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(HANSARD)

Monday, November 28, 2016

The Honourable GEORGE J. FUREY
Speaker

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

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THE SENATE

Monday, November 28, 2016

The Senate met at 6 p.m., the Speaker in the chair.

Prayers.

[*Translation*]

SENATORS' STATEMENTS

FREEDOM OF THE PRESS

Hon. André Pratte: Honourable senators, over the past few weeks, Canadians have been dismayed to learn that the Montreal police force and the Sûreté du Québec placed a number of journalists under surveillance after obtaining warrants from justices of the peace.

In light of these revelations, I said that we needed to consider reviewing federal legislation in order to better protect journalists and their sources. I suggested the Government of Canada set up a parliamentary committee to study the possibility of amending existing legislation. This avenue seemed more promising than introducing a private bill, the adoption of which is far less likely than that of legislation introduced by the government.

[*English*]

The Trudeau government was initially very open to my proposal. The terms of reference for a special Senate committee were set, the composition of the committee was initiated, and a press release was drafted. However, the Conservatives objected to this approach, with Conservative leader Honourable Claude Carignan preferring instead to table a senator's bill, Bill S-231.

The government has just informed me that in order to avoid a confrontation with the Conservatives in the Senate at the end of the session, it is dropping the file, thus letting freedom of press down. The only hope for journalists now rests with Senator Carignan's bill. Fortunately, that bill is the result of rigorous work. It is a good starting point.

[*Translation*]

For that reason, I will be supporting Bill S-231 at second reading stage as well as its referral to a Senate committee for study. I am confident that out of this study will come a solid piece of legislation that will better protect journalists and their sources, while taking into account society's interest in having crimes solved.

It will be up to the House of Commons, and therefore Mr. Trudeau's majority government, to decide on the fate of

the bill. I hope that the Liberal government will show more conviction than it has so far on this matter.

[*English*]

THE LATE FIDEL CASTRO

Hon. Pierrette Ringuette: Honourable senators, last Friday we were sad to hear of the passing of the former President of the Republic of Cuba, Fidel Castro Ruz known as "El Comandante" to the people.

As the Senate chair of the Canada-Cuba Interparliamentary Group, I have voiced my condolences to Cuba's ambassador to Canada, His Excellency Julio Garmendia Peña. His Excellency informs me that the book of condolence is open for signing at the embassy on Main Street for those who wish to personally express their sentiments.

Honourable senators, it was in this chamber over 10 years ago that the Canada-Cuba parliamentary friendship group was initiated, and it has since fostered dialogue and respect and enhanced parliamentary activities that result in greater understanding and cooperation. We extend our sincere condolences to our counterparts in Havana, to the people of Cuba and to the Castro family.

While Fidel Castro will be remembered in different ways by different people, there are some things that we can all acknowledge.

Despite a long and heavy embargo, Cuba has one of the most successful public health systems in the world. Our own Standing Senate Committee on Social Affairs reported a few years ago on the efficient and innovative approach with which Cuba provided health care for its people. Despite restrictive finances, Cuba has provided medical doctors to countries around the globe in crisis situations, such as Haiti, Chile and more.

May I also inform this chamber that Cuba acknowledged one of our heroes, Terry Fox, and established a yearly Terry Fox Run in Cuba to help cancer research.

The latest UN data in regard to education — illiteracy — confirms that Cuba has the lowest rate of illiteracy per capita in the world. That is quite an achievement for a small country under dire economic sanctions.

Last year, over a million Canadians visited Cuba. They love the people and the culture in a safe environment.

[*Translation*]

The Hon. the Speaker: I'm sorry, Senator Ringuette, but your time is up.

VANIER CUP 2016

CONGRATULATIONS TO THE ROUGE ET OR OF UNIVERSITÉ LAVAL

Hon. Ghislain Maltais: Honourable senators, I apologize for being late. The Standing Senate Committee on Official Languages was studying a very important matter: our interpreters.

Today I would like to salute the Université Laval's Rouge et Or football team, which beat the Calgary Dinos in Hamilton to take home its ninth Vanier Cup.

Honourable senators, I hope you all realize how hard these students work. They will go on to become doctors, engineers, accountants, teachers or maybe even senators. Being on a university football team can often open the doors to the Canadian Football League or the American National Football League.

Our own Senator Smith is an example of that. He played in university, went pro, and is quite proud of his Grey Cup ring. These young students not only get an education, they also develop their sense of duty and responsibility.

I was delighted to watch the game on television. The tears began to flow after the first two quarters, but in the third quarter, the Rouge et Or rallied and vanquished the excellent University of Calgary team.

The Vanier Cup pitted Canada's two best university football teams against each other. I would like to thank the Calgary players for putting on such a great show.

Honourable senators, next year, same time, same date, don't miss seeing the Université de Laval Rouge et Or win its 10th Vanier Cup.

• (1810)

[English]

AFGHANISTAN

HAZARA MINORITY

Hon. Mobina S. B. Jaffer: Honourable senators, I rise to speak on the plight of the Hazaras of Afghanistan and their continued persecution throughout history.

The Hazaras of Afghanistan are a peace-loving people that have lived across Afghanistan's Silk Road for centuries.

However, despite their peaceful nature, the Hazaras have been the subject of discrimination lasting for as long as the modern state of Afghanistan has existed.

Their plight goes back as far as the late 18th century, when the Afghan Emir launched a systemic genocide of the Hazaras. Because of this order, countless Hazara men were killed and their women and children were either raped or sold into slavery by the thousands.

During the Taliban era, the Hazaras were once again the subject of systemic violence. From February 1993, massacres took place at Afshar City, where U.N. reports indicate that thousands were slaughtered and their bodies left on the roads.

In August 1998, the killing resumed when the horrific massacres in Mazar-e Sharif occurred, where more than 8,000 Hazaras were slaughtered in the span of two days.

Honourable senators, today the Hazaras continue to be the subject of various forms of discrimination and kidnappings. In January of this year, a bus was pulled over and nine Hazara passengers on board were executed on the side of the road.

Let me share with you the tragedy of a nine-year-old girl named Shukria Tabassum, who was among the victims. Shukria knew nothing of the violence her people faced or even that she was being targeted because of her ethnicity.

Because of this long-lasting persecution of Hazaras, the life of a young girl who worked hard in school and got along with her teachers was senselessly lost.

When Canada decided to enter Afghanistan in 2001, it was based on an international effort to defeat a threat to global peace and security.

Honourable senators, our work is not done. Every day, Hazaras are persecuted. Many Hazaras are our neighbours in Canada and I ask you to take some time to help the Hazaras in Canada raise awareness of what is happening in their homeland. The Hazaras are now our neighbours, and they need to know that we are with them.

Thank you.

VIOLA DESMOND

Hon. Wilfred P. Moore: Honourable senators, I rise today to pay tribute to Viola Desmond, late of Halifax, Nova Scotia. Miss Desmond, an Nova Scotian of African descent, was a beauty school entrepreneur; her business was located on Gottingen Street in Halifax.

Upon making a trip to Cape Breton, Miss Desmond stopped in New Glasgow to have her car repaired. While awaiting the repair work to be done, she went to the Roseland Theatre to watch the movie, *The Dark Mirror*, starring Olivia de Havilland.

That theatre had a policy of segregation which required Black patrons to sit in the balcony. Miss Desmond sat in the Whites-only section. Her action caused much turmoil and resulted in her spending the night in jail. Since segregation was then not a law, the next morning Miss Desmond was found guilty of a minuscule violation: failing to pay the one cent tax on the first-floor ticket. She paid the \$20 fine and the \$6 court costs and drove back to Halifax. Miss Desmond unsuccessfully appealed that conviction.

In 2010, the Province of Nova Scotia apologized for that conviction, posthumously pardoned Miss Desmond and acknowledged that she had the right to resist discrimination.

Miss Desmond's anti-segregation action and her arrest happened on November 8, 1946, nearly a decade before Miss Rosa Parks' historic refusal to give up her seat to a White passenger on a bus in Montgomery, Alabama, on December 1, 1955.

Colleagues, Miss Viola Desmond was a genuine leader of Canada's civil rights movement. Her likeness appeared on a stamp of Canada in 2012, and a Halifax Harbour ferry was named for her earlier this year. She is now on the short list for her image to appear on the next series of banknotes of Canada. It is my hope that this truly Canadian heroine receives that deserved, lasting recognition.

Some Hon. Senators: Hear, hear!

THE ROYAL NEWFOUNDLAND CONSTABULARY

Hon. Fabian Manning: Honourable senators, I'm pleased today to present Chapter 7 of "Telling Our Story."

Honourable senators, I rise today to recognize the oldest police force in Canada: the Royal Newfoundland Constabulary. This police force has the deepest roots of any police force in our country and indeed is the oldest civil police force in North America.

These roots date back to 1729 when Newfoundland's first governor, Captain Henry Osborn of the Royal Navy, created six separate judicial districts — Bonavista, Trinity, Harbour Grace, St. John's, Ferryland and Placentia — each with their own justices and constables.

In the 19th century, the RNC was modelled after the Royal Irish Constabulary with the secondment in 1844 of Timothy Mitchell of the Royal Irish Constabulary to be Inspector General.

The founding of an island-wide police force in 1871 is recognized for its significance as an expression of Newfoundland and Labrador's transition from colonial status to independent nationhood. Thomas Foley, a veteran of the Royal Irish Constabulary, was appointed as Inspector of Police. It was only in 1909 that the first native-born Newfoundlander, John Sullivan, was chosen to lead the constabulary.

Today's Royal Newfoundland Constabulary has approximately 420 police officers and 125 civilian employees dedicated to safer communities and policing excellence. RNC members are highly trained and highly respected. They have embraced the changing world around them and continue to be approachable, accessible and of service to every Newfoundlander and Labradorian.

On a lighter note, this past summer our Newfoundland police force was flooded with online comments about President-elect Donald Trump.

When the Republican convention kicked off in Cleveland this past July, the Royal Newfoundland Constabulary Twitter account went from a trickle to a torrent due to an acronym

similarity. The Royal Newfoundland Constabulary of Newfoundland and Labrador — RNC — was receiving dozens of Twitter messages for the Republican National Committee — the RNC in the United States.\

Royal Newfoundland Constabulary Constable Geoff Higdon had to send out a tweet saying, "We are a Canadian police service in Newfoundland and Labrador, with no U.S. political affiliation." Constable Higdon said that their news feeds and notifications were completely jammed with comments expressing either love or hatred towards Donald Trump. Constable Higdon went on to say that the police force's Twitter account is the first to pop up for many users that wanted to send a message to the Republicans, which led to some interesting interactions.

Imagine the Royal Newfoundland Constabulary being chastised and blamed for allowing Donald Trump's wife, Melania, to use parts of Michelle Obama's speech in her address to the Republican convention. Our constabulary in St. John's was inundated with messages of condemnation and plagiarism about a speech being given at an arena in Cleveland, Ohio. The Constabulary was also dragged into the whole discussion about open-carry gun laws in the United States.

When asked if he ever received a tweet from Donald Trump himself, Constable Higdon replied, "The big guy's never actually tweeted to us directly. We are not looking for a tweet from The Donald. We're good." Leave it to a Newfoundlander to put it all in perspective.

Honourable senators, Her Majesty Queen Elizabeth II bestowed the prefix "Royal" on the Newfoundland Constabulary in 1979 in recognition of its proud history in our province.

The men and women of the Royal Newfoundland Constabulary have served us for over 287 years.

The Hon. the Speaker: I'm sorry Senator Manning, but your time has expired.

ROUTINE PROCEEDINGS

STUDY ON ISSUES RELATED TO THE GOVERNMENT'S CURRENT DEFENCE POLICY REVIEW

SEVENTH REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE DEPOSITED WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. Daniel Lang: Honourable senators, I have the honour to inform the Senate that pursuant to the order of reference and the order adopted by the Senate on Thursday, April 21, 2016, and to the authorization contained therein, the Standing Senate Committee on National Security and Defence deposited with

the Clerk of the Senate today, Monday, November 28, 2016, its seventh report entitled: *UN Deployment: Prioritizing commitments at home and abroad*.

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

QUESTION PERIOD

HEALTH

MEDICAL TREATMENT

Hon. Jane Cordy: Senator Harder, these are questions that I planned on asking Minister Philpott when she was in the chamber last week. Because we ran out of time, I will ask you. If you aren't able to answer because the questions are specific to health policy, I ask that you provide delayed answers from the minister's office.

• (1820)

We know that a number of independent researchers have public findings of the past year that show the discovery of a lymphatic system in the brain. The studies were conducted at the University of Virginia, School of Medicine and the University of Helsinki. Researchers at the University of Rochester have also published findings on how the brain cleanses itself. These discoveries are important to help us understand and treat diseases such as multiple sclerosis, Parkinson's, ALS and dementia. This research calls into question the so-called anti-immune-suppressant drug treatment that neurologists have used to treat multiple sclerosis. In fact, these findings seem to validate Dr. Zamboni's theory that blood flow to the brain matters.

Canadians living with these neurological conditions are looking to the government to provide leadership to encourage promising alternative treatments and promote best medical practices. Will the federal government encourage the provincial and territorial health ministers to provide access to testing of the jugular, vertebral and azygos veins for people with neurological diseases such as multiple sclerosis, Parkinson's, ALS and dementia? Currently, Canadians living with MS have to go outside of the country to get a Doppler ultrasound that is available to people who do not suffer from multiple sclerosis.

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her question. As her preamble suggested, I will bring this to the attention of the minister and provide a response.

Senator Cordy: If you could also bring the following to the minister: Will the government provide funding for research into the vascular connection to all neurological diseases? As part of this research, will the government collect the data from those multiple sclerosis patients who have had venous angioplasty done in order to increase blood flow to the brain, keeping in mind the data should be collected both before and after the procedure has

[Senator Lang]

been done, because collecting the data prior to treatment will help baselines so that the data collected as a follow-up will be more useful.

Senator Harder: I will add that to my inquiry of the minister.

[Translation]

FOREIGN AFFAIRS

THE LATE FIDEL CASTRO—COMMENTS OF PRIME MINISTER—HUMAN RIGHTS IN CUBA

Hon. Claude Carignan (Leader of the Opposition): My question is for the Leader of the Government in the Senate.

Leader, many in Canada, including some Cuban friends who fled the Castro dictatorship, were completely taken aback by the Prime Minister's glowing tribute to Fidel Castro upon his death. Canada was the subject of ridicule throughout the world. Anyone reading the Prime Minister's statement would not believe that Fidel Castro had caused his Cuban citizens to suffer for half a century. I will quote a few words from the Prime Minister's statement:

Fidel Castro, a long-time friend of Canada . . . a larger than life leader A legendary revolutionary and orator

By addressing a rather diverse group at the Sommet de La Francophonie and paying tribute to this controversial figure, did the Prime Minister not commit a major affront to Canadians, Cuban refugees especially? Does he intend to withdraw his statement and to apologize to Cubans?

[English]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. Without in any way agreeing with the hyperbole of his comments, let me just simply say that I think it's appropriate at the time of the passing of a personality that has been of such significance in the life of Cuba over 50 years for the Prime Minister, on behalf of Canadians, to express our sympathies to the families and to recognize his contribution.

At the same time, I think it would be right for me to underscore how Mr. Diefenbaker 50 years ago continued diplomatic relations, and every prime minister since has maintained diplomatic relations. That has not prevented any prime minister from Mr. Diefenbaker straight through to and including Prime Minister Trudeau of raising matters of concern with respect to human rights or other issues in our bilateral relationship.

Engaging countries is a part of diplomacy. It's part of getting along in the world and seeking better solutions for Canadians. There was a time when I was a kid where we were actually doing drills in the event of nuclear war at the time of the Cuban Missile Crisis. We are in a different period of time 50 years later.

Again, I would simply reference my favourite theologian who said, "Man's capacity for justice makes democracy possible; but man's inclination to injustice makes democracy necessary." In

that context, I believe we could learn with respect to a number of his country's circumstances.

[*Translation*]

Senator MacDonald: There is no democracy down there.

[*Translation*]

Senator Carignan: Leader, it is one thing to express one's friendship and solidarity with the Cuban people, but it is another to pay tribute to a man who oppressed his people, disregarded basic human rights, and imprisoned and murdered thousands of citizens.

Some Hon. Senators: Hear, hear!

Senator Carignan: The Leader of the Government may remember a question I asked him a week and a half ago about the Prime Minister's recent trip to Cuba; I was concerned that, during his visit, the Prime Minister had not satisfactorily raised the issue of human rights violations in Cuba.

Last weekend, at the Francophonie Summit, the Prime Minister began his speech on human rights by speaking warmly about a man whose human rights record was so appalling that it should have been condemned, instead. What's more, while addressing a group of world leaders, many of whom are dictators themselves, the Prime Minister tried to lecture them on human rights. Leader, do you not see the complete lack of consistency here, given the conflicting messages that were sent on the issue of human rights, not only to the countries of the Francophonie, but to the entire world?

[*English*]

Some Hon. Senators: Hear, hear!

Senator Harder: Let me repeat that the issue of human rights is one that the Government of Canada takes seriously, as other predecessor governments have. The Prime Minister has raised the issue of human rights in a number of meetings that he's had since he's become Prime Minister. It is an integral dimension of our engagement with countries. It is part of our respectful engagement with Cuba. It is part of our respectful engagement with other countries.

We as a government believe that engaging countries in a fashion in which we speak frankly, openly and engage in civilized conversation is preferable to rhetorical flourishes, and that emphasizing the growth of economic and people-to-people relationships of culture and educational relationships is one thing in which we can advance the interests of Cuba, in this case, or other countries, including la Francophonie, where it is important that our leadership role in organizations is given expression through our broader engagement, both multilaterally and bilaterally, with the countries involved. That is a role that we will continue to play.

I believe our engagement with Cuba has served us well over the last 50 years, and I credit all prime ministers in that 50-year process who have sought positive engagement. I hope that can be the guiding light going forward into a period in which Cuba will come to terms with a post-Castro era.

AGRICULTURE AND AGRI-FOOD

BOVINE TUBERCULOSIS

Hon. Ghislain Maltais: Leader, I would like to ask a question of clarification. If you do not have an answer right away, perhaps you could provide one tomorrow.

This is a very important question. Last weekend I received dozens of telephone calls from farmers and beef producers, from the central provinces as well as Quebec. Last Friday, the minister announced that he would provide financial assistance. I did not read the press release, but some of the excerpts quoted by journalists in various newspapers created more confusion instead of giving farmers any real information.

My first question has to do with the minister's statements regarding the compensation he has planned. If an animal dies, compensation is already provided through an existing federal program.

• (1830)

The second issue that is of deep concern to ranchers is the following. Since they cannot sell their cattle that are infected with tuberculosis, they have to feed them. However, they did not store enough hay to feed an additional 100 or 200 animals. These ranchers therefore have to buy feed to keep their animals alive.

Has the minister announced any help in this regard? I do not know since I have not seen any new releases on the subject.

Journalists have also reported that the government will help farmers by paying part of the interest on the sales that did not happen to help them with their line of credit. I would like more information on that.

The last point that I would like to make is very important. Saturday, we learned that contaminated animals were found on a dairy farm in Quebec. The farmer had to put his farm under quarantine. Senators will remember that, when the Minister of Health participated in Question Period recently, I stated that this illness could cross the borders of Alberta and Saskatchewan and land in Ontario and Quebec. The illness has now made it to Quebec.

Will the same financial assistance be available to ranchers whose herds are under quarantine in Quebec? If you have all the information you need to answer my questions, then I look forward to hearing what you have to say. If not, I will wait until tomorrow.

[*English*]

Hon. Peter Harder (Government Representative in the Senate): First of all, I want to thank the honourable senator not only for the questions but also for his ongoing following of this important matter.

I will take notice of some of the specifics of the question, but I could use this opportunity to inform the Senate of recent government actions in this regard that speak to some of the issues he raised, and where I need further information, I will seek that for an early response.

But I just want to remind and confirm that not only is this situation taken seriously, but a number of measures are being taken. I can confirm that the minister, along with the provincial government, has indicated there will be compensation for the ranchers for the costs they are facing, including interest on loans. The minister met with ranchers last week and directed his officials to ensure that all ranchers affected have the latest information as it becomes available.

He has also asked his officials in the CFIA to explore all options to help address the pressures that individual affected producers are facing, including costs related to feeding and water, as well as any interest costs for loans. He has also directed that the CFIA approve the industry's feedlot option, which is being discussed. Once details have been finalized, the CFIA will work with affected ranchers so they can start moving animals as quickly as possible.

The minister and the department, along with the CFIA, are working hard to address this unfortunate situation and are taking these measures with the help and assurance the ranchers have brought to their attention, as well as what the industry has raised in conversations with the minister and officials. The government is monitoring this situation virtually contemporaneously every day.

[Translation]

Senator Maltais: Thank you for shedding some light on this, Senator Harder. What you said is very important. Unfortunately, it is not what appeared in the papers, which is what is causing confusion.

I would like to you to clarify one particular point with the minister. I am sure he will understand the problem since he himself is a farmer by trade. I would like to talk about the cost of buying animal feed. If farmers buy a certain amount of hay, they have to pay for it right away. This problem must be dealt with immediately by providing advances on the sale of animals or other means. Many farmers do not have the \$5,000 or \$10,000 required to pay for feed and they have to pay for it immediately if they want to feed their animals. I would like more information on this so that we have answers to give the people who are asking us these questions.

Senator Harder: I will ask the department for a response and will provide it to you as soon as possible.

[English]

HEALTH

HEALTH ACCORD

Hon. Elizabeth (Beth) Marshall: Senator Harder, Dr. Haggie, the Minister of Health in Newfoundland and Labrador, was a guest on CBC Radio's "The House" on Saturday morning, and he

[Senator Harder]

was talking about the health accord. He said that the talks between the federal government and the province regarding a new health accord have gone silent, and the term he used was "deafening silence."

On the other hand, the Minister of Health, Minister Philpott, has said that she wants a new health accord with the provinces in place by the end of the year.

If the federal government isn't even talking to the provinces regarding a new health accord, how will they put the accord in place before the end of the year?

Hon. Peter Harder (Government Representative in the Senate): Let me say that the Government of Canada remains hopeful that discussions with the provinces can continue to take place and lead to a successful conclusion.

I haven't received the latest report of the last round of conversations, but I want to assure the senator that the Government of Canada remains of the view that an agreement with the provinces is highly desirable and necessary. The Government of Canada has put in place some of its views as to how that accord ought to include a focus on improving care to Canadians in certain areas, and we remain optimistic that an agreement can be reached.

Senator Marshall: I have a supplementary question. The impression out there — and some people are concerned about it — is that the federal government is going to unilaterally impose a health accord. So could you give us some insight as to what's going to happen with regard to the promised funding for home care and mental health?

Senator Harder: Let me take those specific questions to the minister.

I would like to recall that the minister here made very clear commitments with respect to home care and expectations that she has as to how the agreement could be reached. I do suspect that we are in a period of some conversations between and among the provinces and the federal government. I suspect that as important as a cross-country checkup is, it's probably not the negotiating forum of choice.

PUBLIC SAFETY

CANADA BORDER SERVICES AGENCY— DETENTION OF REFUGEE CHILDREN

Hon. Mobina S. B. Jaffer: Honourable senators, my question is to the leader. This is not a question that I have asked before or that I'm asking again. It is to do with refugee children or children who have failed their applications in jail.

On May 30, Minister Goodale appeared before the Defence Committee. I asked him about the detainment of children by the CBSA. He promised me then that he would work with the CBSA to stop the detention of migrant children.

Recent reports on Canada's history of detaining children have proven concerning. On October 4, 2016, the *Montreal Gazette*

reported that in the past four years, 242 children have been detained by the CBSA, often failed refugee claims.

Leader, I'm asking you — and I know that you may not be able to answer this, and I respect that, but if you can again ask the minister. He had said in May that he would look at this immediately. I am still waiting for an answer. When are we going to hear that the children are no longer being detained?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her question. As her question itself suggested, I will need to get back to the senator after consultation with the minister.

Senator Jaffer: I understand and respect that. I was in France last year, and France was sending the failed migrant children applicants to a specific school and making these children learn a trade until they found out what would happen to them.

What's happening with the children here in jail? Are they being given schooling? What is being done for their future? Are they being separated from their parents?

Knowing who you are, I don't not mean to make this a reflection on you, but when the Canadian government sends migrant children to jail, that is nothing to be proud of.

Senator Harder: I will add that to my inquiry.

• (1840)

INTERNATIONAL TRADE

TRANS-PACIFIC PARTNERSHIP— TRADE AGREEMENTS

Hon. Victor Oh: My question is for the Leader of the Government in the Senate. It is a follow-up to one I asked a few weeks ago.

Last Monday, the president-elect of the United States confirmed that the U.S. will withdraw from the Trans-Pacific Partnership on the first day of his presidency. Japan's Prime Minister said the deal will be meaningless without the United States. Minister Chrystia Freeland agreed. She said:

... the TPP agreement as currently structured and finalized can only come into force if it's ratified by the United States
.....

My question, therefore, is the following: Now that the TPP is effectively dead, will the Government of Canada abandon its wait-and-see tactics? Will it commit to reopening bilateral trade talks with Japan and other TPP participants? Yes or no?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question and his ongoing interest in trade in the Asia region.

I'm afraid I can't satisfy his request for a yes or no answer. It would be inappropriate for me to answer on behalf of a government that has not yet concluded the policies we will take

forward in a post-January 20 environment where the American foreign policy or trade policy as it relates to Asia will undoubtedly adjust.

Obviously, this is a matter of ongoing dialogue amongst Canadian and other officials of the region as we seek new ways of going forward. But it is clear the Government of Canada remains strongly of the view that free trade, trade access and high standards for trade agreements are essential for Canada's economic well-being. That is why it will be important for this chamber, when we have the opportunity, to endorse the CETA with the European Union, when we have the opportunity to support the WTO accession agreements, and why as we move forward in a world in which we have changing trade policies in the region, we must work closely with our allies and economic partners to determine which mechanism provides the best assurance for Canadian companies to have market access to the growing markets in Asia and sustaining the markets in Europe that are so important for our life blood of trade.

EMPLOYMENT AND SOCIAL DEVELOPMENT

STATISTICS CANADA—LABOUR FORCE SURVEY— YOUTH EMPLOYMENT

Hon. Yonah Martin (Deputy Leader of the Opposition): My question is to the Leader of the Government in the Senate. It is on an issue I have raised before, but I feel compelled to raise it once more in light of Statistics Canada's Labour Force Survey for the month of October which reported that the unemployment rate for young people aged 15 to 24 was still 13 per cent, almost the same as it was in September, August and July, and more than 5 per cent of the overall rate. In fact, Statistics Canada reported that the unemployment rate for the group was essentially unchanged compared to 12 months earlier. It really points to the fact that we need to do something.

As the government leader is aware, the Liberal government broke its election promise to offer a 12-month holiday on Employment Insurance premiums to employers who give permanent jobs to people aged 18 to 24. It was expected to be announced and to have effect in this year, 2017, and 2018.

Leader, given the lacklustre number for youth employment in this country, will the government reconsider this broken promise?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her question. This is an issue that she has been pursuing in the Senate over the last number of months.

I will refer the honourable senator to the statements made here in Question Period by Minister Mihychuk. She referenced the programs the government had put in place for youth, with a youth dimension. I don't have at my fingertips all the programs that she referenced, but there were several. She spoke of the programs being designed for the future. I would be happy to recall that answer and to seek a more detailed answer to the honourable senator's question.

Senator Martin: Thank you, leader. I did listen carefully to the answers. What I'm concerned about is the fact that these numbers

have been stagnant for a year, so it really speaks to the urgency of creating these opportunities.

Another way to do that would be to address the taxes on small business. Another question for the Minister of Finance is to look at what could be done in the next budget to relieve the stress on small businesses so they could create these opportunities for youth employment.

Senator Harder: Again, I thank the honourable senator for her question and I will take her question as representation to the minister.

Senator Martin: Thank you.

ANSWER TO ORDER PAPER QUESTION TABLED

VETERANS—PRIORITY HIRING

Hon. Peter Harder (Government Representative in the Senate) tabled the answer to Question No. 10 on the Order Paper by Senator Downe.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, as I am still finalizing the ruling following the point of order raised by Senator Harder regarding Bill C-2, this matter will stand adjourned this evening. I thank honourable senators for their patience.

STRENGTHENING MOTOR VEHICLE SAFETY FOR CANADIANS BILL

BILL TO AMEND—FIFTH REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the fifth report of the Standing Senate Committee on Transport and Communications (Bill S-2, An Act to amend the Motor Vehicle Safety Act and to make a consequential amendment to another Act, with an amendment), presented in the Senate on November 24, 2016.

Hon. Michael L. MacDonald moved the adoption of the report.

He said: Honourable senators, this bill is government legislation. Bill S-2 was introduced in this chamber and sponsored by Senator Greene.

The bill is a continuation of a bill that was introduced in the last parliament, Bill C-62, the proposed “Safer Vehicles for Canadians Act,” which was introduced in June of 2015 but did not get past first reading.

[Senator Martin]

This enactment amends the Motor Vehicle Safety Act for the purpose of strengthening the enforcement and compliance regime to further protect the safety of Canadians and to provide additional flexibility to support advanced safety technologies and other vehicle innovations. It provides the Minister of Transport with the authority to order companies to correct a defect or non-compliance and establishes a tiered penalty structure for offences committed under the act. The enactment also makes a consequential amendment to the Transportation Appeal Tribunal of Canada Act.

We had the minister at committee, and six separate witnesses spoke to the committee. An amendment was proposed. I want to put on the record that this amendment was unanimously passed by all regular members of the committee. Senator Harder was there and wanted the vote recorded on division, which we did. However, this bill had one substantial omission, and it was an omission that would have brought us in line with the same standards applied in the U.S.

One of the big issues was small dealers when it comes to recalls. This is a recall bill. In small rural areas with small operators with 15 or 25 cars on a lot, if there is a recall on these vehicles and they are stuck on that lot without the ability to sell them for months, these small operators can literally be put out of business.

• (1850)

After the committee held the clause-by-clause consideration, we approved the bill with one amendment, that Bill S-2 be amended in clause 9 on page 5, which we did amend after line 26 as follows:

“**10.52 (1)** In this section, *dealer* means a person who is engaged in the business of purchasing vehicles or equipment directly from a company and reselling it to another person who purchases it for a purpose other than resale.

(2) If, on the date on which an order is made under section 10.5 or 10.61, a dealer still owns a vehicle or equipment that it purchased from a company that is the subject of the order, the company shall, without delay, either

(a) provide the dealer, at the company’s expense, with the materials, parts or components required to correct a defect or non-compliance in the vehicle or equipment, in accordance with any terms and conditions specified in the order; or

(b) repurchase the vehicle or equipment from the dealer at the price paid by the dealer, plus transportation costs, and compensate the dealer with an amount equivalent to at least one percent per month of the price paid by the dealer, prorated from the date on which the order was made to the date of purchase.

(3) If the company provides materials, parts or components in accordance with paragraph (2)(a),

(a) the dealer shall install the materials, parts or components in the vehicle or equipment without delay after it has received them; and

(b) the company shall compensate the dealer for the cost of installation and with an amount equivalent to at least one percent per month of the price paid by the dealer, prorated from the date on which the order was made to the date the dealer has received the materials, parts or components.”

To break this down to a short phrase that we understand, these dealers can be caught with no money, shoved out of business, and this 1 per cent gives them cover to keep their product on the lot until the appropriate moves are made or the appropriate response comes from the manufacturer.

This is done in the United States. We had substantial representation from the dealers in this country. The response from the dealers in the country was unanimous that something should be done to give some small protection.

These small dealers purchase these vehicles, and there is no onus on the manufacturer to respond quickly to deal with the issue, and all the pressure comes back on the people who can least afford it. That’s why the amendment was brought forward, and that’s why the amendment was ultimately supported by all the Liberals, all the independents and all the Conservatives on the Transportation Committee.

Hon. Peter Harder (Government Representative in the Senate): I rise to defend the honour of Senator Greene. He didn’t sponsor the bill; I did. He sponsored the amendment. I want to thank him for his work, including bringing forward the amendment. I would like to adjourn the debate as I look for a way forward.

(On motion of Senator Harder, debate adjourned.)

[Translation]

TAX CONVENTION AND ARRANGEMENT IMPLEMENTATION BILL, 2016

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Greene, seconded by the Honourable Senator Runciman, for the second reading of Bill S-4, An Act to implement a Convention and an Arrangement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and to amend an Act in respect of a similar Agreement.

Hon. Pierrette Ringuette: Honourable senators, I will be brief, but not for the same reasons as Senator Baker.

I am pleased to speak this evening to Bill S-4. Over the short time I have been given, I wish to express my support for this bill and emphasize how important it is that we refer it to a Senate committee with due diligence and dispatch so that it may be studied.

On November 15, the sponsor of the bill, Senator Greene, provided the reasons for our support of Bill S-4. This bill seeks to modernize the 1975 taxation convention concluded with the State of Israel. It also seeks to add an interpretation provision on the Hong Kong Special Administrative Region of the People’s Republic of China, as well as a tax arrangement with the Taipei Economic and Cultural Office in Canada.

I want to focus on the agreement concluded with Taipei. Since 1993, I have been actively participating in the Canada-Taiwan parliamentary association and I have had the opportunity to visit Taiwan many times. My last visit was in 2011, when our former colleague Doug Finlay and I led a delegation of senators to observe the presidential election.

I don’t have enough time to really express how impressed I am by the Taiwanese people’s entrepreneurship. Survival and independence are merely the beginning to them.

They achieve their socio-economic objectives so much more efficiently than we Canadians. I should add that their attention to detail is unrivaled.

For example, during my first visit to Taipei in 1995, I saw thousands of Taiwanese people on mopeds wearing masks as nominal protection from pollution.

[English]

It was quite a rude awakening for a small-town girl like me: Pollution, created by phenomenal economic expansion and fast-track urbanization, these growing pains, was quickly addressed. I would even venture to say it was addressed at warp speed compared to other industrialized states.

Barely eight years later, I was in downtown Taipei, where to my disbelief there was no pollution and hardly any mopeds. Instead, there was an ultra-modern skyway throughout Taipei. I was and still am so impressed with their degree of project execution, and I believe that we Canadians could learn a lot in planning and execution for similar projects, with so many infrastructure investments in the years to come. Taiwan is certainly a model to follow in this respect, as in many others, with their high level of business skills.

Many of you do not know that the Taiwanese are the biggest investors in Mainland China. They are also becoming a major business group in India.

How can we, as Canadians, seek their business savvy and their investment portfolio? Honourable senators, it will not happen if we only raise our hand up and say, “Me too, me too,” or by relying on our natural resources again. We are not the only geographic region to have natural resources.

Taiwan has double taxation conventions or agreements with 30 other countries, including Australia, Austria, Belgium, Denmark, France, Germany, the Netherlands, New Zealand, Switzerland and the U.K.

The current Taiwanese authorities have already ratified this agreement, and they are waiting for us to do the same. Again, they are showing greater efficiency, as their taxation system is

ready to enforce this arrangement for January 1, 2017. So how efficient can we be to enforce Bill S-4 by January 1, 2017?

In competitive economies, these taxation tools are basic requirements for trade and investment.

- (1900)

In fact, these tax agreements or conventions are so basic that the WTO has developed an international-agreement standard to facilitate these types of tools.

I would be remiss if I did not inform you that, in the last two years, Taiwanese investors have invested, in the oilsands alone, close to \$1 billion. I hear that, given Bill C-4 enforcement in January 2017, much needed investments are seriously being contemplated by the Taiwanese.

Of course, this agreement is not one-sided as it also provides reciprocity for Canadians who are employed or have businesses in Taiwan, partnerships and other investments. You would be surprised at the level of membership and activities that the Canadian Chamber of Commerce in Taiwan exercises on a monthly basis. I subscribed a long time ago to their newsletter.

This arrangement includes provisions for both taxation authorities to seek information from each other to prevent abuse while removing double taxation. It provides certainty to taxpayers and ensures that they are not subject to discriminatory taxation, while preventing tax evasion and avoidance. Senator Downe will be particularly pleased with these attributes.

That said, I believe that senators of all groups will endorse the opportunities for economic activity provided within the framework of Bill S-4 and that, accordingly, we shall move efficiently and expeditiously so that enforcement can occur January 1, 2017.

(On motion of Senator Tannas, debate adjourned.)

CITIZENSHIP ACT

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Omidvar, seconded by the Honourable Senator Gagné, for the second reading of Bill C-6, An Act to amend the Citizenship Act and to make consequential amendments to another Act.

Hon. Thanh Hai Ngo: Honourable senators, I am pleased to add my voice to the debate on Bill C-6, An Act to amend the Citizenship Act and to make consequential amendments to another Act.

This government bill has been making a lot of waves, and I wish to add my own thoughts on this legislation at second reading before we refer it to committee.

Bill C-6 proposes major changes to how immigrants become Canadian citizens by, first, removing the grounds for revocation of Canadian citizenship that relate to national security; second, removing the requirement that an applicant intend to continue to reside in Canada if granted citizenship; third, reducing the number of days during which a person must have been physically present in Canada before applying for citizenship and providing credit for time spent in Canada as a permanent resident; fourth, reducing the requirement to demonstrate knowledge of Canada and of one official language to applicants between the ages of 18 and 54; and, finally, by authorizing the minister to seize any document on the grounds that it was fraudulently or improperly obtained or used.

During the debate, we've commonly agreed that equality among citizens is an absolute foundation in Canada and that immigrants are an integral part of Canadian society and play an essential role in building our great country. These proud words can never be repeated too often in the halls of this honourable chamber.

However, I would like to add my voice in opposition against two provisions of Bill C-6 that I believe are fixated within a dubious perspective against Bill C-24, the Strengthening Canadian Citizenship Act.

That bill amends the Citizenship Act to bring change to our immigration regime. It has reinforced the value of citizenship by strengthening the requirement for it. It deters citizenship of convenience, improves the tools we have to maintain program integrity and combat fraud and increases efficiencies to help qualified applicants acquire citizenship faster.

Like many of my colleagues, I also have reservations about Bill C-6. I think we all agree that the citizenship process is a facilitator of integration, but we have different views about how we should enhance our immigration program with integrity in order to ensure that the house stays strong, as Senator Omidvar so eloquently put it. But, as I mentioned, I have serious concerns with some of the major amendments contained in Bill C-6. My appreciation of Bill C-6 is informed by my own experience as an immigrant when I first arrived in Canada and as a refugee in the aftermath of the fall of Saigon and also as a former citizenship judge.

Ultimately, my thoughts are shaped by the firm belief that citizenship is a privilege, not a right, as this government considers it. Canadian citizenship, as a privilege, must be earned and, once earned, comes with great responsibility.

In the interests of time and to avoid repetition, I will mainly address two of the provisions of the bill that I have fundamental issues with, namely repealing the authority to revoke citizenship for dual citizens convicted of crimes such as treason, terrorism, and espionage and reinstating previous age requirements to meet language and knowledge criteria to obtain citizenship.

I will start by addressing the first provision of the bill that repeals citizenship for dual citizens convicted of crimes such as treason, terrorism and espionage. I find this amendment an aberration of what Canadian citizenship stands for. I echo the sentiment of my colleagues that such clear and violent disaffection for one's adopted country shows a total disregard for the privilege

[Senator Ringuette]

of Canadian citizenship. This bill establishes a dichotomy for Canadians. Our Prime Minister says that a Canadian is a Canadian is a Canadian, and the opposition says that a terrorist is a terrorist is a terrorist.

Some Hon. Senators: Hear, hear.

Senator Ngo: But these labels and slogans are often misleading and confusing. Simply put, an individual committed to harming others at any cost, based on a hatred of Canada and the values it stands for, must face the full force of the law. All Canadians who commit such crimes should expect the same. This bill needs to consider that a dual citizen who commits a terrorist act after becoming a Canadian was pretending to be someone else when they submitted their citizenship application. They are treating their Canadian citizenship as a convenient advantage to commit a treasonous and awful act. Ultimately, they went unfaithfully through the process by basing the application for citizenship on false representation and fraud.

• (1910)

This is why we revoke citizenship from dual citizens who commit such crimes.

Canadians understand that in cases involving dual citizenship, this injustice is more than sufficient ground for revocation of citizenship because they lied and took advantage of their citizenship to manipulate us, to change our behaviour by creating fear and uncertainty and division in our society.

Convicted terrorists who become citizens do so with dishonourable ulterior motives and lie on their applications. Worst of all, they lie when they take the citizenship oath. At the citizenship ceremony, new Canadians take the Oath of Citizenship and receive the certificate of becoming members of the Canadian family. I remind you that the oath is the final step at the end of the long journey to becoming a Canadian citizen. By taking the citizenship oath, new Canadians accept the rights and responsibilities that come with Canadian citizens.

As a former citizenship judge, I had the honour of presiding over numerous ceremonies and leading many new Canadians in swearing the Oath of Citizenship. Any new Canadian can swear the oath with the holy book of their choice, but they must absolutely swear this oath in order to become a citizen. It is a sacred step that I had the privilege of leading for new Canadians, and I think this is a good time to remind all of us, everyone here, of its powerful words:

I . . . swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Queen of Canada, Her Heirs and Successors, and that I will faithfully observe the laws of Canada and fulfill my duties as a Canadian citizen.

If you commit a terrorist act, you break this sacred oath and fail to respect the law and fulfill your duty as a citizen. You fail to uphold our constitutional values of democracy, peace, respect for human rights and belonging which you swore to uphold. In that respect, Canadian citizenship cannot be treated as merely a certificate or just a passport. If so, then it is a citizenship of convenience.

Canadian citizenship means much more than that. It is an imperative responsibility to respect and protect the many rights and freedoms we enjoy in Canada, the right to live free from discrimination and persecution, the right to vote and hold office, the right to work and live in any province or territory, the freedom to practice our religion but not impose, and the right to express ourselves.

Applying for Canadian citizenship is in essence a choice for immigrants or even for refugees. An immigrant has the choice to come to Canada or another country.

I came to Canada out of free choice. I accepted my duty as a new Canadian to respect the law and to uphold my new country's constitutional values. In fact, I could not have been prouder to do so.

Canadian citizenship is a privilege, an honour bestowed upon those who swear to abide by and protect our founding values. It holds great value and joy and great reputation across the world and has been bestowed as a symbolic honour on foreigners of exceptional merit such as the Dalai Lama, Nelson Mandela, Aung San Suu Kyi, Karim Aga Khan IV and Malala Yousafzai. Imagine what our citizenship would say about those great humanitarians and honoured Canadians if we allowed terrorists to remain citizens and after they clearly treated us as a convenient instrument of terror.

Honourable senators, terrorism has no nationality or religion. So if one chooses to come to Canada and take the citizenship oath to become Canadian, then they should accept the responsibility and duties as well as the consequences that come with breaking the oath.

My other serious concern with Bill C-6, is in regard to reinstating the previous age requirements to meet the language and knowledge criteria in order to obtain citizenship. Under the guise of reasonable and practical change, this provision would only require new Canadians between 18 and 55 to meet linguistic requirements and take courses.

With this change, two groups will be exempt from taking these tests or benefiting from language training, youth between the ages of 14 and 18 and seniors over 55. Unfortunately, the government sees language training for this group as a roadblock, a barrier on the path to citizenship.

Youths between 14 and 18 years of age would now be expected to naturally learn English or French and learn about Canada in the schools they attend during the years of their residency.

According to Statistics Canada data on the number of applications between 2015-16, this would exclude 6.8 per cent of potential new Canadians between the ages of 14 and 18. This places a heavy burden on schools that are not always equipped to teach English or French to new Canadians, who, in turn, often need additional attention to improve their language proficiency.

I have grave concern about the upper end of the age bracket. There is no rationale for eliminating the requirement for language and knowledge tests for those aged 55 to 64. Do you know what kind of message this sends to potential new Canadians who are

eager to work and contribute to your country? At age 55 you are still part of the workforce and in the prime of your life with many years in front of you.

Older citizens are committed to this country and want to belong and share the benefit of their Canadian citizenship and not be left behind because they may not speak English or French as well as their children. It is our duty to ensure that they meet the requirements.

Senator Omidvar said when immigrants integrate, they prosper. When immigrants prosper, Canada prospers. But with this new measure, we are excluding new Canadians from helping Canada prosper solely on the assumption that they only represent a small number of applicants who do not wish to face the daunting task of facing a new language.

According to Statistics Canada figures from last year, applications received from potential new Canadians in the age of this category represented a total of 8 per cent. Altogether, this new policy would exclude a total of 14.8 per cent of applicants from benefiting from learning one of our official languages.

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

Senator Ngo: Five more minutes.

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

Some Hon. Senators: Agreed.

Senator Ngo: Honourable senators, 14.8 percent is not a small number of citizen applicants —

[*Translation*]

If we expect to accept more immigrants and new citizens, we must ensure that these Canadians are suitably integrated into the fabric of society and that they participate in our economy.

Successful integration requires that they learn one of the official languages. After working with various cultural communities, I can say that older immigrants adapt very well to professional and language requirements.

Learning the language is an important aspect that facilitates the integration process and helps citizens overcome the challenges to establishing their identity. I certainly remember having to learn and unlearn many things upon my arrival in Canada.

Honourable senators, Bill C-6 does not paint a fair picture of the real value of Canadian citizenship.

I have presented my point of view on citizenship, for I am inclined to take a position against two of the main provisions in Bill C-6. Ultimately, I think anyone who commits an act of treason or terrorism does not have roots here. They do not share, nor do they deserve to share, the feeling of being Canadian. They do not respect our country's democratic principles and consequently violate the oath they swore and are no longer worthy of the privilege of Canadian citizenship.

[Senator Ngo]

• (1920)

After all, citizenship is a pledge of mutual responsibility and a shared commitment to values rooted in our history. Bill C-6 should foster the integration of newcomers into the fabric of Canadian society by requiring them to learn one of our official languages, regardless of their age. Otherwise, we would be ignoring young people and excluding seniors, even though they are proud and want to make their mark as new Canadians.

Canada is a nation that values diversity, a nation where newcomers are invited to share their traditions, celebrate their culture and cherish the values they hold dear. Certainly, every newcomer who sets foot on Canadian soil has a unique history, and everyone who becomes a Canadian accepts a certain responsibility.

Honourable senators, this kind of debate makes the Senate stronger. We have an opportunity to preserve the integrity of Canadian citizenship and improve how newcomers to Canada are treated. Thank you.

[*English*]

Hon. Mobina S. B. Jaffer: Would Senator Ngo kindly answer a question?

Senator Ngo: If we have time.

The Hon. the Speaker: You have two minutes.

Senator Jaffer: Senator, you made a speech that every Canadian would be very proud of, so thank you for that.

I have so many questions, but everyone in this room will understand the one question I will ask.

At the age of 54, isn't it very difficult to learn a second language? If somebody cannot speak our language, should we be denying them the opportunity to become fully fledged citizens and participate in and integrate into our country?

Senator Ngo: Thank you for your question.

As I have said, the age of 54 is the prime time of your life. You come to Canada and you try to contribute. You try to integrate into Canadian society. If you don't know the language, how do you integrate? How do you mix with Canadian people if you cannot speak the language? It's very hard.

Indirectly, you try to isolate yourself from the Canadian community, and that's why I have to say you have to learn one of the official languages, English or French, in order to integrate into Canadian society.

Hon. Ratna Omidvar: Will the senator take another question?

The Hon. the Speaker: In order to take another question, Senator Ngo will have to ask for more time, as his time has expired again.

Are you asking for more time, Senator Ngo?

Senator Ngo: Yes.

The Hon. the Speaker: Three minutes?

Senator Ngo: Okay.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Omidvar: Thank you, senator, for your remarks on Bill C-6.

If I am to understand you correctly, you would treat citizens who are born and citizens who are naturalized differently. You are suggesting that different laws should apply to the same crime. Let's just assume for a minute we're talking about my neighbour Senator Mitchell and me. I think Senator Mitchell is a second-generation born Canadian, and I am clearly first-generation. He and I commit the same crime. I get deported. He gets to stay. Is that what you're suggesting?

Senator Ngo: Thank you for your question.

The issue here is immigrants or refugees who come to Canada and become Canadian citizens. That's totally different. That's what we call it, because when you come into Canada as an immigrant or a refugee, you have your citizenship from your own country, of course. You come to Canada and you apply for Canadian citizenship. You have the choice to choose Canada or your own country. This is what we're talking about: the dual citizenship of immigrants and refugees who come to Canada. It's not that you're born here. That's the point I'm trying to make. I myself was a refugee first, an immigrant after and I became a Canadian citizen. I made the applications and swore the oath to uphold the law and everything.

Do I have the choice? Yes, I do. I have the choice to accept Canada as my own country.

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

(On motion of Senator Frum, debate adjourned.)

CANADIAN HUMAN RIGHTS ACT CRIMINAL CODE

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

Hon. Grant Mitchell moved second reading of Bill C-16, An Act to amend the Canadian Human Rights Act and the Criminal Code.

He said: Colleagues, Bill C-16, An Act to amend the Canadian Human Rights Act and the Criminal Code, gender identity, is designed to support and facilitate the inclusion of transgender and other gender-diverse people in Canadian society and to provide them with enhanced protection against criminal aggression.

Diversity, inclusion, acceptance and understanding are core Canadian values. We believe that they define who we are, and we are very proud that they do. And yet, in what we all hold to be a

remarkably open and inclusive society, transgender people face an extreme level of exclusion, discrimination, prejudice and violence.

[*Translation*]

Research demonstrates that many transgender and other gender-diverse Canadians are not able to fully participate in our society. They regularly face negative stereotypes, harassment, discrimination and sometimes even violence.

[*English*]

It is important to recognize the many members of the transgender community in this country who have advocated tirelessly and with unrelenting courage for the recognition of rights and protections for trans people. They have been assisted by organizations like Gender Mosaic, by family and friends and by many other rights advocates and other groups. I have to note the particular courage and persistence of young people like Jesse Thompson, a trans teenager who fought for and won the right to join his hockey team buddies in the locker room. And the courage and persistence of Charlie Lowthian-Rickert, a 10-year-old trans girl who has fought for trans rights with a strength, courage and maturity well beyond her years.

Jesse, Charlie and so many others are truly inspirational. I believe we are, all of us, a better people and society for their efforts.

Among the many frustrations experienced by transgender people, their families and their supporters are the seemingly endless delays in getting their rights and protections enshrined in legislation. It has not been for lack of trying.

MP Bill Siksay introduced a bill dealing with trans rights in the House of Commons in 2005 and then again in 2009. His Bill C-389 was passed by the House of Commons in February 2011. It then arrived in the Senate, where it died on the Order Paper without coming to a vote.

In September 2011, over five years ago, MP Randall Garrison, whose determined leadership I would like to acknowledge, developed and presented Bill C-279 in the House of Commons. Bill C-279 is the most recent predecessor to Bill C-16. In 2013, Bill C-279 was passed in the House of Commons with Liberal, New Democrat and some Conservative MP support. Over the subsequent two years, it advanced to third reading twice in the Senate. Both times it died here, without even being allowed to come to a vote; put another way, it was adjourned to death.

• (1930)

The substance of Bill C-16 has been debated in Parliament for a long, long time. It has been supported twice by majority votes in the House of Commons, and it has been the subject of lengthy committee hearings with dozens of witnesses here and in the other place. So extensive has the committee review and debate been of the substance of Bill C-16 and its predecessor bills that the House of Commons passed it after a decision by all parties, including Conservatives, to expedite the committee review process. It recently passed third reading with Liberal and New Democrat support, and support from a very significant cadre of Conservative MPs, including their leader, Ms. Ambrose.

Over this long period — 11 years — Canadians have increasingly grown to understand and accept the need for protection and rights recognition for transgender people. It is fair to say that it is way past time to approve this bill in the Senate and to make it law.

Before explaining the bill, I need to define what is meant by a few key terms. The term “gender identity” refers to an individual’s internal and personal experience of gender — their sense of being a man or woman, both, or neither.

For most people, the sense of self as being a man or woman aligns with their anatomical and biological characteristics. For others, it does not. These people are referred to as transgender or trans people.

[Translation]

“Gender expression” refers to how people publicly present their gender, through behaviour and outward appearance such as clothing, hair, body language and chosen name.

[English]

“Gender identity” refers to who a person is in their very soul. “Gender expression” refers to how each person publicly presents their gender identity. A transgender person simply knows they are of a gender different from the one assigned to them at birth, the one indicated by the physical and physiological features of their body. They cannot live honestly or comfortably in their birth-assigned gender, where they are literally and profoundly uncomfortable in their own skins. If they can overcome their fear, they transition to their true gender identity. To do otherwise is to live in a continuous, often agonizing, confounding and alienating condition. In some sense, it is to live a lie. No one should ever have to do that.

To be transgender is not a choice. Trans people do not make this up or fake it. Why would anybody want to inflict upon themselves the stigma, discrimination and suffering that almost always inevitably follow the transitioning?

As Oscar Wilde once said, “Be yourself. Everyone else is taken.” This bill will go a long way to helping this vulnerable group of people — trans people — to be who they are and to be themselves without fear.

What does this bill do? Bill C-16 will make a number of changes to the Canadian Human Rights Act and the Criminal Code designed to protect transgender people.

First, let’s look at the Canadian Human Rights Act. This act applies to the federal government in its role as employer and service provider to Crown corporations, the postal service and the federally regulated private sector, including telecommunications companies and charter banks. Bill C-16 will amend the Canadian Human Rights Act to add two prohibited grounds of discrimination: gender identity and gender expression. As a result, it will be explicitly discriminatory to disadvantage people because of their gender identity or expression in any workplace, in hiring and promoting, and in the provision of goods, services, facilities and accommodation by or in entities under federal jurisdiction.

[Senator Mitchell]

[Translation]

If the grounds “gender identity or expression” were added, this would mean that a trans person working for the federal government, or one of the federally-regulated employers, could not be passed over for a job or promotion simply because they are trans. It would also be unacceptable to harass a trans person because of their gender identity or expression, turning their workplace into a hostile and poisoned environment for reasons that have nothing to do with their skills or ability to do their job.

Similarly, if a trans person applies for a bank account or a passport, they should receive the same level of respectful service as any other Canadian.

[English]

The bill will also amend the Criminal Code in three ways. It will expand the list of identifiable groups that are protected from hate propaganda by adding “gender identity” and “gender expression” to the list.

[Translation]

Second, there are three crimes of hate propaganda in the Criminal Code.

[English]

Their purpose is to eliminate extreme and dangerous speech that could incite others to violence against groups listed in the code. The amendment proposed by Bill C-16 would add gender identity and gender expression to this list.

The third amendment to the Criminal Code will establish that hatred on the basis of gender identity or gender expression is an aggravating factor in sentencing for a criminal offence, along with other listed categories like race, colour and religion. The aggravated sentencing provision in the Criminal Code will therefore allow judges to recognize and denounce crimes against trans people motivated by bias, prejudice or hate; condemn these hate crimes as being against a group of people who are more vulnerable to crime simply because they are identifiable as trans; send a special message of deterrence for these crimes; and encourage prosecutors and law enforcement officers to be aware of the particular vulnerability of trans people.

Why is Bill C-16 so important? The Ontario Human Rights Commission notes that there are arguably few groups in society today who are as disadvantaged and disenfranchised as the transgender community. Transgender people suffer profound alienation and discrimination in their daily lives. They live in fear of frequent, often brutally violent, physical and verbal bullying. They live in fear of sexual assault. They suffer significant economic discrimination and discrimination in housing and medical care. Their circumstances have led to extreme levels of suicide and suicide attempts. They need our help.

Research projects by the Ontario Trans PULSE Project and by Egale, and the 2015 report *Being Safe, Being Me*, provide stark and startling evidence of what trans people face in Canada today.

These studies found that of those transgender people surveyed with respect to employment barriers and economic marginalization, 13 per cent had been fired for being trans; 18 per cent were turned down for jobs because they are trans; over 70 per cent are earning less than \$30,000 per year; and their median income is \$15,000 per year. This is despite the fact that they are highly educated: 70 per cent have some form of post-secondary education, and 44 per cent have post-secondary undergraduate and graduate degrees.

With respect to discrimination in medical care, of those people surveyed, 10 per cent who had accessed an emergency room were refused care because they were trans; 21 per cent avoided emergency at one time or another specifically due to being trans; and 40 per cent experienced discriminatory behaviour from a family doctor.

With respect to bullying and violence, of those studied, 20 per cent had been physically or sexually assaulted; 34 per cent had been verbally threatened or harassed; and 24 per cent reported being harassed by police.

With respect to mental health and suicide, of those studied, more than 50 per cent presented symptoms consistent with clinical depression; 77 per cent reported that they had considered suicide; 43 per cent had actually attempted suicide and — this is striking and startling — of those, 70 per cent had done so at 19 years of age or younger.

With respect to youth, of those studied, 90 per cent reported being subjected to transphobic comments frequently, often daily; 23 per cent of students reported that teachers directed transphobic comments at them; 25 per cent of students reported physical harassment; 36 per cent had been physically threatened or injured in the past year; 9 per cent had been threatened or injured with a weapon; 33 per cent said they had been bullied through the Internet in the past year; and trans youth are more than twice as likely as their non-trans counterparts to consider suicide.

• (1940)

These findings speak to the urgency of passing Bill C-16 and implementing the recognition of the rights and protections that it will afford transgender people in Canada. Clearly, they need our help.

Arguments are recurring and stock, in many cases, against this bill, and I would like to address some of these.

One argument is that gender identity and expression are not required in law since trans issues are already covered. This alludes to the idea that in jurisdictions where these are not covered explicitly, the categories of sex, disability and sexual orientation in human rights legislation are sometimes stretched in judicial and tribunal proceedings — and in the Criminal Code — to cover transgender cases.

What I say is if that is the case, then there can be absolutely no harm in simply adding belts to suspenders to ensure the consistency of these protections. And it should be noted that

being transgender is not a disability. In fact, the only thing that can be said to disable trans people is the sometimes paralyzing discrimination that they suffer.

There is also the argument that transgender identity is too subjective a concept to be enshrined in law because it is defined as an individual's deeply felt internal experience of gender, yet we of course accept outright that no one can discriminate on the basis of religion, and that too is clearly a very deeply subjective and personal feeling.

The most pernicious of arguments is the washroom argument. This is the default-to-disaster scenario. It goes that somehow men will dress up as women to get into women's washrooms or locker rooms, engage in some criminal act and use this bill as a defence. This is a particularly hurtful argument. It's spurious. It's hurtful because it casts, as it does, all trans people with criminal suspicion.

In fact, it is trans people who are at great risk of being assaulted. They live in fear of being outed in a washroom. Moreover, any of the kind of activity considered in this washroom argument would be so clearly criminal that no court would absolve it on this basis.

In any event, if we were truly serious about making washrooms safer, then why wouldn't we simply advocate for putting alarm buttons and privacy curtains and other measures in all washrooms and make them safer for everyone? Excluding trans people from washrooms will simply not make anyone in any washroom any safer.

The problems cited by opponents have been denied in any case by the actual practice of and experience with this kind of legislation in other jurisdictions. Eight Canadian provinces and one territory have human rights legislation that includes gender expression and/or gender identity. The world has not somehow been turned upside down by the extension of trans rights and protections in provincial and territorial jurisdictions. There has not been an epidemic of men dressing up as women to commit crimes.

I believe it is very unfair to question and to be judgmental about something as personal and intimate as someone's appreciation of their own gender. Who are any of us to judge another person in this way? Transgender people hurt no one because of their gender identity and gender expression, but they are themselves hurt often relentlessly and brutally by those who judge, discriminate against and abuse them for being who they are.

Yes, it takes effort and commitment to make a law like this one work in the day-to-day practical world. The practical and successful experience of the Edmonton Public School Board and so many organizations and groups across this country, however, in implementing transgender inclusion policies is a wonderful demonstration, a practical and real demonstration, that with goodwill, this is entirely doable.

The public school board in Edmonton has a clearly stated policy that affords inclusion and respect for transgender staff and students in their schools, including washrooms and locker rooms. As the chair of the board recently explained to me, they have

arrived at solutions to every challenge in the implementation of their policy through discussion and collaboration on a case-by-case basis. They have redesigned facilities, educated children and staff and appointed staff contacts for trans children. They have made it work, and their schools are safe and accepting.

[Translation]

To sum up, Bill C-16 is about equal opportunity for trans and gender-diverse people in employment and access to services. It is about freedom from hate propaganda: calls for genocide or promotion of hatred of groups of people. It is about denouncing acts of violence and other crimes when they target people because of their gender identity or expression, or because of prejudice or hatred.

[English]

To conclude, this bill will do two very important things. It will give transgender people real, concrete protections against losing their jobs, being evicted from the place they live and being refused places to live; protections against economic discrimination and against brutal, ongoing, soul-destroying verbal and physical bullying and violence.

In addition, passing this bill will send an important, powerful and hopeful message of inclusion and acceptance to a group of Canadians who experience alienation and discrimination that most of us cannot even imagine. It will elevate awareness of the plight of transgender people and inspire Canadians' compassion.

As Irwin Cotler, former member of Parliament and human rights activist of great national and international stature, once said:

The Canadian Human Rights Act is more than just an act of Parliament. It is an act of recognition, a statement of our collective values, and a document that sets out a vision of a Canada where all individuals enjoy equality of opportunity and freedom from discrimination.

Justice La Forest of the Supreme Court of Canada said that a failure to explicitly refer to gender identity in the Canadian Human Rights Act leaves transgender people invisible.

The true greatness of Canada is found in our open, inclusive, caring and accepting culture and values in these core elements of our society. They make Canada a beacon of justice and fairness for those much less fortunate and those who are vulnerable around the world.

We are not perfect in this. There are gaps. Let's move now, senators, to close one of these gaps and send a message to transgender people in Canada that they are welcome and accepted, embraced and protected by Canada and Canadians, that they can in Canada, of all places, be free to be who they are.

The Hon. the Speaker: Senator Jaffer would like to ask a question.

Would you take a question, Senator Mitchell?

[Senator Mitchell]

Senator Mitchell: Yes.

Hon. Mobina S. B. Jaffer: Thank you.

Senator Mitchell, you spoke of others who have spent many hours on this issue. We would be remiss if we didn't recognize the many hours you also have spent on this issue. Thank you very much.

Some Hon. Senators: Hear, hear!

Senator Jaffer: Senator Mitchell, when this matter was being discussed at the Standing Senate Committee on Legal and Constitutional Affairs, for as long as I live, I will never forget a young transgender girl who came and spoke about how important it was for her to be treated equally. I think she was 10 or 12 years old

You spoke of children. You have been involved with this issue for many years and you spoke about Edmonton. If this law is passed in this chamber, the first thing it would do is reach out to that little girl to say that senators care about her rights.

If this law is not passed, what do you think would happen to that little girl?

Senator Mitchell: Thank you, senator.

The little girl that you refer to is Charlie Lowthian-Rickert. She is a remarkable young girl. She not only appeared at the committee, but she has appeared many times on the steps of Parliament, speaking in front of hundreds of people. She appeared with Minister Wilson-Raybould at the press conference announcing Bill C-16. At that press conference she said something very powerful that I haven't been able to forget. She said: "This bill will make me feel safer."

But your point goes beyond that, in fact. It's been such a long time. I said that MP Siksay started this issue 11 years ago, but even before that. You have a group of people who are, as I described, discriminated against. They are in agony in the place that they find themselves in this society, waiting and waiting and hoping and hoping year after year after year that at some point this will be passed into law. Remember, it has been passed twice, majorities by Canadian parliaments. That raised people's hopes and expectations, only to have those hopes and expectations dashed again.

• (1950)

This does specific, concrete things in recognizing rights and giving protections, but every bit as important is the message that it sends on behalf of all Canadians to transgender people: "You are welcome. You are understood and appreciated. We do embrace you. Canada is a place unlike any other place on the face of the earth, where you can be yourself without fear." It's a remarkable thing that we would give to them. I simply believe we have to do that, and we have to do that soon.

Senator Jaffer: Thank you, Senator Mitchell. I also remember the day this bill was discussed in committee. Afterward you had to explain to those who I would now say are your friends why they

had to wait longer. I very clearly remember the disappointment of those people when they realized this bill would not be passed in the Senate.

I know that many of them spoke to you about not just being safe but being equal. Can you explain to this chamber the pain they went through when we didn't pass the bill that time?

Senator Mitchell: It's so difficult to capture that, particularly for somebody like me who has never experienced that kind of discrimination. It was a very emotional moment. Almost every time I speak to transgender people who relive that moment, you feel it again. It's not just transgender people themselves; it's also parents. Parents love these children profoundly and deeply and agonize with them through this process. We listened to them come through that process and then realize that their children actually can be happier. They realize their children should be accepted, not rejected like they were when this bill has been allowed to die time after time after time. So yes, it's deeply emotional. It's heartrending to see, and it's heartrending to experience it.

Hon. Jane Cordy: Thank you, Senator Mitchell, for the tremendous work you have done in this field of giving rights to those who are transgendered. I do remember sitting in on the Human Rights Committee and listening to the American lady who had played the piano in the White House. When it was discovered she was transgendered, she actually stopped getting any job offers to play the piano whatsoever, even though she was a world-renowned pianist. It was all because of being transgender.

It was very emotional listening to the people who presented before the committee. It was also very emotional talking later to the people who were just gathered there to hear the testimony and to stand side by side with those who were giving that testimony.

One of the things I keep hearing about is the bathroom issue; it always seems to come to the forefront: No, we can't pass this legislation because people will be dressing up and going into bathrooms and hurting people. Yet when I was on that committee at the time, I did research about where this had been legalized in the United States. There was no sense whatsoever and no proof whatsoever that there was a problem in the bathrooms.

I wonder if you would comment on research that you have done related to that. If somebody were to pretend that they were female and go into a bathroom and commit a crime against somebody in the washroom, would that not be considered fraud and abuse by the person who committed it?

Senator Mitchell: Thank you, Senator Cordy. The information that you referred to was as a result of research done by Member of Parliament Randall Garrison, who contacted each of the jurisdictions in the United States. At that time there were four. All of them adamantly indicated that they had no episodes or events such as those who are opposed to this bill sometimes allude to.

There are eight provinces and one territory in Canada. In fact the first jurisdiction in Canada to recognize transgender rights was the Northwest Territories, in 2002 I think. Once again, I'm not aware of these kinds of episodes.

Transgender people are terrified of being outed. They are not going into washrooms to expose themselves in any way to that

kind of abuse. They simply want to be able to live their lives quietly as other Canadians do without those kinds of fears.

In the example you used of the trans woman who lost her job, she was an internationally renowned as a pianist. There are so many of those cases and anecdotes that are so tremendously wrenching. I'll give you another, the story of a trans woman I worked with a great deal on this. She came out. She's not allowed to go back to her home except when her mother is alone there. Her sister has completely cut her off and has never introduced her to her nieces and nephews. The sense of her parents is that she's transgender because she banged her head when she was eight years old.

You can hardly fathom the hurt and the depth of pain that somebody like that must feel. A lot of this evidence is anecdotal, and there is a lot more than what we hear because so many trans people simply don't talk about it.

Hon. Michael Duffy: Thank you, Your Honour, and thank you colleagues. Thank you, Senator Mitchell for your outstanding work on this very important issue. I rise this evening to support Bill C-16. I won't repeat the many excellent points, arguments and magnificent exposition of the sad and sorry history of the attempts by various people of goodwill to do the right thing for our trans population.

I know and well remember Bill Siksay who did a lot of important and hard work. As a result of talking to him about this issue, I was converted to support for this years ago.

As I was considering what I could add to your remarks this evening, Senator Mitchell, I received the following email from a woman in Calgary. She wrote:

My name is Angie Webster and I am writing you on behalf of my seven year old son, Sydney. Assigned female at birth, Sydney identifies and thrives as a boy. As Bill C-16 is now before the Senate, I urge you to fully support it. This bill will protect my son so he can grow up in a place full of love and acceptance as he lives his truth. I want him and other gender creative/transgender children like him to be able to live their entire lives authentically in this amazing country we call Canada, a country that prides itself on diversity and opportunity.

With this bill, my son's basic right to be himself will be protected and he'll be able to live his true self without fear, a fundamental right so many of us take for granted. I want my son to be able to be proud to be Canadian, proud to be living in a country that fully acknowledges him as an equal, contributing member of society, regardless of the gender he identifies as.

Thank you.

Angie Webster, Calgary.

Honourable senators, what parent, which of us in this room, would not want these simple basic rights, the right to live free of harassment and bullying, for their own child?

• (2000)

I encourage you to read Sydney's very touching story as reported by Sharon Kirkey in the November 17 edition of the *National Post*. No one should be bullied, singled out for ridicule and abuse.

Bill C-16 is an important step in making life better for Sydney and for countless kids like him. Tonight I urge you to vote in favour of this legislation. After all, like young Sydney, we are all God's children.

Hon. Terry M. Mercer: Honourable senators, it had not been my intention to speak on this bill at this point. This past weekend I had an experience where I was invited to a brunch by a community group who worked very closely with transgender young people. It was a very moving experience. I'm not quite prepared for my speech tonight, and I was going to take the adjournment of the debate in my name, but I also don't want to delay anything. I may save my time for third reading to tell you the story of the wonderful young people that I met this weekend. It was truly amazing.

By the way, I laugh about the discussion about washrooms. This weekend I went to a hotel in Halifax that I have been to a dozen of times. Because of the event that was on at the time, the signs on both washrooms were changed. They were both sexes. It did not matter which washroom you used.

My wife was with me, and we were both off to the washroom. I said, "I'll go to this washroom." I walked in. I did not remember that that was not the men's washroom. It was the women's washroom. She moved on down the hall and went into the washroom that was normally the men's washroom. Do you know what? It was not anything special. As usual, the ladies washroom was cleaner.

Honourable senators, it was one of the most interesting brunches I have had in my life. I met some of the most interesting young people engaged in "being them." They were entirely in touch with who they are and where they want to go.

I will be putting together a more detailed speech. I want to tell some of their stories. I don't have all the data with me to do that tonight. I'm not going to adjourn the debate, because I know we're anxious to get the bill to committee. I'm going to take my seat now. But I do want to give notice that at third reading I will be telling you the story of some absolutely wonderful young people and also an organization in Nova Scotia that is doing absolutely wonderful work with young people who are transitioning. It really is quite spectacular.

This was a fundraiser on Sunday, and it included one of Canada's large banks that agreed to match all donations that we made. I do not know what the final number was at the end of the brunch, but I am sure it was a significant amount.

A camp for transgender young people is operated for a couple of weekends every summer. Listening to young people talk about the experience of being safe with people who are experiencing the same things that they are was very moving. I only wish that some

people in this place who are opposed to this bill had been with me at brunch on Sunday, because I think even the hardest of hearts would have been softened.

(On motion of Senator Martin, debate adjourned.)

[*Translation*]

CANADA LABOUR CODE

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

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

Hon. Pierrette Ringuette: Honourable senators, I want to add my comments about Bill C-4 and I especially want to share with you how much ink, time, and energy has been spent over the past several years on two private bills, namely Bill C-377 and Bill C-525.

Bill C-4 seeks to remove from our legislation these two bills, which were deliberate attacks on our unionized workers, their families, and the Canadian labour movement as a whole.

Bill C-4 seeks to bring labour relations back in balance in the Canada Labour Code, the Parliamentary Employment and Staff Relations Act, the Public Service Labour Relations Act and the Income Tax Act.

You might be wondering why the Income Tax Act is part of all these changes which, at first blush, all have to do with labour relations.

This part of Bill C-4 corrects Bill C-377, for which I served as critic from 2011 to 2015, or for four years. This long, sad tale started in the last Parliament as a campaign masquerading as private members' business launched by the PMO as a sort of retribution against unionized workers for their freedom of expression with regard to the electoral process.

Before I go on, I would like to acknowledge the vital participation of 23 Conservative senators who resisted undue pressure from the Prime Minister's Office on this matter in 2013. Those senators include former senators Pierre Claude Nolin and Hugh Segal and current senators Bellemare, Wallace, Lang, McIntyre, Nancy Ruth, Neufeld, Doyle, Greene, and others. As I said, there were 23 of them.

I take my hat off to you for your courage and for recognizing the malicious intent behind Bill C-377.

[Senator Duffy]

It would take more than a few minutes to properly catalogue all of the errors in Bill C-377. However, if any senators want to know more, I have five boxes of documents related to the bill in my office.

[*English*]

Bill C-377 was a direct violation of the Canadian Constitution regarding provincial jurisdiction. It violated the Canadian Charter of Rights and Freedoms. It contravened our international obligations under Convention No. 87 of the International Labour Organization of the United Nations that was ratified in 1972. It breached our Privacy Act. It put at risk Canadians, particularly those engaged in law enforcement, and would have cost the Canada Revenue Agency over \$60 million a year to administer, notwithstanding the administrative cost of each unit of the roughly 50,000 different labour organizations.

Bill C-377 required each labour organization unit to provide full disclosure on a proposed CRA public website of any amount of benefits or expenses of \$5,000 to persons or entities, such as service providers, even janitors, and disclosure of political activities, lobby activities, legal activities and salaries of labour union employees.

Summing up, you will now understand why it was a full-fledged attack on Canadian workers and their unions.

[*Translation*]

Most importantly, Bill C-377 was unconstitutional, because it tried to take a back-door approach to changing labour relations laws that are under provincial jurisdiction. Many provinces, including Alberta, Ontario, Quebec, Manitoba, New Brunswick, Nova Scotia and Prince Edward Island, wrote to us stating the unconstitutionality of Bill C-377, showing how it indeed infringed on provincial jurisdiction over labour relations and was not primarily a tax bill despite the assertions of an MP, certain senators and the government of the day.

• (2010)

Basically, the only jurisdiction the federal government has when it comes to labour relations is strictly in the area of activities that are national in scope, such as Canada Post, CN, Air Canada and federal government employees. This represents only about 10 per cent of unionized workers.

[*English*]

Many constitutional experts appearing at our committee hearings confirmed the unconstitutionality of Bill C-377.

Bruce Ryder, Professor of Law at Osgoode Hall Law School, said:

I am here to share the bad news that Bill C-377 is beyond legislative jurisdiction of the Parliament of Canada. Its dominant characteristic is the regulation of the activities of labour organizations, a matter that falls predominantly within provincial jurisdiction

Alain Barre of Laval University said:

I arrived at the conclusion that this was a backdoor legislation. The legislator is attempting to use an appropriate legal structure to increase the chances of obtaining a favourable decision, were there to be a constitutional challenge.

Pierre Brun, from the Canadian Association of Labour Lawyers told us:

In other words, what is being requested is disclosure of information in order to limit these organizations' ability to express themselves on a political level.

[*Translation*]

In addition, by requiring the online disclosure of union activities, Bill C-377 violates the right to freedom of expression and freedom of association set out in the Canadian Charter of Rights and Freedoms.

It is important to understand that the public disclosure required by this bill would interfere with the activities of an association and its members. Furthermore, by making the political activities of lobbyists public, Bill C-377 violated the right to freedom of expression that is so important in our democracy.

Most of the witnesses who appeared before our committee also indicated that, by making such public disclosures mandatory, the bill negatively affected employer-employee relationships and gave an undue strategic advantage to employers, who were not required to disclose the same information.

[*English*]

Many union representatives at our committee meetings expressed their concerns as follows:

Bob Blakely from AFL/CIO:

Unions are democratic self-regulating organizations. What we spend is authorized in advance by our members. Spending can be viewed by them as a matter of law in most of the provinces of Canada and federally.

Ken Georgetti of the Canadian Labour Congress indicated that Bill C-377 was a solution in search of a problem.

It wrongly violates Canada's Constitution and the Charter. . . . it relates not to tax authority of the federal Parliament but the regulation of trade unions or labour relations. It causes Canada's Privacy Commissioner concern and offends the intent of federal and provincial privacy laws. It creates unfair advantage for non-union construction contractors and an uneven playing field in the labour market. It ignores the basic facts of the democratic structures of trade unions and the legal framework within which trade unions already operate.

The Canadian Teachers Federation said:

C-377 is not accountability; it is red tape and paperwork. It is the destruction of the balance in labour relations that has served this country well for over a century.

Claude Poirier of the Association of Professional Employees said:

C-377 was discriminatory, unconstitutional and unjustified.”

Jim Stanford of the Canadian Auto Workers expressed:

... unions consider engagement in those broader debates to be part of our core function, and our right to do so was affirmed clearly by the Supreme Court of Canada in 1991 in the *Lavigne* case.”

Carole Presseault of the Certified General Accountants Association addressed the bill by saying:

Bill C-377 is not a tax bill. Using the Income Tax Act in this manner, we believe, is inappropriate. The ITA is not an instrument to regulate the behavior of unions, and it is not an instrument to regulate transparency of organizations.

As Jennifer Stoddart, Privacy Commissioner of Canada, appeared before our committee I directly asked her the following question:

Does C-377 pass the Privacy Act smell test?

Her reply was:

No, you cannot put names of people on a public website.

Honourable senators, I could go on revealing comments of experts at our committee study; its unconstitutionality in regard to provincial exclusive jurisdiction and our Charter; its violation of our Privacy Act; its disguise as an income tax act, et cetera.

Earlier in my comments I referred to the United Nations International Labour Organization and Convention 87 item that I discovered in doing my research on this bill.

In 1972, Canada, with the approval of all our provinces, signed Convention 87, the Freedom of Association and Protection of the Right to Organize Convention. Conservatives 87 specifies in Article 3 the following:

3(1) Workers' and employers' organizations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programs.

3(2) the public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

Honourable senators, Bill C-377 was in direct conflict with this international convention.

As of 2013, only three countries were under investigation by the UN International Labour Organization after complaints were lodged under Article 3. They were Guatemala, Pakistan and Zimbabwe.

Notwithstanding that most stakeholders were preparing to challenge Bill C-377 in our court system, if the current government had not instituted a moratorium on the application of Bill C-377 last year, most likely complaints from Canada would have been directed under Article 3 of Convention 87 and Canada would have accompanied the notorious grouping of Guatemala, Pakistan and Zimbabwe on the international scene — an honour we certainly can do without.

On June 30, 2013, with their majority in the Senate, the Conservative leadership tabled an unprecedented motion to stop debate, amendment and adjournment and to vote immediately on Bill C-377.

Honourable senators, I would need about three minutes.

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

• (2020)

Hon. Senators: Agreed.

Senator Ringuette: Thank you.

That unprecedented motion was certainly not a model of parliamentary democracy or parliamentary diplomacy.

In closing, honourable senators, there is whispering behind the curtains that the opposition intends to try and split Bill C-4 into what used to be Bill C-377 and Bill C-525 under the pretense that it is an omnibus bill.

First and foremost, this is not an omnibus bill. Bill C-4 rectifies the former Parliament's abusive approach in regard to labour relations in this country.

[*Translation*]

Second, the rules of this chamber also apply to Senate committees. The *Rules of the Senate* do not permit us to split bills, omnibus bills included. By extension, Bill C-4 cannot be split at the committee stage, even if the opposition wishes it. That would give rise to a point of order involving the chair of the committee. According to many decisions made in this chamber by the Speaker, bills that come from the other place cannot be split in the Senate. That is dictated by our Rules.

In closing, I am very pleased to support Bill C-4 because it will end years of debate on Bill C-377 and Bill C-525. Canadian workers deserve the respect of Canadian parliamentarians. Bill C-4 restores balance in labour relations at the provincial and federal level.

[Senator Ringuette]

Consequently, I urge you, honourable senators, to refer this bill to a committee so that we may begin studying it as quickly as possible.

(On motion of Senator Dagenais, debate adjourned.)

CANADA PROMPT PAYMENT BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Plett, seconded by the Honourable Senator Martin, for the second reading of Bill S-224, An Act respecting payments made under construction contracts.

Hon. Pierrette Ringuette: Honourable senators, I am pleased to speak this evening to Bill S-224, introduced by Senator Plett. I would like to quickly and, I hope, effectively speak to you about what I have learned about this matter over the past few years.

A group of contractors met with me a few years ago to explain their situation and I support what they are trying to achieve.

I would like to point out something rather ironic. At the end of the 2015 parliamentary session, Senator Plett initiated an inquiry on this subject in this chamber. When he gave his speech, I asked him why he initiated an inquiry rather than introducing a bill, given the urgency of the matter. He responded that the bureaucracy opposed the bill.

Knowing Senator Plett and his close relationship with the former government, I do not believe that it was the bureaucracy that wanted nothing to do with this bill, but rather the previous government.

I therefore continued to work with the group. I also had a number of conversations with former Ontario minister, the Honourable Madeleine Meilleur, regarding this issue.

Given the future and the major infrastructure investments that are planned in partnership with the provincial governments, I think it is important, from the outset, that the federal and provincial governments work together, particularly with regard to payments to entrepreneurs. There has to be a standard. Federal legislation and whatever laws the provinces may pass in the future must be consistent.

As our discussions came to a close, former Minister Meilleur and I determined that this issue fell under her jurisdiction. She then brought in an expert to examine the issue. I have with me, this evening, a copy of the report entitled *Striking the Balance: Expert Review of Ontario's Construction Lien Act*, which was tabled in the Ontario legislature in April. It is a very exhaustive study. The members of the committee who will be called upon to examine this bill should study it carefully.

Bruce Reynolds produced this report together with Sharon Vogel. They considered the situation not only in Ontario and within the federal government, but also elsewhere in the world. By

way of conclusion, they recommended that Ontario pass a bill that is similar to the one before us.

• (2030)

Furthermore, the Government of Ontario recommended the following, although I will continue in English.

[English]

Bill S-224, the prompt payment act, is only half of the process recommended in the Ontario Construction Lien Act Review. It replicates the selection of mutually agreed-upon adjudicators, but it does not have the pool of adjudicators maintained by the government, and because we are talking about promptness of payment, this recognition of a pool of adjudicators within a prompt system is really required.

Therefore, when the committee reviews this bill, taking into consideration what will be approved in Ontario and what has been recommended and studied by experts, it is very important that we synchronize our legislation.

If I am not a member of that committee, I am telling you in advance that I will propose an amendment at third reading so that what is federal legislation does not have a lower standard or a lower promptness of payment than what we will have in Ontario and hopefully what we will see in all the other provinces.

I hope my comments tonight are constructive in the thinking and the study that will be done on this bill.

I would also like to tell you that I am the senator who during the summer of 2015 had this bill translated into French because it was only in English. I told the organization that we are a bilingual Senate and that therefore this considerable piece of legislation had to be tabled in both official languages.

That being said, I hope my comments will give guidance to the committee. If the committee, in the end, does not find it appropriate to agree with the comments I have made, I say again that I intend to move an amendment at third reading to ensure that the federal legislation meets a prompt standard in regard to the processes that are within. Thank you very much.

[Translation]

Hon. Claudette Tardif (The Hon. the Acting Speaker): Are honourable senators ready for the question?

Hon. Senators: Question!

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

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Martin, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.)

[English]

SENATE MODERNIZATION

SECOND REPORT OF SPECIAL COMMITTEE—
DEBATE ADJOURNED

The Senate proceeded to consideration of the second report (interim) of the Special Senate Committee on Senate Modernization, entitled: *Senate Modernization: Moving Forward (Omnibus Bills)*, tabled in the Senate on October 4, 2016.

Hon. David M. Wells moved the adoption of the report.

He said: Honourable senators, I rise today to speak to the second report of the Special Senate Committee on Senate Modernization, which deals with the recommendations relating to omnibus bills. These are recommendations 9 and 10.

Recommendation 9 establishes that the Senate direct the Committee on Rules, Procedures and the Rights of Parliament to develop and propose to the Senate a process in the *Rules of the Senate* by which omnibus bills are referred to an appropriate committee to determine whether and how an omnibus bill ought to be divided into several bills.

Recommendation 10 states that when the Senate refers an omnibus bill to a committee for such a determination, the government and the House of Commons be informed of such referral and of any determination by a committee to sever an omnibus bill.

Honourable colleagues, the second report seeks to make changes in the way we deal with omnibus bills by allowing us to develop a mechanism whereby we can more effectively scrutinize omnibus bills.

In our April 13, 2016, committee meeting, Donald Desserud, Professor, Department of Political Science, Faculty of Arts at the University of Prince Edward Island, stated the following:

I would add that deconstructing legislation — this is not even necessarily amending it, but simply deconstructing it — that is, taking complicated and impenetrable legislation such as budgets and omnibus bills and bringing them forward in such a way that they can be understood by the citizens of this country, would by itself be an extremely valuable service. If the Senate has the time and resources to do so, this would be a great thing, if it were able to pursue it.

During our committee meetings, the major concern for senators was when omnibus bills include financial or budgetary measures together with measures that are more appropriate as separate pieces of legislation.

There are several key points I wish to address regarding the recommendations in the second report.

One, omnibus bills serve a legitimate purpose if they contain uniquely budgetary measures requiring amendments to acts of Parliament to give effect to the government's fiscal and spending plans.

• (2040)

Number two, omnibus bills may be susceptible to abuse if measures unrelated to budgetary matters are combined in one omnibus bill.

Number three, omnibus bills that combine budgetary with non-budgetary measures create challenges for a legislative body because they (a) interfere with their ability to properly scrutinize the bill, (b) compromise the ability to hold governments accountable, and (c) make it difficult for legislators to respond to inquiries from the public about the contents of the legislation.

Number four, procedurally, where an omnibus bill contains measures on a subject matter not related to finance, the principal concern is that they cannot be referred to special committees where they would benefit from the expertise of senators in a particular subject matter. Examples include justice or environmental matters that are more than incidental to the budgetary policies underlying an omnibus bill. The justice and environmental matters would need to be studied and considered together with finance measures in the Senate committee specializing in finance or budgets, the Committee on National Finance. This recommendation is primarily a tool for those who may oppose elements of the bill.

Number five, the conventional wisdom is that omnibus bills cannot or should not be broken up to enable a legislative chamber to study non-budgetary measures through special committees. However, as the committee noted, there are no constitutional constraints imposed on the Senate's power in the legislative process. Apart from the basic restriction that money bills may only be introduced in the House of Commons and a limited suspensive veto of up to six months over resolutions to amend the Constitution of Canada, the Senate has wide latitude in dealing with bills referred to it.

I will note, colleagues, that the Senate has always exercised restraint in this. For example, the Senate has, on many occasions, amended money bills with the House of Commons occasionally accepting these amendments. More on point, the Senate has dealt with omnibus bills that combined financial and non-financial measures in creative ways. In 2001, the Senate approved the financial elements of a bill that combined financial and non-financial measures, while striking down the non-financial elements. The House of Commons concurred with the amendments, and the government came back with a new bill containing only the non-financial elements that were struck down.

Colleagues, as you know, the Senate already sends various elements to various committees for study. However, a process has not been established whereby the general legislation is separated into numerous component bills. That is what these recommendations propose.

Lastly, the committee further recommends that, when the Senate refers an omnibus bill to a committee for such a determination, the government and the House of Commons be informed of such referral and any determination made by a committee to sever an omnibus bill.

The Modernization Committee has worked arduously to come up with recommendations that allow the Senate to make changes toward what some see as modernization. While I do not agree with all aspects of the reports, recommendations 9 and 10 of the second report are an excellent example of the types of changes that we can make to advance the duties of the Senate successfully without having negative consequences down the road, although that will be determined by the Rules Committee if this report is sent their way.

Hon. Joan Fraser: Would Senator Wells accept a question?

Senator Wells: I would, Senator Fraser.

Senator Fraser: I'm wondering why the committee confined this recommendation to omnibus bills. There have been, in the history of the Senate, other bills, not omnibus bills, that the Senate decided to sever. I'm thinking, in particular, of the famous animal rights bill that came through here maybe 15 years ago, which was by no means an omnibus bill. This chamber decided that it, nonetheless, should be severed. So why confine your recommendation to omnibus bills?

Senator Wells: Thank you for your question, Senator Fraser, and it's a good question.

The committee didn't go into any detail in discussing other bills. We looked at omnibus bills and, primarily, budget bills as that's what we're most familiar with in our most recent history, and, as I said earlier, the Senate generally exercises restraint and deals with bills as they come. Obviously, we separate elements of a bill — we don't separate the bill; we separate the elements of a bill — and send them to the committees that are most appropriate, but, for our purposes in the committee on modernization, you're correct that we didn't make that recommendation for all bills. We only addressed the one, omnibus or budget bills, typically an omnibus bill, that we were most familiar with, that are referred to us yearly. That's what the committee decided to do, but that doesn't detract from the excellent point you make about the possibility of doing this with all bills, although I would note that it could become a cumbersome process if we were to spend our time wherever we might consider breaking up bills into component bills. It might take up more time in process than actually studying the bill if that's what we decide to do with any bill that comes to our chamber.

Senator Fraser: Just to clarify, that last warning that you uttered about dragging out the business of the chamber was your observation.

The committee, if I understood you in the first portion of your answer, didn't look at kinds of bills other than omnibus bills. It confined its work to omnibus bills. Have I got that straight?

Senator Wells: You have that absolutely straight. These were my observations as we discussed this.

[*Translation*]

The Hon. the Acting Speaker: Will you take a question, Senator Wells?

[*English*]

Senator Wells: I will.

Hon. Pierrette Ringuette: The first item is that I want to thank you for reaffirming my comments on Bill C-4 that neither the Senate Chamber nor Senate committees currently have the regulations in place to divide bills.

I'm looking at the different reports that have been submitted. For instance, the fifth report of your committee indicates a deadline for the Rules Committee to put in place the definition of "caucus." There is a definition suggested here by your committee, and there is a deadline. That is November 30.

How come your recommendations in your second report, recommendations 9 and 10, do not have that deadline?

Senator Wells: Thank you for your question. I just want to address the initial comment you made. Of course, you're correct. There are no rules that we have to break up bills, but, currently, there are no prohibitions. The Senate is a very fluid place where we can address these things as they come up.

To your specific question or your second point, why was there no deadline put on this — and I'm not going to specifically comment on report 5 because I'm here to discuss report 2 — the consideration not to put a deadline on this can be addressed directly in recommendation 9, that the Senate direct the Committee on Rules, Procedures and the Rights of Parliament to develop a process by which omnibus bills are referred to an appropriate committee to determine whether and how an omnibus bill ought to be divided.

If this recommendation stands and if the report goes to the Standing Committee on Rules, Procedures and the Rights of Parliament, that committee, based on the recommendation, will make a determination. It is not directed to implement based on a time framework because determining whether it is an appropriate thing to do does not presuppose that there should be a deadline on implementation of that.

Senator Ringuette: I have a supplementary question. Senator Wells, with all due respect, a deadline is proposed for certain recommendations that the Rules Committee create rules by November 30. Still, today is November 28. The resistance in this chamber still makes it so that the matter has not even been referred yet to the Rules Committee, never mind adopted, and we're at November 28. In essence, my question is: If it was good enough in report 5 to put a date to be executed, and no other report that you have tabled in regard to your committee has a date, I'm questioning why you have put a date at all if the intention was not to respect that date and not have the Rules Committee respect that date.

• (2050)

Senator Wells: Senator Ringuette, there was no date put in, so it is not a question of respecting a date or not. These recommendations were consensus-based. There was no date put in. I can't answer why there might have been a date, or certainly a recommendation of a date.

I answered in the previous question that if the Senate decides to send this to the Standing Committee on Rules, Procedures and Rights of Parliament, in the recommendation, that committee will also determine whether this is a good idea. To put an end date on it I think would be inappropriate.

To go back to your earlier point in your question, you noted that there was resistance to some of the recommendations. I was clear in my speech on report 2 that I am very supportive of this action. If you are talking about other reports, I don't wish to comment. I'm not charged with commenting on that. I'm happy to answer your questions on report 2.

(On motion of Senator Bellemare, debate adjourned.)

[*Translation*]

BUSINESS OF THE SENATE

Hon. Pierrette Ringuette: Honourable senators, in regard to Motion No. 110, I looked at the notice of motion I presented on June 22, 2016, and the directive by the Standing Committee on Internal Economy, Budgets and Administration concerning the designation of a non-affiliated senator as compared to an independent senator.

The Standing Committee on Rules, Procedures and the Rights of Parliament held at least one meeting in order to discuss the matter. I hope that it will continue its study.

For now, honourable senators, pending the recommendation of the committee, I would like to withdraw this motion.

[*English*]

The Hon. the Speaker: Senator, this item has not been moved yet and is at day 15. As a result, it will fall off the Notice Paper.

[*Translation*]

Senator Ringuette: Honourable senators, on the subject of Motion No. 116, I am very grateful to the Special Senate Committee on Modernization for inviting such expert witnesses, including those who appeared last Wednesday and who spoke of the Westminster model, which we would like to discuss in greater detail. We discovered that it offers the necessary flexibility.

I want to delve further into the matter so as to ensure that all senators can fully grasp the significance of it, so I will take a few weeks to fine-tune a motion that I will move later for debate in this chamber for the purpose of breaking down what I would call antiquated barriers.

For these reasons, I ask that Motion No. 116 be withdrawn from the Notice Paper.

[*English*]

The Hon. the Speaker: Senator, as with the previous item this motion has not been moved and is at day 15. As a result, it will fall off the Notice Paper.

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

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