in those provinces. Farmers are already exempt from the tax when it comes to diesel fuel. Bill S-215 would exempt them from other fuels as well. Specifically, this bill will amend the definitions of “eligible farming machinery” and “qualifying farming fuel” in the Greenhouse Gas Pollution Pricing Act.

The current Greenhouse Gas Pollution Pricing Act defines “eligible farming machinery” and specifies that “property that is used for the purpose of providing heating or cooling to a building or similar structure” is not included. This bill would add to that point in the definition.

Additionally, the act currently defines “qualifying farming fuel” as “a type of fuel that is gasoline, light fuel oil or a prescribed type of fuel.” This bill would change that definition to “a type of fuel that is gasoline, light fuel oil, marketable natural gas, propane or a prescribed type of fuel.”

One of the groups hardest hit by this increased cost is Canada’s grain farmers. As you are no doubt aware, we had a particularly wet growing season in many parts of Canada this past year. In fact, it’s been dubbed the “harvest from hell.” Unsurprisingly this has had a negative impact on grain yields. That negative impact was made far worse because of the extra propane and natural gas that farmers had to use to dry their grain.

As Senator Griffin said in her second reading speech, “grain drying is not an optional activity” for these farmers. Farmers don’t set their prices, so the additional costs are absorbed into their production costs, increasing the financial burden on individual farmers and making our agricultural industry a whole lot less competitive.

We’re not talking about a minor increase. The Agricultural Producers Association of Saskatchewan, one of the region’s most severely impacted, estimates that an individual 5,000-acre farm will lose between \$8,000 and \$10,000 in net income this year alone because of the carbon tax. They expect those numbers to rise to between \$13,000 and \$17,000 by 2022, which is 12% of farmers’ net income.

Another significant expense to farmers comes from the heating and/or cooling of their barns and other structures. In some parts of our country, livestock farmers, poultry farmers and others already spend a lot of money heating their barns in winter. That cost, which is necessary for the survival and health of livestock, is now much steeper due to the added carbon tax.

Colleagues, I understand the seriousness and immediacy of the climate crisis. I am in no way trying to downplay it. I'm also not arguing against the price on pollution. I'm simply saying that the tax doesn't affect all sectors equally, and it should be modified to minimize its harm on farmers. Not only do farmers do the vital work of providing us with food and fibre, they also have a major role to play in the fight against climate change. The additional cost to farmers with this carbon tax does not take into consideration the important part farmers already play and can further play in the mitigation of carbon emissions. Charging them extra makes it extremely difficult for them to invest in new, green technology or to undertake any other carbon reduction initiatives.

Farmers and others in the agricultural industry have been working hard, innovating in various ways to reduce their carbon footprint. Most notably, carbon sequestration is an extremely effective way of reducing our carbon emissions. I will be going into that in more detail in a future speech.

It should be noted that legislation is supported by agricultural organizations across the country, including Grain Growers of Canada and its member organizations, as well as the Canadian Federation of Agriculture, the Canadian Federation of Independent Business, the Alberta Wheat Commission and many more.

Exempting farmers from the carbon tax is also supported by politicians of all stripes. For these reasons, I ask you to vote to pass the second reading of this legislation so that it can be moved on to committee stage, where we will be able to hear from the affected stakeholders including farmers and agricultural organizations and to give government representatives the opportunity to explain and defend their policies.

• (1500)

Thank you for listening. *Meegwetch*.

(On motion of Senator Wallin, debate adjourned.)

[*Translation*]

ASSISTED HUMAN REPRODUCTION ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

Hon. Lucie Moncion moved second reading of Bill S-216, An Act to amend the Assisted Human Reproduction Act.

She said: Honourable senators, I rise today as the sponsor of Bill S-216, An Act to amend the Assisted Human Reproduction Act. This bill is controversial to those who view assisted human reproduction as a form of commercialization of women and commodification of children. Canadians are divided on the issue of assisted human reproduction, as I am sure honourable senators are.

In the interest of all those concerned by assisted human reproduction, including women, children, infertile couples, members of the LGBTQ2+ community and members of the

medical profession, and also for the sake of this discussion, I invite you, honourable senators, to undertake the study of Bill S-216 in a spirit of openness, setting aside ideologies, opinions, preconceived notions and prejudices that might hinder a thoughtful and objective debate on such an important issue.

Before getting to the heart of the matter, I would like to note that for the purposes of this speech I will be using the terms “surrogacy,” and “surrogate motherhood” interchangeably. I mention this to spare you the arguments over semantics.

In recent years, assisted human reproduction has been the subject of many reports and studies by investigative journalists and university researchers. There are many articles and reports that cover all aspects of assisted human reproduction.

On March 2, the CBC released the results of another investigation that first exposed the questionable practices of certain surrogacy agencies with respect to eligible expenses. In fact, these agencies encouraged surrogates to submit receipts in order to systematically reach the maximum refundable amounts under the agreements with intended parents.

Given these practices, intended parents are afraid of paying expenses that are ineligible under the Assisted Human Reproduction Act, which is a criminal offence punishable by 10 years in prison and a fine of \$500,000.

The debate on surrogacy generally brings into focus the vulnerability of surrogates. The results of this first part of the CBC investigation revealed that intended parents can also be vulnerable and that a legal system that is primarily a criminal law system prevents us from having an open discussion about optimizing the regulations for assisted human reproduction in Canada.

The second part of the CBC investigation looked into how vulnerable surrogate mothers are. The investigation revealed that health care professionals did not always provide relevant, up-to-date information to potential surrogate mothers about the risks of pregnancy. This raises questions about whether these women are in a position to provide informed consent. The investigation looked at the specific case of a woman who had not been informed of the risks of having consecutive pregnancies without an adequate recovery period.

Dr. John Kingdom, a medical doctor and professor at the University of Toronto, condemned Canada's lack of regulations on a mandatory waiting period between surrogates' pregnancies.

I want to point out that, in the case in question, the surrogate had not received remuneration, so the surrogacy was completely legal in Canada. Dr. John Kingdom exposed the false dichotomy

associated with the vulnerability of potential surrogate mothers who receive compensation and those who become surrogates for altruistic reasons. He said, and I quote:

[*English*]

I think we should recognize that surrogates are altruistic, kind people who are at risk of power imbalances.

[*Translation*]

Although this dichotomy was the main justification for Canadian legislators to criminalize commercial surrogacy, there is no empirical evidence to back up that dichotomy. Recent studies have shown quite the opposite in the average profile of a surrogate in the United States or in other in Western countries.

[*English*]

In 2015, Maneesha Deckha, professor and Lansdowne chair in law at the University of Victoria, published an article in the *McGill Law Journal*. In it she refers to U.S. research and the profile of surrogate mothers in Western countries by quoting Erin Nelson, professor of tort law. The article reads as follows:

... contrary to feminist arguments made in the early days of ARTs, the women who act as surrogates are not poor, uneducated women of color who comprise some sort of reproductive 'underclass' to serve the needs of wealthy white women.

The authors agree that Canadian feminists' concerns about surrogate mothers being exploited by people in wealthy countries have been resolved by empirical evidence.

[*Translation*]

According to a 2016 publication by the Conseil du statut de la femme du Québec, the CSF, commercial surrogacy is a violation of human dignity. The CSF took a firm stance against commercial surrogacy and vaguely justified a more flexible approach to altruistic surrogacy. The CSF stated the following:

It is clear that commercial surrogacy violates human dignity because it commodifies women's bodies and human life. Altruistic surrogacy may also undermine women's dignity, which is why respect for this principle must be evaluated in the context of specific situations.

Whether one agrees with this position or not, nobody who cares about human dignity at all would consider criminalization to be a solution. Karen Busby, a professor of law and director of the Centre for Human Rights Research at the University of Manitoba, agrees. She said, and I quote:

[*English*]

We should re-open the debate about the ethics of commercial surrogacy. The safety, security and well-being of surrogate mothers, the children they bear and the intended parents may be better protected through regulatory regimes than criminal prohibitions.

[Senator Moncion]

We must remember that just because a surrogate mother or gamete donor receives payment does not mean they aren't also motivated by altruism to carry another person's child or undergo invasive medical procedures to have gametes retrieved. As we examine this argument, we need to challenge this presumption, which is one of the bases for criminalizing compensation for surrogate mothers and gamete donors.

Next, this dichotomy also represents the glorification of female altruism, in which lofty attributes like empathy, generosity and self-sacrifice reinforce gender-based stereotypes and barriers to gender equality. It would be naive to think that reinforcing this stereotype has no impact on people's ability to recognize systemic gender discrimination in Canadian society.

In all cases, whether a woman is carrying a child for another person for altruistic or commercial reasons, the way to protect women and intending parents is through proper regulation. To achieve this goal, all of the parties concerned must be able to join in the public debate and turn to the courts when necessary, without fear of penalty or jail time.

What we should remember from the CBC report is that criminalization fosters a climate of fear and silence, which stifles discussion and increases the risk that vulnerable people will be exploited, whether we are talking about surrogate mothers, intending parents, gamete donors, gamete recipients or children.

• (1510)

Sarah Cohen, a lawyer and professor at Osgoode Hall Law School and the President of Fertility Matters Canada, believes that Canada should decriminalize payment for surrogate mothers so that parents can feel comfortable speaking out against bad practices without fear of dire legal consequences. She states that one of the reasons to decriminalize the compensation of surrogates is so that intended parents and surrogates feel empowered and safe to speak out when they are being wronged without fear of criminal penalties to them or to the other parties. The parents are scared that they may have broken the law and so will not seek the assistance of a court of law when being wronged, and the surrogates don't want to see the intended parents go to jail, even if the parents wronged them. This leaves intended parents and surrogates in the lurch, trying to navigate a grey zone without the benefit of the usual judicial system to support them.

[*Translation*]

The CBC's investigative work and these personal stories shed light on the unintended consequences inherent in criminalizing compensation to surrogates and force us, as legislators, to ask ourselves some serious questions about the relevance of the current legal system from a pragmatic rather than ideological point of view.

My speech aims to launch an informed debate by presenting you with various perspectives that have shaped the public debate, as well as the results of my own research and reflections on the subject of decriminalization. After thoroughly and carefully studying and analyzing these issues, I have concluded that decriminalization is the best approach to serve the interests of all Canadians who use alternative reproductive methods. I would like to emphasize right away that decriminalizing compensation to surrogates is a way for women to reaffirm their ability to think for themselves and make decisions regarding their own bodies while protecting vulnerable people, including women who may not have the mental capacity to give consent and those who are under 21 years of age.

This feminist approach dissociates itself from a paternalistic feminism that denies women their ability to decide for themselves based on certain ideals or concerns, for example, the ethical issues raised by the commercial use of reproductive organs or the alleged risk that vulnerable women will be exploited when they receive compensation for being surrogate mothers, as though they would somehow be less likely to be exploited if they did it for free.

[English]

In short, the current law and the schools of thought that shaped it are full of contradictions. In her article entitled “A comparison of surrogacy laws of the U.S. to other countries: Should there be a uniform federal law permitting commercial surrogacy?”, Victoria Guzman sums up the position of opponents to this paternalistic feminism:

... such a viewpoint is based on the paternalistic assumption that women need to be saved from themselves and minimizes the autonomy in a surrogate mother’s reproductive choices. Furthermore . . . not compensating the surrogate mother devalues the work she has done.

Some people also believe that commercial surrogacy is advantageous for women because it offers them a significant source of income for work that is valued by society and is free from male competition.

The issue of assisted reproduction in Canada requires careful thought. In trying to understand the rationale behind the current legislation, I asked myself the following questions:

Why is a parent who pays a surrogate mother, an intermediary who arranges payment, liable to 10 years in prison and a fine of \$500,000? Why is commercial surrogacy criminal, but not surrogacy for altruistic purposes? Why is there this arbitrary dichotomy? Why is a woman at less risk of being exploited if she performs a service free of charge rather than being compensated fairly for that service? Why does the legal system encourage Canadians to travel to the southern hemisphere to find poor, racialized surrogates who have no real protection from abuse and exploitation rather than provide access here in Canada within a legal and medical framework that is safer for women? Why are doctors and agencies working in the field of assisted reproduction allowed to profit from this industry, but it is against the law for surrogate mothers and gamete donors to be fairly compensated?

[Translation]

All the honour and credit for the ingenuity and boldness of Bill S-216 go to MP Anthony Housefather, who, senators will recall, introduced Bill C-404 in the other place in the 42nd Parliament. I chose to sponsor this bill in the Senate because this is a subject that merits in-depth reflection and we, in this chamber, are in a position to give it the attention and scrutiny required. That will lead to a much more healthy and balanced legal framework for governing assisted human reproduction in Canada. The current framework facilitates the exploitation of vulnerable and racialized women in other parts of the world. It exacerbates the inequality between fertile heterosexual couples and anyone else who wants to have a child but is unable to do so, particularly LGBTQ2+ couples, infertile couples and single people. The current framework also undermines the freedom of women and robs them of the mental ability to make decisions about their body in an arbitrary context, that of surrogacy for compensation.

The next part of my speech will be on the state of the law on assisted human reproduction in Canada at the federal level and the proposed changes in Bill S-216. I will go over the rationale for criminalization by giving an overview of the history of the debates and legislation on human reproduction in Canada. I will also review the jurisdictional issues that characterize assisted reproduction regulations in Canada.

Canadian law on surrogacy and gamete donation is governed largely by the Assisted Human Reproduction Act, which prohibits certain activities but authorizes others. For the most part, the practices that are permitted are regulated by the provinces, pursuant to their jurisdiction over health and family law.

There is a wide disparity in jurisprudence and regulations across the provinces and territories. For example, in Ontario, with respect to parentage, with the recent reforms of the Children’s Law Reform Amendment Act, donors and surrogates are not the presumed parents of the child, whereas in Quebec the woman who gives birth to the child is presumed to be the child’s mother, in accordance to the old legal saying *mater semper certa est*. Furthermore, in Quebec, an agreement to carry a child for another person is null under section 541 of the Civil Code. In most provinces, the surrogate is recognized as the real mother of the child, which forces the parents to undertake a formal adoption process. Federally, the Assisted Human Reproduction Act provides for the following constraints: no person shall pay a woman to be a surrogate; no person shall accept consideration for arranging for the services of a surrogate mother; no person shall pay consideration to another person to arrange for the services of a surrogate mother. Note that advertising and offering to pay consideration are also prohibited.

[English]

The only payment a surrogate mother can receive is for expenses directly related to the surrogacy. These expenses are listed in the law and in the upcoming regulation. The same will be true for gamete donors.

The regulations covering eligible expenses will come into force in June 2020, 16 years after the 2004 statute. So far, the lack of clear regulations concerning eligible expenses has meant that people who use alternative methods of assisted reproduction are often unsure and afraid that an ineligible expense may be seen as an illegal payment. This encourages people who can afford it to travel to countries like India and Mexico, where they access the services of a surrogate mother in a less restrictive legal framework.

This practice leads to a range of problems, including the exploitation of poor and racialized women in other countries and difficulty accessing gamete and surrogacy services in Canada. In theory, you could say that Canada's legislative approach is hypocritical, because we are ignoring the exploitation of women in other countries out of fear of exploiting women in Canada. In her article, Maneesha Deckha cites the work of Kristin Lozanski to underscore this legislative hypocrisy:

. . . AHRA asserts that commercial surrogacy is immoral because of . . . hefty repercussions on transgressors of this moral code. Yet, where this exploitation occurs abroad, Canada is unconcerned and will actually help Canadians bring home babies born from commercial surrogacy. . . .

. . . this undermines the anti-commodification and gender equality principles underlying the AHRA.

• (1520)

The Assisted Human Reproduction Act places the following restriction on buying and selling gametes: No person shall purchase or offer to purchase sperm or ova from a donor or a person acting on behalf of a donor. No person shall purchase or offer to purchase an in vitro embryo. No person shall purchase or offer to purchase a human cell or gene with the intention of using the gene or cell to create a human being.

“Purchase” or “sell” includes “to acquire or dispose of in exchange for property or services.” Advertisement is also prohibited. As such, it is against the law to pay a donor. Ironically, Canada allows gametes to be imported from other countries, even if the donor there is paid. That explains why about 90% of sperm donations in Canada are from the United States and only 5% to 10% are from Canadian donors. By supporting imports, the government is relinquishing oversight of the legal framework governing the collection of most of the gametes found in Canada's sperm and ova banks.

[*Translation*]

Section 60 of the Assisted Human Reproduction Act covers offences related to acts prohibited in section 6, payment for surrogacy, and section 7, purchase of gametes.

Individuals may be fined up to \$500,000 and imprisoned for up to 10 years.

Let's now turn to the purpose of Bill S-216 and the problems it would solve if passed. On the one hand, by legalizing payment for human reproductive material, Bill S-216 would increase the

supply of gametes and make it easier for Canadians who can't get pregnant — or shouldn't because it's too risky — to get help from surrogate mothers.

[*English*]

In an article from 2019, Anne-Isabelle Cloutier from McGill University explained this argument, which is strongly supported by the academic literature. She says:

The purported lack of donors and surrogates is attributed to the absence of economic incentives and the existence of a grey market that casts a shadow of legal uncertainty over the whole process. This “aura of illegality” . . . deters some Canadians from acting as donors or surrogates and causes intending parents to fear being criminally sanctioned if the reimbursement they pay is deemed unrelated or unreasonable. Decriminalization of payment of gamete donors and surrogates, it is argued, would solve both problems and thus increase the number of Canadian donors and surrogates

Improving access to alternative methods of reproduction supports equality between couples who have no difficulty conceiving and other people, such as infertile couples, same-sex couples and single people. In addition, by making it easier to use a surrogate mother in Canada, this bill would reduce Canadians' exploitation of women in other countries. As I mentioned earlier, many Canadians travel to countries where surrogate mothers face an increased and pervasive risk of exploitation. Maneesha Deckha clearly explained the logic of the argument in the article I cited earlier:

Feminists who are skeptical of the empirical findings regarding the lack of surrogate exploitation may still concede a critical difference between domestic and transnational surrogacy if they consider the respective underlying health and economic regulatory contexts in which surrogacy is practised. Specifically, parentage laws and public health care standards are in place in Canada that do not currently exist in India, which would prevent exploitative working and health conditions for Canadian women who might engage in paid surrogacy work if legalized.

Guzman, in an article from 2016, makes a similar argument:

While the situation in India may be called exploitation by some, the same cannot be said of surrogacy in the United States, where a surrogate is generally “married, between twenty-one and thirty-seven years old, a high school graduate, a stay-at-home mother, and dependent on her husband's income.” Some research suggests American surrogates enjoy their experience as a surrogate, feel as though they are doing something beneficial, use it as an extra source of income rather than their sole income, and are rarely impoverished.

[Senator Moncion]

Bill S-216 would also enable the provinces and the government to appropriately regulate the use of surrogate mothers and gamete donation. Decriminalizing would open the door for the provinces to regulate these practices and protect people who use alternative means of procreation and those who facilitate their use. The legal principle that ignorance of the law excuses no one means that not knowing the law is not a defence for committing an illegal act. How can the Canadian government expect the general public to distinguish what is prohibited from what is not under the current regime? Intending parents, agencies, lawyers, doctors, surrogate mothers, gamete donors and gamete recipients all agree that the legal uncertainty and inherent contradiction of this regime are highly problematic.

Consider, for example, the issue of expense reimbursement and the finding of the CBC investigation. Legal uncertainty does no one any favours and increases the risk that vulnerable people will be exploited, owing to the unequal power relations involved in using alternative means of procreation.

[Translation]

Bill S-216 would address the many contradictions and inconsistencies in the current legal framework by recognizing that women have the ability to make decisions about their own bodies.

A single mother who has a hard time meeting her family's needs could, completely rationally, decide that she would rather become a surrogate mother than take on two minimum-wage jobs and work an average of 80 hours a week to make ends meet.

The argument also works for gamete donation. Who are we, as women or men, to arbitrarily prohibit a woman or man to make this kind of decision? In my mind, this paternalistic approach is inconsistent with the values of most Canadians.

The proposed amendments in Bill S-216 primarily deal with surrogacy, section 6, and the donation of sperm or ova, section 7. The bill would essentially decriminalize the act of paying compensation for surrogacy or a sperm or ova donation by repealing the provisions that prohibit these acts.

Furthermore, the bill contains restrictions on who can become a sperm or ova donor. A donor must be over the age of 18, be capable of consenting to the donation and not be coerced by a third party to donate.

With regard to gestational surrogacy, the bill also sets out restrictions as to who can become a surrogate mother. The women must be at least 21 years of age, capable of consenting to the donation and not coerced by a third party to donate.

The bill also eliminates the ban on reimbursement for expenses incurred by surrogate mothers under certain conditions. Rather than generally prohibiting the reimbursement of expenses other than those set out in a regulation that, let's be clear, has not even been implemented yet, the bill authorizes general compensation and simplifies the process.

In summary, the problems related to the uncertainty regarding reimbursable expenses come from the fact that an expense that is deemed non refundable could be seen as a form of payment,

which makes the reimbursement of such an expense *ipso facto* criminal for both the surrogate mother and the parents using her services.

[English]

Broadly decriminalizing payment in turn removes the burden of extremely strict regulation of expense reimbursement. The current legal framework can, in theory, expose someone who simply makes an unintentional mistake to serious penalties. The new legal framework would enable parties to agree on the conditions for reimbursing expenses, including the type of expenses that can be reimbursed, the maximum amount that can be reimbursed and the supporting evidence required. Expense reimbursement would be a matter of contract law rather than criminal law. In addition, unlike Bill C-404 from the Forty-second Parliament, Bill S-216 would come into force 180 days after Royal Assent. This would give the federal government and provincial legislatures a reasonable amount of time to exercise their regulatory powers, if necessary.

I would now like to review the history of this issue in order to break down the reasons that paying for assisted reproduction was criminalized.

• (1530)

In 1989, the federal government established the Royal Commission on New Reproductive Technologies, also known as the Baird Commission, to study assisted reproduction. In its final report *Proceed with Care*, released in 1993, the Baird Commission expressed concern with some assisted reproduction practises and urged the government to pass legislation addressing this issue. That same year, Quebec's Minister of Justice said that using a surrogate mother is contrary to public order.

In 1995, the Minister of Health announced a voluntary moratorium on practices such as human cloning and payments to surrogate mothers. Finally, in 2004, the federal government passed the Assisted Human Reproduction Act, which was based on the Baird Commission report in consultations with the provinces, territories and interest groups.

Criminalization was the result of a combination of factors. It originated in ideologies that were common in Canadian societies in the 1990s and the 2000s, including some schools of feminist thought and traditional beliefs that uphold the conventional view of procreation and the family.

[Translation]

The excitement around the merits of the legislation and attempts to legitimize the position adopted when the Assisted Human Reproduction Act was passed in 2004 were exaggerated. Author Anne-Isabelle Cloutier pointed out that several authors, including Dave Snow, are of the opinion that the creators of the

Assisted Human Reproduction Act and its supporters were the only ones claiming that the law had strong social licence when it was passed. In reality, there was no evidence to support such a claim, since an opinion poll conducted in 2002 showed that 55% of Canadians were in favour of authorizing reimbursement for assisted reproduction. Many authors agree. Maneesha Deckha said, and I quote:

[English]

... AHRA's criminal prohibitions against commodification rest on shaky morality principles that have never received widespread public approval and do not reflect current Canadian social mores. . . .

[Translation]

This situation was compounded by the legislative urgency felt in the wake of advanced assisted human reproduction technologies. Human cloning was imminent and the government needed to act quickly. Accordingly, the government essentially copied the recommendations of the 1993 report into its 2004 legislation.

[English]

I believe that in light of the recent academic literature, testimony from stakeholders and empirical evidence from research into assisted reproduction, some of the Baird Commission's recommendations are out of date and out of touch with reality, particularly those relating to the commercialization of surrogate motherhood and gamete donation.

The fears that led to the prohibition of these activities proved unfounded. This finding is consistent without the academic literature which is based on empirical evidence.

In addition, social norms and values were different. Canadians had a more traditional conception of the family and procreation at the time. Same-sex marriage was not yet legal, which means that no one knew how many people would make use of surrogate mothers or gamete donation in Canada. In short, it was a different time.

[Translation]

The federal government justifies the criminalization of commercial surrogacy on an ideological rather than empirical basis, which is fundamentally contrary to the way the current government intends to legislate.

In the provinces, we can see the same phenomenon with regard to parentage. Marie-France Bureau, an associate professor at the Faculty of Law at the Université de Sherbrooke, and Édith Guilhermont, a postdoctoral researcher, concluded in an article entitled "Maternité, gestation et liberté : Réflexion sur la prohibition de la gestation pour autrui en droit québécois" or maternity, gestation and freedom: thoughts on the prohibition of surrogacy in Quebec law, published in 2010 in the McGill

Journal of Law and Health, that the primary reason the legislator criminalized commercial surrogacy was ideological in nature. The report made the following conclusion:

The fears expressed over the past two decades or so and the arguments made against surrogate motherhood do not seem to be supported by empirical studies of the practice in the West and are rather related to the desire to maintain a certain representation of motherhood.

Quebec jurists have long subscribed to a concept of motherhood holding that the woman who gives birth to the child is naturally the child's mother.

At a time when assisted reproductive technology has advanced considerably and given that many people are relying on third parties to pursue their parenting plans, the certainties surrounding parentage are being shaken. However, rather than rethink the concepts of maternity and parentage in light of this reality, Quebec lawmakers, like those in other jurisdictions such as France, continue to prohibit gestational surrogacy, invalidate agreements designed to organize this practice and persist in automatically linking maternity to the womb.

As long as the federal government fails to show leadership in regulatory matters, and by maintaining a prohibition under criminal law, it is sending a message to the provinces that it is acceptable to legislate based on ideological concepts rather than empirical evidence. In 2020, most Canadians expect greater wisdom from their legislators. The time has come to conduct a study intended to ensure consistency between the text of the legislation and its objective.

The major principles set out in section 2 of the Assisted Human Reproduction Act are as follows: the protection and promotion of human health, safety, dignity and rights; the health and well-being of women; free and informed consent; and the premise that persons who seek to undergo assisted reproduction procedures must not be discriminated against, including on the basis of their sexual orientation or marital status.

For all the reasons I mentioned in my speech, I think that the criminalization of commercial surrogacy and gamete donation is not consistent with these principles and prevents us from adopting appropriate regulations. If we deconstruct the speeches made in favour of this criminalization, we can clearly see the inconsistency and contradictions between these principles and the reality on the ground.

I now want to talk about matters of jurisdiction. Bill S-216 does not create any constitutional problems, since it would simply eliminate the prohibitions of a criminal nature. It would be very dangerous to propose a legal framework that would go beyond simple decriminalization. As jurisprudence has shown, it is risky, constitutionally, to propose comprehensive national legislation on assisted human reproduction.

The federal government's ability to regulate reproductive technologies is clearly limited. Canadian provinces have jurisdiction over family law, parentage transfer, birth registration, adoption and health. The federal government has exclusive jurisdiction over criminal law.

[Senator Moncion]

[English]

In 2010, in the reference case on assisted human reproduction, the Supreme Court struck down much of the Assisted Human Reproduction Act finding the federal government had exceeded its legislative authority by regulating matters such as in vitro fertilization in the issuance of licences for clinics. However, the court did not strike down the provisions criminalizing certain activities, including the offences for contravening section 6, which is surrogacy, and section 7, which is gamete donation, as they fall more clearly within the federal jurisdiction over criminal law.

Since Bill S-216 would decriminalize some practices, the provinces will need to legislate and regulate certain matters that relate to paying surrogate mothers and gamete donors. In the article, the *Assisted Reproduction Policy in Federal State: What Canada Should Learn from Australia*, David Snow explains how and why Canada should draw on the Australian model of cooperative federalism to let the provinces pass assisted reproduction legislation without creating a chaotic legislative regime. He states the following:

Given the Supreme Court ruling . . . national regulation in non-criminal areas of reproduction technology policy is no longer an option in Canada, meaning that those who desire harmonization have no choice but to seek inspiration from something like the Australian model. . . .

Snow argues that decriminalization, acting as a decentralizing factor, does not undermine consistency or basic principles upheld by every province. In Canada, we can imagine that every province will find some common grounds and certain basic principles, such as the importance of stopping the exploitation of women, the protection of patient health and safety, the importance of a free and informed consent, and a clear legal framework.

He cites the example of the state of Victoria, Australia, whose regulations were used as a model by the country's other states.

[Translation]

In Canada, Ontario leads the way in regulating assisted human reproduction. The provinces are positioned to implement changes and use good consultation practices to draft appropriate regulations.

• (1540)

For areas outside federal jurisdiction, there are several ways to ensure some consistency and uniformity across provincial regulations. For example, the government can issue non-binding guidelines that outline best practices for assisted human reproduction.

In addition, regulations governing health professionals already provide a regulatory framework to patients who use alternative reproduction methods with respect to surrogates, the donation of gametes for altruistic purposes and patients' free and informed consent. Consequently, the decriminalization of the commercial aspect of these practices would not be part of a regulatory framework devoid of guidelines.

We should note that the federal government retains its regulatory powers with respect to anything that is criminal under the act.

The most important thing to note about the 2010 reference is that assisted human reproduction touches on both federal and provincial jurisdictions and that, generally speaking, when certain activities are permitted by the federal government, are decriminalized and affect health or parentage issues, the required regulations will be primarily provincial. The harmonization of regulations is possible and realistic in a context of cooperative federalism, as is the case in Australia, for example, and as we see in Canada in areas of jurisdiction that are a priori provincial.

Bill S-216 therefore does not pose a problem with regard to shared jurisdictions and is consistent with the Supreme Court's restrictive interpretation of the federal government's jurisdiction over criminal matters in the December 2010 reference. An overly ambitious bill that would centralize the regulations by way of a federal law would most likely be deemed unconstitutional under the December 2010 reference and the division of powers set out in the Constitutional Act of 1867.

In this speech, I sought to answer the following question: Is it relevant to maintain the prohibition on commercial surrogacy and gamete donation?

[English]

What is the rationale or absence thereof beyond the decision to favour a criminal legal framework rather than a legal regulatory framework?

[Translation]

There is no valid reason to justify maintaining these prohibitions today. I came to this conclusion based on the empirical evidence reported in recent academic studies and the testimony of various stakeholders. What is more, I hope that this evidence and testimony will lead to an enlightened and objective debate in the Senate. My argument is against the sixth principle set out in paragraph 2(f) of the Assisted Human Reproduction Act, a principle that is repealed in Bill S-216.

I am of the opinion that the health and ethical issues raised by the commercialization of gestational surrogacy and gamete donation no longer justify the prohibition of those practices.

[English]

It is time to end the ostrich routine and face up to the issue of assisted reproduction. It is 2020, and it is time for Parliament to take its head out of the sand and review the extent of the empirical evidence that supports decriminalization of commercial surrogacy and gamete donation in order to give Canadians regulations that truly protect their health and safety and ensure equity and justice for all those who help make parenthood efforts a success.

It is high time that this issue was revisited so that a comprehensive study can examine every aspect of assisted reproduction and offer concrete solutions to a problem that Parliament has refused to regulate appropriately for far too long.

Thank you for your undivided attention for this last 40 minutes.

[Translation]

The Hon. the Speaker: Senator Miville-Dechéne, you have two minutes.

Hon. Julie Miville-Dechéne: Senator Moncion, we've talked about this bill. You're opening up a huge and complex debate on ethical issues. I was one of the women who drafted the opinion of the Conseil du statut de la femme stipulating that altruistic surrogacy was the only possible option for reasons of dignity and to prevent the commodification of the body. This is not paternalistic feminism, as you said. You're reducing all this to labels, when there are ideologies on both sides of the argument.

I must say, with all due respect, that having a child is not a right. I don't want to seem callous towards people who are infertile. I myself struggled with infertility, so I can speak to these issues and try to understand both sides of each option. Commercializing surrogacy is not that simple. This means that intermediaries will profit from these practices. You said that getting paid to carry a child is the same as having outside employment. Well, I don't think so, because there comes a point when a woman can no longer carry a child. Then what does she do? She'll be out of work. It's not the same thing, if you think about women's independence in terms of their income.

This is an extremely complex issue and the debate is just beginning. Here's my question: What do you tell those women who carry a child and sign a contract, then end up wanting—

The Hon. the Speaker: Excuse me, Senator Miville-Dechéne, but Senator Moncion's time is up. Do you want another five minutes, Senator Moncion?

[English]

Is leave granted, honourable senators?

An Hon. Senator: No.

The Hon. the Speaker: I hear a "no." I'm sorry, your time has expired.

Hon. Yonah Martin (Deputy Leader of the Opposition): I'm asking whether Senator Miville-Dechéne would like to enter debate, or will she do that later?

[Translation]

Senator Miville-Dechéne: I would like a few minutes to finish sharing my thoughts. Is that possible?

The Hon. the Speaker: Another time.

(On motion of Senator Martin, debate adjourned.)

[Senator Moncion]

[English]

STUDY ON CANADIANS' VIEWS ABOUT MODERNIZING THE OFFICIAL LANGUAGES ACT

THIRTEENTH REPORT OF OFFICIAL LANGUAGES COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE ADOPTED

The Senate proceeded to consideration of the thirteenth report of the Standing Senate Committee on Official Languages, entitled *Modernizing the Official Languages Act: Views of the Federal Institutions and Recommendations*, deposited with the Clerk of the Senate on June 13, 2019, during the first session of the Forty-second Parliament.

Hon. René Cormier moved:

That the thirteenth report of the Standing Senate Committee on Official Languages entitled *Modernizing the Official Languages Act: Views of the Federal Institutions and Recommendations*, deposited with the Clerk of the Senate on June 13, 2019, during the first session of the Forty-second Parliament, and placed on the Orders of the Day in the current session pursuant to the order of March 11, 2020, 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 Justice being identified as minister responsible for responding to the report, in consultation with the Minister of Canadian Heritage, the Minister of Economic Development and Official Languages, and the President of the Treasury Board.

He said: Honourable senators, I move the motion standing in my name.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

STUDY ON THE POTENTIAL BENEFITS AND CHALLENGES OF OPEN BANKING FOR CANADIAN FINANCIAL SERVICES CONSUMERS

THIRTY-SECOND REPORT OF BANKING, TRADE AND COMMERCE AND REQUEST FOR GOVERNMENT RESPONSE ADOPTED

The Senate proceeded to consideration of the thirty-second report of the Standing Senate Committee on Banking, Trade and Commerce, entitled *Open Banking: What it Means for You*, deposited with the Clerk of the Senate on June 19, 2019, during the first session of the Forty-second Parliament.

Hon. Colin Deacon moved:

That the thirty-second report of the Standing Senate Committee on Banking, Trade and Commerce entitled *Open Banking: What it Means for You*, deposited with the Clerk of

the Senate on June 19, 2019, during the first session of the Forty-second Parliament, and placed on the Orders of the Day in the current session pursuant to the order of March 11, 2020, 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 Finance being identified as minister responsible for responding to the report.

He said: Honourable senators, I move the motion standing in my name.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

(At 3:50 p.m., the Senate was continued until Tuesday, March 24, 2020, at 2 p.m.)

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