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**BILL TO AMEND—MESSAGE FROM COMMONS—
MOTION FOR NON-INSISTENCE UPON
SENATE AMENDMENTS ADOPTED**

Speech by:

The Honourable Diane Bellemare

Wednesday, June 14, 2017

THE SENATE

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[Translation]

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BILL TO AMEND—MESSAGE FROM COMMONS— MOTION FOR NON-INSISTENCE UPON SENATE AMENDMENTS ADOPTED

Hon. Diane Bellemare: I rise today as sponsor of this bill to adjourn the debate — or so I hope — so that we may vote on the government's message regarding Bill C-4.

The debate was lengthy and emotionally charged. Bill C-4 repeals two private members' bills, Bill C-377 and Bill C-525. Neither parliamentarians nor labour market stakeholders ever managed to fully agree on the principle and scope of these two bills.

Both chambers voted in favour of repealing Bill C-377. However, Senator Tannas' amendments have kept the provisions of Bill C-525 in force. Obviously, the government cannot accept this amendment since it goes against the very principle of Bill C-4.

As such, if I were to give you one single reason to vote in favour of the message, it would be that we can no longer vote Bill C-4 down because we are not voting on the bill; we are voting on the message from the House of Commons.

Let me remind you that, if the Senate rejects the government's message, we will find ourselves playing ping-pong. The government will not agree to the Senate's insistence on Senator Tannas's amendments, and the Senate will do likewise, and Canadians will be upset that we are spending their money on a partisan game that could go on a long time.

I could end on that note, but since I have a few more minutes, I would like to give you four more good reasons to vote in favour of the government's message. I hope to convince even those senators who like Senator Tannas's amendments.

[English]

I will outline four good reasons for all of us to vote for the message. First, we should vote for the message because there is no objective reason to oppose it. On the contrary, there are reasons to vote in favour in order to accomplish our constitutional duty.

Second, we should vote for the message because we are all in favour of growth and the protection of the middle class.

Third, we should vote for the message because it is not legitimate for us to vote against an electoral promise that has been adopted in the other place by all the members of four political parties out of five.

Fourth, we should vote for the message because it is a good practice in a modern and more independent Senate. And let me explain those four reasons.

[Translation]

First, dear colleagues, we should vote in favour of the message because there is no objective reason to oppose it. Quite the contrary, in fact. Honourable senators, nobody is against secret balloting, and that is not what this is about. The government is asking us to amend the Canada Labour Code and related legislation to restore the card check certification system that had been around forever until 2015 and that provides for secret ballots. The system served us well, and it is managed by employers, unions, and a board representative.

This system is not unconstitutional. It does not violate rights and freedoms. It does have a negative impact on any region or minority. In fact, it actively promotes a fundamental right set out in the Canadian Charter of Rights and Freedoms, the right of association.

In short, there is no objective reason to oppose returning to this system, and I would like to give you some statistics to support my arguments.

Most experts maintain that mandatory secret ballot voting makes successful unionization more difficult in the private sector, particularly for vulnerable groups and women, whereas the old system can help reduce the barriers to unionization faced by these groups.

I will just give you a few statistics and I will move on to another argument. These numbers may surprise you, but they are accurate. In the public sector, the system of union certification has very little effect on the rate of unionization. The rate of unionization in the public sector is relatively high and on the rise. Between 1997 and 2016, it went from nearly 70 per cent to 73 per cent. Again in 2016, the rate of unionization in the public sector was 69.5 per cent for men and 75 per cent for women.

In contrast, the rate of unionization is lower in the private sector, and it is dropping. It fell from 19 per cent in 1997 to 14.6 per cent in 2016. It is 17.4 per cent for men and 11.2 per cent for women.

Of course, there are many reasons why the rate of unionization is dropping in the private sector. Technological changes, changes in the structure of the economy and globalization all play a role. However, it is clear that the way unions are certified and decertified also has a significant impact.

There is therefore no question that mandatory secret ballot voting will have very little impact on unionization in the public sector because it is very difficult for managers in the public service to threaten to dismiss an employee when they claim to be pro-union.

That is not the case in the private sector. The recently published study carried out under the Harper government indicates that, all other things being equal, if all the provinces had maintained the membership card certification system, the system that Bill C-4 is seeking to reinstate, the rate of unionization in Canada's private sector would have been 23.5 per cent in 2012 rather than 19 per cent.

Dear colleagues, let's acknowledge reality. Let's not insist on the Senate's amendments, because this is a way to reduce the barriers to unionization in the private sector and therefore of facilitating the unionization of the most vulnerable groups and women. This will help support the right of association that is clearly recognized in the Canadian Charter of Rights and Freedoms. Is it not one of our roles to protect the most vulnerable?

Second, and this is the economist in me talking, let's vote for the message of the House of Commons because we all share the objective of encouraging the growth and prosperity of the middle class.

Perhaps you are wondering what the connection is between unionization and the middle class. Reputable studies — and I spoke at length about them in my speech at third reading — conducted by the World Bank, the OECD and a number of recognized experts indicate that the global decline in unionization in the private sector contributes to reducing the size of the middle class on one hand, and increasing the incomes of senior executives on the other, two factors that are helping increase income inequality. Now, as the OECD points out, the growth in income inequality is curbing economic growth.

Third, let's vote for the message because it is not right for the Senate to oppose the will of the elected majority, especially when it comes to an election promise. As Senator Harder stated, the content of the message relates to an election promise. Why would we refuse the right of the government, a right obtained in the context of an election campaign, to fulfill a promise? Is it right for the Senate to oppose a promise when there is no objective reason to oppose it?

I am relying on the Westminster system to say that it is not right for the appointed house to oppose the fulfillment of an election promise by the government and the elected representatives of the House of Commons.

As you know, the House of Lords is a source of inspiration in the dialogue we must engage in as part of a modern, healthy and efficient bicameral system. What does the House of Lords do in circumstances similar to what we are seeing in the context of the government's message on Bill C-4? The House of Lords gives in.

In the aftermath of the Second World War, the lords agreed on practices they called the Salisbury Convention, which stipulates that the Upper Chamber does not oppose bills resulting from an election campaign. Today, the House of Lords goes even further than the Salisbury Convention and does not oppose bills from the Lower House when they receive majority support.

Here is the answer to a question asked by Senator Eggleton at the Senate Modernization Committee to a group of representatives from the House of Lords concerning the Salisbury Convention. Lord Norton answered the question by saying:

[English]

On the Salisbury Convention you are quite right that it formally applies to manifesto commitments. Manifestos can be very vague. That's the sort of thing the opposition would tend to exploit but not necessarily oppose a bill.

He continued:

If you like, it goes beyond the Salisbury Convention, largely for the reason that Lord Wakeham has given.

If the Commons is agreed on the ends, we focus on the means. We think that's what's legitimate and what we can do effectively to complement the work of the Commons, which is under increasing pressure in terms of time and demands.

[Translation]

If we follow the logic of these lords, we must support the government's message. That is also the logical thing to do according to the decision rendered by the Supreme Court of Canada in 2014 stating that our role complements that of the other chamber.

Dear colleagues, on two separate occasions, the government garnered the support of MPs from four political parties — the Liberals, the New Democrats, the representative of the Green Party, and the members of the Bloc Québécois — with over 70 per cent of the votes. Only the Conservative members voted against Bill C-4 and against the message.

As a result, our constitutional duty to act a chamber of sober second thought requires us to accept the government's message, which insists that we pass a law that is in keeping with the Constitution and the Canadian Charter of Rights and Freedoms and that has the support of the public. We must therefore choose to support the message that has public support.

Fourth, let's be responsible and vote in favour of the message because it's the right thing to do. Voting in favour of the message from the House of Commons is the right thing for a modern, more independent and accountable Senate to do.

Dear colleagues, voting in favour of the message will allow us to live up to the expectations of Canadians who really want a less partisan Senate that is more independent from the political parties, a Senate that complements the other chamber and will fulfill its constitutional duties as a chamber of sober second thought, as described in the 2014 Supreme Court reference.

As a modernized Senate, let's do the right thing in the conversation with the other chamber and vote in favour of the message. Thank you.
