
She said: Honourable senators, I rise today to speak in support of Bill C-377, An Act to amend the Income Tax Act (requirements for labour organizations).

Honourable senators, 4.3 million Canadians currently hold union membership; millions more have held union cards at some point in their working careers. Labour organizations play a valuable role in Canadian society, representing and defending the rights of workers. The important contributions made by such organizations and the valuable role that unions play in the lives of many Canadians have not gone unrecognized.

Our nation’s federal tax system provides benefits to support the work that unions do. Key among these benefits is the 100 per cent tax deduction workers receive for the union dues they pay. In addition, labour organizations receive tax-exempt status. Such accommodations in the tax system represent considerable benefit to the public.

Each year, the federal government forgoes $795 million in tax revenue for union and professional dues. The majority of this, a $400-million to $500-million tax exemption, is claimed by union membership.

Honourable senators, transparency is one of our government’s watch words. We require it of our public institutions, federal departments, Crown corporations and agencies. To this end, early in our mandate, the Federal Accountability Act streamlined and simplified accountability and transparency throughout the government. Its provisions also made federal Crown corporations more open and transparent by ensuring their applicability to these institutions. This bill’s requirement for public disclosure by labour organizations is based on the long-standing provisions in the Income Tax Act with which charities must comply. This private member’s bill deals specifically with labour organizations that have never been subject to public disclosure before now.

Also the beneficiaries of tax exemptions, Canadian charities have complied with similar requirements such as those prescribed in this legislation for over 35 years. The charitable sector is robust in its efforts to work with the Canada Revenue Agency toward demonstrating transparency. The Canada Revenue Agency’s Charity Quick View is a summary of key informa-
tion from a charity’s registered charity information return, which is readily available on the CRA website. Imagine Canada, a national charitable organization whose cause is Canada’s charities, also worked with the Canada Revenue Agency to provide CharityFocus, an in-depth year-to-year comparison of a charity’s financial information.

Political financing in Canada has also seen significant effort applied to increasing transparency. Indeed, former Prime Minister Paul Martin’s government introduced limits on contributions in 2004. Our government made further changes in 2007. Together, these efforts ensured that the principles of transparency and fairness apply to all participants in the electoral process. This information is readily available on the Elections Canada website.

Simply put, because there is substantial public benefit, it is most appropriate that Canadian workers are able to see how their union dues are being spent. Honourable senators, this bill proposes to amend the Income Tax Act. Its provisions will require the public disclosure of the finances of labour organizations.

As I have pointed out, the notion of increased accountability for public funds is not new. In addition to improvements in the bureaucracy and the political domain, efforts are being undertaken by our government to enhance transparency for Canada’s First Nations communities. Legislation under study in this place today by the Standing Senate Committee on Aboriginal Peoples will seek to increase accountability measures on First Nations reserves.

Honourable senators, with significant accommodation comes the need for equally significant responsibility. Labour organizations find themselves much less frequently having to fund financial compensation for members due to strikes or lockouts, as they did decades ago. Thus, they have greater resources at their disposal.

As the figures I have quoted today illustrate, with significant revenues to devote to various causes, rank and file membership and Canadians have a right to know where tax-exempt union monies are invested, applied and utilized. This notion of greater transparency and accountability is not new. Many other G8 countries, such as France, Great Britain, the United States and Australia, require similar disclosure. They have lived with the requirement for financial transparency for a long while without issue or cause.

Honourable senators, Canada once required unions with more than 100 members to provide returns to Statistics Canada under the Corporations and Labour Unions Returns Act. However, the Chrétien government abolished this requirement in 1998. The Americans have a statute outlining a number of obligations and requirements for labour union reporting called the Labor-Management Reporting and Disclosure Act of 1959. As honourable senators can see, this is one of the few areas where Canada is not leading the charge. We are playing catch-up. With the passage of this bill, both union membership and the Canadian public will be empowered to gauge the financial integrity and health of any labour organization.

We remain confident that nothing of note will be found amiss. Let us be clear, honourable senators: This is something that Canadians want. According to a Nanos poll taken for Labour Day, 2011, 83 per cent of Canadians, and even more union members, 86 per cent, want public financial disclosure by unions.

Honourable senators, Bill C-377 simply proposes that the statements of income and expenditures for labour organizations be electronically submitted annually to the revenue minister. Among the funded activities captured in the annual reporting will be organizing, collective bargaining, education and training, and conferences, in addition to political activities and lobbying. The statements would also require reporting of disbursements over $100,000 to directors and staff. It would not require reporting from registered pension plans, health benefit plans or other regulated plans; and it would not require unions to conduct an audit. This level of detailed public disclosure will increase the confidence of Canadians that the public tax subsidy for labour organizations is warranted and its reporting deemed useful.

“Honourable senators, this bill is about a nanny state; it has an anti-labour bias running rampant; and it diminishes the imperative of free speech, freedom of assembly and free collective bargaining.”
I wish to be clear about the bill and its provisions. The proposed legislation does not prescribe to unions how to spend their resources and does not restrict them in any way. The bill does not place a substantial burden or undue expense on unions. It is recognized that unions are engaged in responsible accounting of their finances and that many unions are already publicly reporting this financial information to their members and others. As well, unions are filing much of this information with the Canada Revenue Agency through their tax returns. Again, only salaries in excess of $100,000 will require disclosure.

Honourable senators, while it is recognized that this legislation is a private member’s bill, our government supports and affirms that organizations receiving public benefit should be accountable and transparent in disclosing how they use such benefit. This is not a matter of ideology and is not reflective of any agenda other than that of responsible conduct by an enterprise that receives public accommodation. It is an affirmation of a commitment to open, transparent and responsible stewardship of public funds. Honourable senators, transparency, increased accountability and proactive, open communication are the touchstones of a progressive society, of robust commercial enterprise and certainly of good government. I look forward to the debate on this bill. I ask that honourable senators carefully consider its provisions in the days to come.

Hon. Jim Munson: Honourable senators, I would like to ask a few questions of Senator Eaton.

Would the honourable senator favour a similar bill for medical professions, engineering associations, nursing associations, real estate associations, and their presidents and executives to make their books public, to make them transparent?

“...There have been suggestions in the world beyond the Senate that the Conservative government is simply using unions as scapegoats, going after them, trying to reduce the power of unions and silence the voice of unions in any kind of public debate by urging this kind of bill that, once again, is through another door — not the main door — trying to stifle debate and lessen the union’s power and influence in our society... Senator Stratton: What is wrong with going after unions?”
would the government not start by focusing on someone else, like nurses’ associations, medical professions and so on? It does not matter: They are not unions. That is a good point.

**Senator Stratton:** What is wrong with going after unions?

**Senator Munson:** There is nothing wrong with unions in this country.

**Senator Eaton:** I guess the honourable senator’s question was more of a statement. There has never been anything in this government’s platform that was against unions. In fact, we recognize how valuable unions have been to the stability of the Canadian workforce and that our productivity and our economy depend on the good will of the unions.

Please remember that a lot of Canadian unions with American affiliations already give this information. It is already online in the U.S., so why should it not be publicly disclosed in this country? I do not understand why they are opposed to having it online. What possible difference could it make to them? We know what sophisticated organizations they are. When you are an autoworkers union and have your very own economist that writes in The Globe and Mail, I am sure you will not find this reporting onerous in the least.

I do not know why the honourable senator would be upset about it. Political parties have all had to adjust and put our donors online with their names and addresses. I do not understand; I am sorry. As far as our government is concerned, unions are very important in the Canadian economy.

**Senator Munson:** I have another question. If this bill is so important to the government, why is it not a government bill? Why is it moving in this way if it is really important to get into the books of unions? Obviously someone on the honourable senator’s side does not feel that the unions are open enough, but they are open to their memberships.

**An Hon. Senator:** No, they are not.

**Senator Munson:** Why is this bill coming through this particular door?

**Senator Eaton:** I think the government has made clear its priorities. The Prime Minister is very focused on getting the Canadian economy up and going and creating jobs. I think that has been his big focus. I think keeping Canadians safe in their streets is another one of his focuses. This private member’s bill has received the government’s blessing, and that is all that has to be said. Is the honourable senator saying, by his question, that private members’ bills have no value?

**Senator Munson:** I absolutely say that they have value because it took three years to get my autism bill through Parliament. There is nothing wrong with that. Let us look at the three-year rule on this sort of thing. I am asking the questions; you are supposed to give me the answers.

**Hon. James S. Cowan (Leader of the Opposition):** Would Senator Eaton entertain another question?

**Senator Eaton:** Yes.

**Senator Cowan:** Is it the honourable senator’s view that this disclosure regime ought to be extended to any organization that receives fees from its members that are deductible, for income tax purposes, by those members?

**Senator Eaton:** I will simply say that I am sponsoring this bill. If any senator wishes to bring forward a private member’s bill looking at other organizations that receive tax exemptions, then it will be debated in this chamber and taken to committee, and we will see what happens. I am not for or against it.

**Senator Cowan:** The honourable senator has expressed a principle here, as she did with her views with respect to charities and not-for-profit organizations, and talked about the impact that it has on the tax system. Clearly, if I pay dues or a fee to an organization and am able to deduct that from my income for tax purposes, that has an impact on the income tax system. I take it that the logical extension of what the honourable senator is saying is that she would be concerned about where that organization is spending the money it receives from me and the other members. Would she not agree that the logical extension of her argument is that this kind of disclosure regime ought to apply to all such organizations? Where would she draw the line?
**Senator Eaton:** When an organization receives up to $500 million, or half a billion, in tax exemptions, I do not think it is out of line to request transparency. If you find that there are other professional organizations that are getting up to half a billion Canadian tax dollars, then perhaps it should apply.

**Senator Cowan:** I am taking the principle that the honourable senator has mentioned. Surely no union is receiving that kind of money. She is talking about a collectivity of unions. I am saying that there are other organizations. When I pay my dues to the Nova Scotia Barristers’ Society, I deduct those dues from my income. I am sure that doctors who practise in any province in Canada would deduct the fees that they pay to their medical societies, and I am not suggesting that there is anything wrong with that. The medical society would use its fee income to provide services to its members but also to lobby government on behalf of various things.

I do not understand where the honourable senator is drawing this distinction. If the test is whether or not there is an impact on the tax revenue of the country, then I think she must say that she would favour the same disclosure regime for all of these organizations. We need to know exactly where this is going because it will come as no surprise to Senator Eaton that many organizations out there have very legitimate concerns about how broadly this regime will impact their organization.

I understand my honourable friend’s concern and focus on labour unions, but I would like to hear her explain how she can say that this only has to do with labour unions. Surely there are other organizations that have an impact on the tax system that she is trying to protect.

**Senator Eaton:** I think, honourable senators, that we should have this debate in the Finance Committee with witnesses.

**An Hon. Senator:** Right; hear, hear!

**Senator Ringuette:** This will be a very interesting debate.

(On motion of Senator Ringuette, debate adjourned.)
Hon. Hugh Segal: Honourable senators, I rise with the permission of Senator Ringuette, who has adjourned this motion, to speak on Bill C-377. I believe the bill must be amended and critically examined before committee. As I do believe that, I do not oppose second reading, although I cannot vote for the bill in principle and will not. Let me share my best judgment as to why Bill C-377, dealing with broadening trade union disclosure to CRA, is bad legislation, bad public policy and a diminution of both the order and the freedom that should exist in any democratic, pluralist and mixed-market society.

While I do not question the good faith and enduring belief in transparency of those in the other place who proposed and supported the law, and of my esteemed colleague Senator Eaton who sponsored the bill in this place, I want to point out that, while transparency is a compelling public good, applying it in a discriminatory way is harmful and divisive.

As a Tory, I believe that society prospers when different views about the public agenda, on the left and the right, are advanced by different groups, individuals and interests. Debate between opposing groups in this chamber, in the other place and in broader society is the essence of democracy. Limiting that debate as to scope and breadth is never in the long-term interest of a free and orderly society.

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Dispatching CRA to police how trade unions spend their money, in denominations of $5,000 or more, is to increase the role of CRA and of the state in ways that create a bigger, nosier and more expensive government. As a taxpayer and as a Conservative, I oppose that kind of increase in any government’s power or expenditures.”

Some Hon. Senators: No.

Senator Segal: My colleague from Prince Edward Island, Senator Downe, has spoken eloquently about the need to work harder on tax evasion. Do we want to take people who might be working on tax evasion and have them assess which union local bought a new boiler for its headquarters? That is what this bill would produce.
If this is to apply to trade unions, why would it not apply to rotary clubs, the Fraser Institute, Christian, Muslim and Jewish congregations across Canada, the Council of Chief Executives, local car dealers or the many farming groups, like the cattlemen’s associations or the Ontario Federation of Agriculture, all of whom do great work? How about local constituency associations, food banks, soup kitchens, or anglers and hunters clubs?

All of these groups express views on policy. All have the right, under election law, to volunteer in municipal, provincial or federal elections, and all come to Ottawa to lobby and press government on issues important to them. They do so along with representatives of the defence industry, our First Nations and various cultural groups. Are they all to be swept into the CRA bureaucratic remit? That is what this bill would lead to. If CRA is to become the political judge of what expenses are appropriate, what are the guiding criteria? The bill is silent on that.

There are, honourable senators, other doubtful provisions that should be of deep concern, such as proposed paragraph 149.01(3) (a), on page 2. It says that information shall be provided in “such form and containing such particulars... as may be prescribed.” It does not say by whom. Would it be the representatives of the Privy Council Office or the Department of Labour? Spare me.

Proposed subparagraph 149.01(3) lists the need to declare what is spent on labour relations activities, with no concurrent disclosure imposed on the management side. How about a law that forced my political party to disclose its campaign, travel, research and advertising budgets to the Liberal Party of Canada or to the NDP two weeks before the election was called?

Perhaps Coca-Cola should be forced to disclose to Pepsi its marketing plan and expenditures over $5,000. How about the Montreal Canadiens having to tell the Boston Bruins whether their coach spent more than $5,000 on dinner for their team and where they ate in Boston before the game?

Honourable senators, this bill is about a nanny state; it has an anti-labour bias running rampant; and it diminishes the imperative of free speech, freedom of assembly and free collective bargaining.

I imagine that, were it to pass, subsequent legislation from the other place from private members might be aimed at newspapers; networks, TV and otherwise; student groups; universities; junior baseball leagues; and even, God forbid, community soccer. Where we are headed with this bill is down a dark alley to a very dark place indeed.

If the unions should disclose, so should the auto dealers, the C.D. Howe Institute, the Canadian Centre for Policy Alternatives, all the local Legions and all of the various local organizations.

Have we decided that CRA has lots of employees with little to do? When did that meeting happen? Who came to that conclusion? To manage the new nosey mission, CRA would need new employees and up to $2.5 million in operating funds, plus an extra $800,000 a year. That is CRA’s own estimate. The Parliamentary Budget Officer says the number will be much higher.

Let me talk now, in conclusion, about one Conservative who, while not perfect, was generally revered for his role in the building of Canada. His name? Sir John A. Macdonald. We take him seriously in Kingston, Ontario and in other parts of Canada.

In a piece on early labour legislation in Canada, Mark Chartrand, in reference to the introduction and passage of the Trade Unions Act of 1872 under the Liberal-Conservative government of Sir John A. Macdonald, wrote:
Sir John A. Macdonald was solely responsible for the introduction of the Bills. In his preliminary remarks in the House of Commons he said that they were modelled after British statutes enacted in the previous year [under Gladstone] that had emancipated union members from existing laws that were considered to be “opposed to the spirit of the liberty of the individual” and “too oppressive to be endorsed by free men.” He suggested that it was in Canada’s best interest to enact analogous legislation so that Canadian and British immigrant workers “would have... the same right to combine for the accomplishment of lawful objects, as [workers] had in England.”

During the debate of 12 June, he noted: “[r]ecent events in Toronto —
He was referring to the famous printers’ strike.
— had shown the necessity of adopting some amendment [to existing law] here”, and also expressed his concern that if “workingmen... should learn that the old law remain unchanged, they would not come to settle in Canada”.

Honourable senators, the very growth of Canada, the successive waves of immigrants from the British Isles that built Canada in the early days, depended in some measure on protecting legitimate union rights. Honourable senators, they did so then and they do now.

Let me quote from Chartrand’s historic work:

... considering the following statement made by Macdonald on 11 July 1872 at a mass meeting sponsored by the Toronto Trades Assembly in his honour “as the friend and saviour of the working man”:

He rose at that meeting and he said:

I ought to have a special interest in this subject... because I am a working man myself. I know that I work more than nine hours every day, and then I think I am a practical mechanic. If you look at the Confederation Act, in the framing of which I had some hand, you will admit that I am a pretty good joiner; and as for cabinet-making, I have had as much experience as Jacques and Hay themselves.

The negative effect of this bill, either in deploying CRA on political missions or on limiting freedoms, is debilitating and offensive. The bill before us today, as well as right-to-work legislation that is being proposed in the other place as a private member’s bill, is not who we are as Canadians. It is time this chamber said so.

Some Hon. Senators: Hear, hear!

Senator Segal: Honourable senators, I know union leaders whom I dislike and do not trust. Some have been mean, narrow, divisive and unconstructive, but I defend their right to advance what they consider to be their members’ interests. I know corporate, political and not-for-profit leaders who suffer from the same faults.

As for soft-sounding, labour-financed coalitions that campaign against Conservatives at various points in provincial elections, we have seen that. It is the election laws that should be changed to limit anybody’s right to do so on the right or the left without spending limits and full, timely disclosure, not the Income Tax Act of Canada. This is a matter of election law, not CRA inquisition.

As I adjourn the debate in Senator Ringuette’s name, I urge honourable senators on all sides to reflect on how this bill might be revamped or, if necessary and if it is not revamped at third reading, actually stopped dead in its tracks.
Senator Tardif: Good idea.

Senator Segal: In the interests of free, collective bargaining; strong, competitive environments; safe workplaces; and the fair treatment of working men and women, socially, economic and politically, this bill should be either readily revamped or set aside. If it has been quoted on other matters in this place that “the best social policy is a job,” then people who seek union support in the workplace — as is their right in a free society — should be protected, and the unions who serve them should not be singled-out unfairly.

Thank you, honourable senators.

Some Hon. Senators: Hear, hear.

The Hon. the Speaker pro tempore: Will the Honourable Senator Segal accept a question?

Senator Segal: Yes.

Hon. Pierrette Ringuette: Honourable senators, I certainly welcome the wise words that Senator Segal has just stated.

The interests of future growth of this country, as the honourable senator mentioned, was the purpose of the first union bill in the late 1800s. In the interest of having a balanced approach — we know that there are always two sides to an issue — and if this bill tends to impose certain disclosure for the work that it has to do on behalf of Canadian workers, then would the honourable senator consider putting forth an amendment that would balance the bill and see the Canadian Electrical Contractors Association, for instance — because unions also play a vital role in credential recognition? Then you could have also the entire sphere of the Canadian Bar Association, the medical associations, the Ordre des ingénieurs. Also, in regards to the bargaining activity of unions, then, as I was mentioning earlier, the bill in amendment could include the manufacturers’ unions. My God — should we also say the Canadian Auto Workers Union?

An Hon. Senator: That would be interesting.

Senator Ringuette: We all know they visit Parliament Hill quite often.

In the interests of having a balanced approach to the issue that we have in front of us, would the honourable senator consider putting forth an amendment to balance this bill?

The Hon. the Speaker pro tempore: Before the Honourable Senator Segal begins his response, I regret to inform honourable senators that his speaking time has expired. Is more time granted, honourable senators?

Hon. Senators: Agreed.

Senator Segal: I thank the honourable senator for her question. When I listed other organizations that, if we were to be fair about this, should have to face a similar level of disclosure at the $5,000 level or above, it was not because I wanted to see the state expand its role even further than this bill provides to sweep them all in. I sought to list them so that honourable senators might reflect here and in committee as to how the imbalance implicit in this particular bill might be best addressed.

“As a Conservative, my instinct would not be to expand the role of the state to look into other organizations.”

As a Conservative, my instinct would not be to expand the role of the state to look into other organizations. I want to be fair to the government: The government came to committee in the other place and attempted to raise the $5,000 threshold to a much larger number so as to reduce the level of “nosiness” in the legitimate activities of our trade unions. I do not think they were successful at committee, although I think they endeavoured to do so. There was a ruling made as to whether the amendments could be introduced into the chamber.

The government has been trying to find a way to take what was private member’s legislation, offered in good faith, and moderate it in some fashion. They have not been successful in so doing. We are now faced with this bill before us, so I will not prejudge what honourable senators in committee might choose to do other than to say that I think a broad array of witnesses who would discuss some of the implications of this
process on the free collective bargaining process, mixed-market economies and the relationship between management and labour might be invited to express their views so that we can benefit from that wisdom and decide appropriately thereafter.

Hon. Percy E. Downe: Will Senator Segal take another question?

Senator Segal: Yes.

Senator Downe: I thank the honourable senator for his speech; it was very informative and, as always, interesting.

As an aside, his affection for Sir John A. Macdonald, which he noted about Kingston and other parts of Canada, is certainly shared by Prince Edward Islanders. I was surprised to read in Richard Gwyn’s book that, when he was sick at one point, he returned to Prince Edward Island for seven or eight weeks to recover — a very good choice. I assume it was in the summer and not the winter, however.

On your remarks about the role of the Canada Revenue Agency, I noticed the President of the Treasury Board of Canada Secretariat announced the 19,000 public sector positions that would be eliminated over the next while. I was surprised to see that the largest cut to any one department was at the Canada Revenue Agency, with 3,008 positions being eliminated. This is from a document from the minister.

The honourable senator correctly identified in his remarks that the new responsibilities imposed by this bill will require additional employees. I continue to hear criticism of the lack of effort in overseas tax evasion. I now hear growing concerns of these cuts involving front-counter servers, particularly from seniors who now have problems finding forms and so on because the front-counter people are gone, which I assume are the majority of these people.

Where did the honourable senator get the figure he identified in his speech for the number of additional employees that would be required if this bill passed?

Senator Segal: My recollection is that it came from an analysis in one of the newspapers quoting someone from CRA. That was my source in that circumstance.

Honourable senators, let me say this with respect to the CRA: I go back to the days of Perrin Beatty, MP, Minister of National Revenue, who brought in the taxpayers’ rights provisions. I believe that produced a huge improvement in the relationship between CRA and all the taxpayers of Canada who have to interact with them in some way or form. Of course, CRA has also modernized in terms of online filing. One can understand that when you move to online filing, some of the human resource requirements that existed prior thereto are no longer necessary.

Whatever that transition is, upon which I am no expert, imposing this new burden upon them, and establishing the principle that every time Parliament is unhappy with a particular organization or group of organizations or type of organization, it is CRA who will produce transparency by forcing disclosure at relatively modest levels, I think is a bad principle. That is really the principle against which I tried to speak this afternoon.

The Hon. the Speaker pro tempore: Dose the Honourable Senator Ringuette have another question?

Senator Ringuette: I move the adjournment.

The Hon. the Speaker pro tempore: The adjournment has been moved already by Honourable Senator Segal, seconded by Honourable Senator Nolin, that further debate in this matter be adjourned in the name of Honourable Senator Ringuette for the next sitting of the Senate.

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

Hon. Senators: Agreed.

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, I want to get an assurance that there will be the 45 minutes for Senator Ringuette, as she is the second person and our critic on the bill.

The Hon. the Speaker pro tempore: That is agreed and understood.

(On motion of Senator Segal, for Senator Ringuette, debate adjourned.)
Second Reading continues in the Senate

On the Order:
Resuming debate on the motion of the Honourable Senator Eaton, seconded by the Honourable Senator Rivard, for the second reading of Bill C-377, An Act to amend the Income Tax Act (requirements for labour organizations).

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, Senator Ringuette holds the adjournment of this debate. She has graciously agreed to allow me to speak today, but I would like to make it clear that I am not taking her place and that she is reserving her 45 minutes as the critic to speak on this bill.

The Hon. the Speaker: I should point out to honourable senators that the respective leaders have unlimited time and that 45 minutes are being reserved for the Honourable Senator Ringuette as the second speaker.

Senator Cowan: I thank Your Honour for that comment, because that leads me to the comment that many issues have been raised in this bill. I will be taking considerable time this afternoon to speak about them because the issues are of great importance. I urge honourable senators to participate in this debate as it goes forward.

“Our new heaven will be a place where if you work for a labour organization or do business with a labour organization, then you will forfeit basic rights enjoyed by all other Canadians. That is the crux of this legislation. Why is it being done? I believe that the answer can be found in a larger story, one where the Harper government is trying to systematically silence individuals and organizations who dare to challenge it publicly.”

I would like to begin my remarks by referring to the great American jurist Felix Frankfurter, who was an adviser to President Franklin Delano Roosevelt. He wrote a host of groundbreaking laws and went on to serve with great distinction on the United States Supreme Court. He believed that the role of law is to try to build a heaven on earth. I ask honourable senators: What kind of “heaven” are we being asked to build here with Bill C-377?

Our new heaven will be a place where if you work for a labour organization or do business with a labour organization, then you will forfeit basic rights enjoyed by all other Canadians. That is the crux of this legislation. Why is it being done? I believe that the answer can be found in a larger story, one where the Harper government is trying to systematically silence individuals and organizations who dare to challenge it publicly.

The story began with an attack using — or more accurately, pulling — government funding. Women’s organizations were among the first to feel the heavy knife of the Harper government slashing their funding. That was back when this government still was enjoying the healthy surplus it had inherited from previous Liberal governments.

Women’s organizations were told that if they dared to engage in advocacy — in other words, if they came to
Ottawa to speak up for the causes that their members believed in, subversive causes like child care or equal rights under the law — their funding would be cut.

International development organizations then came under fire. We all remember KAIROS. That organization engaged in such dangerous activities as social and economic justice projects with local partners in Africa, Asia, Latin America and the Middle East. Its members included radical organizations like the Anglican Church, the Evangelical Lutheran Church, the Presbyterian Church, the United Church of Canada, the Quakers, the Mennonite Central Committee Canada and the Canadian Conference of Catholic Bishops. The funding to KAIROS was eliminated.

The Canadian Council on Learning, an organization that promoted lifelong learning from early childhood through to senior years, had the audacity to say that Canada’s progress on the Composite Learning Index had stalled since 2005. Its funding was cut and is now gone.

The Canadian Teachers’ Federation International Education Program — gone.

The Canadian Council for International Co-operation — cut off, a 40—year collaboration ended. There were no details and no explanations — just no renewal of the contract after 40 years.

Prime Minister Harper was clear:

If it’s the case that we’re spending on organizations that are doing things contrary to government policy, I think that is an inappropriate use of taxpayers’ money and we’ll look to eliminate it.

Eliminate it he did, because there is no robust marketplace of diverse ideas for this Prime Minister. There is room for only one product in Mr. Harper’s marketplace of ideas: his ideas.

Cutting funding was the first step but not the last. If there was no existing government funding that could be cut, different fronts for attack were found, and the Canada Revenue Agency was told to lead the charge. Environmental groups were quickly targeted. Senator Eaton, the sponsor of this very bill before us, launched an infamous inquiry in this chamber to tell Canadians:

There is political manipulation. There is influence peddling. There are millions of dollars crossing borders masquerading as charitable foundations into bank accounts of sometimes phantom charities....

This inquiry is about masters of manipulation who are hiding behind charitable organizations to manipulate our policies to their own advantage.

Honourable senators, no evidence of any such activity was ever presented to us. In fact, when I moved a motion to have those very serious allegations referred to our National Finance Committee so they could be investigated, suddenly honourable senators opposite demurred. They had no interest in actually finding out the truth. A drive-by smear was all they wanted. Making scurrilous allegations under the protection of the privileged speech in this chamber but denying the charities in question any opportunity to clear their names was not just a drive-by smear; it was a cowardly hit and run.

“...the Harper government found an additional $8 million for the Canada Revenue Agency to audit charitable organizations that engage in perfectly legal political activities. What was the message? Be careful — be very careful — if you dare to speak out on public policy issues.”

Honourable senators, the next step in this carefully choreographed dance of shame was last year’s budget. While cutting, among many others, the Experimental Lakes Area, Rights & Democracy and the National Council of Welfare — another dangerous organization — the Harper government found an additional $8 million for the Canada Revenue Agency to audit charitable organizations that engage in perfectly legal political activities. What was the message? Be careful — be very careful — if you dare to speak out on public policy issues.

Government scientists are muzzled; scientists whose work is paid for by Canadian taxpayers are told that they may not tell those same taxpayers about the results of their work. This government is even trying to extend its muzzle outside Canada’s borders to scientists with whom Canadian scientists are collaborating.
The latest group on the government’s muzzle list is librarians. They are on the list because the government believes that librarians have a propensity to engage in what they call “high-risk behaviour.” Who would have imagined that “high-risk” behaviour and “librarians” would ever be found in the same sentence?

In today’s brave new world, they are. The employees of Library and Archives Canada have been told that they must pre-clear “personal” activities deemed “high risk.” What are these high-risk activities that federal librarians and archivists are engaging in, on their own personal time, that have so engaged the attention of the Harper government?

**Senator Munson:** Reading.

**Senator Cowan:** They are teaching Canadians in classrooms. They are daring to attend conferences. Perhaps most horrifying of all, they are speaking at public meetings. The Harper government says this simply has to stop.

Scientists, librarians, environmental NGOs, international development organizations — we have seen repeatedly that the Harper government will find many ways to silence and repress dissenting voices.

**Senator Cordy:** You forgot to say Conservative MPs.

“Now they have set their sights on labour organizations. It is trickier to muzzle them. They do not receive money from the government and they cannot be fired by the government. How to silence their voices? Bill C-377 is how.”

“...unions, as tax-exempt organizations, should be accountable to their membership, given the extent of benefit that they and their members receive through the tax system.

It all sounds perfectly reasonable. What Senator Eaton did not mention in her remarks is that the Canada Labour Code already requires trade unions — and employers’ organizations, by the way — to provide their members, on request and free of charge, with financial statements that are required by law to contain, quoting from the Canada Labour Code, “sufficient detail to disclose accurately the financial conditions and operations of the trade union or employers’ organization for the fiscal year for which it was prepared.”

There are similar requirements in all provinces except Saskatchewan, which has a bill pending, Prince Edward Island and, curiously, the Prime Minister’s own province of Alberta. Even in those provinces, unions such as the Canadian Union of Public Employees state in their constitutions and bylaws that members are entitled to financial statements from the union.

In other words, honourable senators, unions are already “accountable to their membership.” If a member wants information, they can get it, by law. If, as Senator Eaton suggested, that is the purpose of Bill C-377, then we can end this right now. The bill is simply not needed. Laws are already in place to do what she wants done.”
“Of course, honourable senators, that is not the real purpose of Bill C-377. The real purpose is to sideline trade unions, to muffle their voices and to bury them in administrative paperwork so that they cannot do the work which they are there to do on behalf of their members. This bill is designed to impose such onerous and invasive reporting requirements that people will think twice before working for unions or doing business with them.”

what the amendments actually did. I ask for your patience because this will get a little bit confusing and a little bit technical as I go forward, and that is only because, in my view, the bill is itself drafted in such a confusing fashion. To make things a little easier to follow, I understand that the pages have copies of the relevant clauses of the bill for any senator who might be interested in following and which honourable senators will find helpful.

The place to begin this analysis is with the opening words of paragraph 149.01(3)(b). This sets out the general disclosure obligation of labour organizations. It says that a labour organization is required to file:

(b) a set of statements for the fiscal period setting out the aggregate amount of all transactions and all disbursements — or book value in the case of investments and assets — with all transactions and all disbursements, the cumulative value of which in respect of a particular payer or payee for the period is greater than $5,000, shown as separate entries along with the name of the payer and payee and setting out for each of those transactions and disbursements its purpose and description and the specific amount that has been paid or received, or that is to be paid or received, and including...

There then follows a long list of subsections detailing specific things that must be reported. I will get back to those shortly.

First, I would ask honourable senators to pause and look more closely at the opening paragraph. This is important because the paragraph does not end with “specifically” or “namely” or similar words. It ends with the words “and including.” Basic principles of statutory interpretation mean that the words of this opening paragraph are the governing words and what follows does not limit those words, it just adds to them.
As I have said, this opening paragraph requires that a labour organization file statements:

... setting out the aggregate amount of all transactions and all disbursements... with all transactions and all disbursements, the cumulative value of which in respect of a particular payer or payee for the period is greater than $5,000, shown as separate entries along with the name of the payer and payee...

Honourable senators, there is no limitation here requiring the naming and disclosure of disbursements only to employees earning more than $100,000. The paragraph uses the words “the aggregate amount of all transactions and all disbursements,” but goes on to stipulate that there must be separate entries with the name of every payer and payee, with the specific amount that has been paid or received. The only limitation is that the total amount must be more than $5,000. If an employee or contractor earns or receives more than $5,000 during the year, they must be personally identified and the amounts reported.

In fact, it was at the report stage in the other place that these opening words were clarified to make it clear that “all transactions and all disbursements, the cumulative value of which in respect of a particular payer or payee for the period is greater than $5,000” were to be “shown as separate entries,” along with the payer or payee’s name.

Paragraph (b) sets out the general rule. Paragraphs (vii) and (viii) that follow are additions to this general rule of $5,000, but unfortunately they only confuse an already confusing reporting regime.

In the original version, paragraph (vii) was drafted to require disclosure of all disbursements to officers, directors and trustees; and paragraph (viii) was drafted to require disclosure of all disbursements to all employees, from part-time janitors to filing clerks, and up to the most senior employees.

These two paragraphs were also amended in the other place, after the bill was reported back from committee. Curiously, the amendment requiring the public disclosure of employees who earn more than $100,000 was inserted into paragraph (vii). It was tacked on to the sentence about officers, directors and trustees. As amended, the paragraph requires the reporting of:

(vii) a statement of disbursements to officers, directors and trustees to employees with compensation over $100,000 and to persons in positions of authority who would reasonably be expected to have, in the ordinary course, access to material information about the business, operations, assets or revenue of the labour organization or labour trust, including gross salary, stipends, periodic payments, benefits (including pension obligations), vehicles, bonuses, gifts, service credits, lump sum payments, other forms of remuneration and, without limiting the generality of the foregoing, any other consideration provided.

However, because of paragraph (b), which I read earlier, everyone making more than $5,000 must already be named. Paragraph (vii) does not say that anything less than $100,000 need not be reported. It does not override paragraph (b).

Honourable senators, to add to the confusion, there would appear to be a missing comma in between the clause “to officers, directors and trustees” and the words immediately following, namely “to employees with compensation over $100,000.” Without the comma, the sentence is exceedingly difficult to decipher.

There is also the problem that “persons in positions of authority who would reasonably be expected to have... access to material information” — and those words are taken from the bill — about the unions are not covered by the $100,000 threshold. The exemption, such as it is, does not apply to them. Honourable senators, there is no definition of what is meant by “persons in positions of authority.” In a normal hierarchical business model, which we are all familiar with, even middle-level employees have authority over others, and they certainly would not be earning $100,000 a year. Under this paragraph, if you have authority over others and have knowledge about how your union operates, your name and your salary go up on the Internet, no matter how much less than $100,000 you make.

Now let us turn to the amendment that was made to paragraph (viii). Once again, this paragraph is “included” as part of the general rule in paragraph (b) and does not override that $5,000 rule. Paragraph (viii) states that a labour organization must provide:
... a statement with the aggregate amount of disbursements to employees and contractors including gross salary, stipends, periodic payments, benefits (including pension obligations), vehicles, bonuses, gifts, service credits, lump sum payments, other forms of remuneration and, without limiting the generality of the foregoing, any other consideration provided...

Here, of course, there is no limitation to “employees with compensation over $100,000.” The amendment that was made to this section was to add in the words “with the aggregate amount” before the words “of disbursements to.” What does this mean? I do not know. Does “aggregate amount” mean one big figure representing all disbursements to all employees and contractors? Or does it mean the aggregate amount of the various described disbursements for each individual employee and contractor? It simply is not clear, but in any event, remember, the opening words of paragraph (b) were quite clear, especially as amended, that there was to be disclosure of each employee and contractor if the total amount received was more than $5,000 — not $100,000.

Has the bill been amended as Senator Eaton told us it was? I do not believe it has. Perhaps the amendments to paragraphs (vii) and (viii) might have achieved this, but the amendment made at the same time to the opening words of paragraph (b) pretty clearly undercut that. Looking at all of this, the amended overarching obligation set out in the opening words of paragraph (b) and the amended paragraphs (vii) and (viii), I think the bill now sets out several reporting obligations, the primary of which requires separate entries naming every person who receives money from a labour organization and listing what they received if the cumulative value is over $5,000.

As parliamentarians, is that what we want to do? Are these public disclosure obligations ones we really want to impose on our fellow Canadian citizens? What public purpose or what greater principle is served by this?

The issue cannot be the tax benefit that labour organizations receive by allowing deductions for union dues. Anyone in this chamber, and I suggested this to Senator Eaton when she spoke on the bill, who is a member of a professional association pays dues and is allowed to deduct those dues from income tax. Why single out labour organizations?

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“Corporations benefit from some of the biggest tax deductions, yet there is no suggestion that they should be subject to this level of disclosure. Political parties, which receive special tax treatment, have paid staff, but there is no forced disclosure for them. Only labour organizations.”

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Corporations benefit from some of the biggest tax deductions, yet there is no suggestion that they should be subject to this level of disclosure. Political parties, which receive special tax treatment, have paid staff, but there is no forced disclosure for them. Only labour organizations.

Remember, honourable senators, this is the same government that abandoned the mandatory long-form census because it was too intrusive. It is too intrusive to collect confidential information on things like how many bedrooms you have in your house, but it is not too intrusive to insist that persons who work as part-time filing clerks or janitors have their name and salary published on the Internet, just because they work for a labour organization. That, honourable senators, is what this bill will do.

In this country, we value our privacy. Statistics Canada has gone to extraordinary lengths to protect the information they collect. We have laws protecting the right of Canadians to privacy, yet this bill says that if you work for a labour organization, you lose that right.
My colleague in the other place, the Member of Parliament for Cape Breton—Canso, asked the Minister of National Revenue to produce the same information listed in Bill C-377 with respect to the people who work in the Canada Revenue Agency who administer the searchable charitable database. Let me read to you the answer given by the minister. This is a quote: “The Privacy Act precludes the CRA from disclosing personal information about its employees.”

Honourable senators, the CRA is being asked in this bill to require organizations to file the same information about their employees on the Internet, for the entire world to see, that Canadian law prohibits the CRA from disclosing to anyone about its own employees. Where is the fairness in that proposal?

Senator Eaton defended this bill on the principle of transparency. She said: “We require it of our public institutions, federal departments, Crown corporations and agencies.” Well, in fact, we do not require that level of transparency. Her colleague, the Minister of National Revenue, refuses to provide it for employees she is responsible for, who are, in fact, paid directly by all taxpayers, unlike employees of labour organizations.

By the way, it is not only employees who must disclose money they are paid from labour organizations. Anyone who receives money, if the total for the year is more than $5,000, must be publicly named and the amounts disclosed on the public record, on the Internet. A small business that has a contract to fix a labour organization’s photocopiers, to plough the snow or cut the grass — all must be identified by name with the amounts paid.

Honourable senators, this raises privacy issues, and it also raises issues of competitiveness for the business community. How will companies feel about disclosing the amount that they are charging each labour organization for their services? Their competitors will no doubt quickly learn to scan the public register closely, find out who is being charged what, and then use that information to their advantage. Imagine if all corporations were forced to operate this way in our economy.

The Harper government likes to say it is all about jobs and the economy, but this is a very peculiar way to go about creating jobs — to undercut the competitiveness of business and provide a disincentive for anyone to be hired by a labour organization. Remember the Jobs, Growth and Long-Term Prosperity Act? Now we know what the Harper government meant: jobs for some, but not if you work for a labour organization, and growth and prosperity, but only so long as your business does not do business with a labour organization.

This bill tries to name and shame anyone who works for a labour organization or who does business with one, stripping them of their privacy by requiring them to be publicly named with the amount they are paid posted on the Internet for their friends, neighbours and the world to see.

It does not stop there. It gets worse because Bill C-377 then turns its sights to burying every labour organization under a mountain of paper and red tape. It will require the tracking and reporting of literally every activity and disbursement possible, with particular focus on so-called “political activities, lobbying activities and other non-labour relations activities.”

Under clause 149.01(3)(b) of the bill, labour organizations will be required to produce and publicly post:

\[ \text{a statement with a reasonable estimate of the percentage of time dedicated by employees and contractors “to each of political activities, lobbying activities and other non-labour relations activities.” I will speak more about that shortly.} \]
A statement of the aggregate amount of disbursements on labour relations activities;
A “statement of disbursements on political activities.”

Note, honourable senators, that the word “aggregate” has not been inserted here. In other words, every individual disbursement on so-called “political activities” — and the term is not defined in the bill — must be tracked, disclosed and of course posted on the Internet.

A “statement of disbursements on lobbying activities,”
Again not “aggregate,” every individual disbursement must be tracked and disclosed.
A “statement with the aggregate amount of disbursements on administration.”
Honourable senators, “administration” is not defined in the bill. Can anyone here say with any certainty what must be disclosed under this paragraph? I cannot.
Contrast this to the next requirement:
A “statement with the aggregate amount of disbursements on general overhead.”
What is “general overhead,” as distinct from “administration”?
There is more. If we pass Bill C-377, every organization will need to produce:
A “statement with the aggregate amount of disbursements on organizing activities”;
A “statement with the aggregate amount of disbursements on collective bargaining activities”;
A “statement of disbursements on conference and convention activities”; and
A “statement of disbursements on education and training activities.”

This government says it is concerned about the need to train workers, but evidently the involvement of labour organizations is to be viewed suspiciously and tracked and reported.
A “statement with the aggregate amount of disbursements on legal activities, excluding information protected by solicitor-client privilege.”

What are “legal activities”? There is no definition in this bill. Are they the same as legal services? That is a term all of us would be familiar with. The term “legal services” is not used, simply “legal activities.”

Here is my personal favourite:
A “statement of disbursements, other than disbursements included in a statement referred to in any of subparagraphs (iv), (vii), (viii) and (ix) to (xiX) on all activities other than those that are primarily carried on for members of the labour organization or labour trust, excluding information protected by solicitor-client privilege.”

Can any honourable senators explain to me what is to be disclosed under this? Remember, there are severe penalties for non-compliance: fines of $1,000 for each day that a labour organization fails to comply with the reporting requirements.

Finally:
“any other prescribed statements.”

In other words, even if we in this chamber, joined by our colleagues in the other place, decide in our wisdom that the disclosure obligations should be limited — for example, to employees who earn more than $100,000 or that we should eliminate the requirement for individual names to be included on the public record — the government on its own can simply override our changes and pass regulations prescribing the information Parliament removed. They would then say that must be disclosed.
The words “any other prescribed statements” contain no limitation. Anything could be added: political party memberships or the home addresses of employees. As drafted, there is absolutely no limit on what the government could prescribe to be disclosed by regulation.
Honourable senators, this really is outrageous. There is no public policy that is served by this kind of disclosure. The only purpose, as I said, is to bury labour organizations in administrative work, preventing them from doing their real work, and presumably setting the table so the government can later turn to the union members and say, “See? Your union is not working for you; they are spending all their time on administration.”

As I noted earlier, there are detailed disclosure requirements in this bill related to “political activities, lobbying activities and other non-labour-relations activities.”

Honourable senators, why does this government present political activities as a bad thing? We should be encouraging citizens — individually and collectively in organizations — to engage on public policy matters, to come to Ottawa to speak with parliamentarians and government members, and to speak out publicly on issues of concern. We need more citizens engaging in political activities, not fewer.

We have a statute regulating lobbying activities and requiring public disclosure of those activities. Why do labour organizations require more disclosure than we have imposed on other organizations like banks, for instance? I ask Senator Eaton: What evil are we trying to prevent?

Honourable senators, I find offensive the attempt to suggest that political and lobbying activities are somehow not proper labour-relations activities, that they are somehow illegitimate. That is not what the Supreme Court of Canada said in the Lavigne case. In fact, the nature of labour relations, particularly under this government, is such that politics is more, and not less, a part of the collective bargaining process.

The Harper government has been in power seven years and tabled no fewer than six pieces of back-to-work legislation. Six times it has interposed itself into the collective bargaining process. Clearly the Harper government believes that politics has a place in labour relations. Why, then, does this bill try to say that it does not?

We have a federal Minister of Labour. If a labour organization meets with her, is that not a labour-relations activity? Perhaps in the doublespeak made famous in George Orwell’s 1984, the Minister of Labour in the Harper government only meets with business and does so to talk about labour relations problems that businesses are experiencing.

It is evident, honourable senators, that the real objective of this bill is to suppress yet another dissenting voice, this time that of labour. That is why this bill casts political activities as non-labour-relations activities. It is trying to suggest that they are somehow improper, that labour organizations should somehow not be speaking out.
When I spoke on Senator Eaton’s inquiry on the alleged “involvement of foreign foundations in Canada’s domestic affairs,” I referred honourable senators to a law signed by President Vladimir Putin in 2006 that gave Russian authorities wide-ranging powers to monitor the activities and finances of NGOs. The latest news is that Russian “tax police” are now involved. In the past month they have conducted searches of some 2,000 NGOs, organizations like Amnesty International and Lev Ponomarev’s human rights movement, under the guise of tax investigations.

I am sure we would all condemn these actions and recognize them, as the Associated Press put it, as:

... a wave of pressure that activists say is part of President Vladimir Putin’s attempt to stifle dissent.

How is this different, honourable senators? This bill asks our tax authorities, the CRA, to enforce compliance with outrageous disclosure requirements that are now going to be imposed on every single labour organization. This will become the new priority of the CRA: going after unions, right after they have cleaned up those dangerous charities that Senator Eaton railed against.

Bill C-377 will impose substantial burdens on labour organizations. Many, I am told, are small and do their books by hand, on paper. This bill requires them, in mandatory language, subject to $1,000-a-day fines for non-compliance, to file their returns electronically.

Why, honourable senators? Surely the CRA can receive and review returns in various formats. They do it every day at this time of year with our tax returns. The only reason that I can think of is that the concern is not about tax compliance, that is for CRA officials to be able to review the reports, but rather for others to be able to access them — for an employer, by way of example, about to enter into negotiations for a new contract with a union, to be able to know precisely the financial status of the union, whether or not they can afford a strike and for anti—union groups to gain access to information that they can use to their own advantage. (1730)

Of course, there are the unintended consequences, as businesses can scour the filings and find out what their competitors are charging labour organizations for services — for neighbours and others to find out what some neighbour, friend or relative is being paid.

Is this what our tax code should be used for? Is this the kind of law we want to be passing?

Some Hon. Senators: No.

Senator Cowan: Is this the Harper Conservatives’ view of “heaven on earth”?

Unfortunately, the closer one looks at the specific provisions of this bill, the worse it gets. Here is another example. Amendments passed in the other place at report stage added in a new subsection (5) to the new section 149.01. It now reads as follows:

(5) For greater certainty, a disbursement referred to in any of subparagraphs (3)(b) (viii) to (xx) includes a disbursement made through a third party or contractor.

Honourable senators, this would seem to greatly expand the scope of the reporting that will be required. Imagine, for example, third-party commercial entities operating at arm’s-length that enter into a contract with a labour organization. Paragraphs (viii) to (xx) include all the reporting obligations I listed a few minutes ago, from the percentage of time spent on political activities and lobbying activities to disbursements...
on administration, conference activities, education and training, et cetera, et cetera, including, as well, “any other prescribed statements.” This could potentially require every labour organization to somehow track and disclose disbursements made by third parties with whom they have contracted. Does it seem like a reasonable proposition to anyone in this chamber to have a legal obligation to report on the internal operations of third parties who conduct business at arm’s length?

As I say, this amendment was added very late in the process, with no opportunity to study or assess it in committee. I hope we will have that opportunity in committee here. I am concerned that this amendment opens up a Pandora’s box of reporting obligations; and of course, the $1,000-a-day fine applies if a labour organization fails to disclose what the bill mandates.

“Senator Eaton, the sponsor of the bill in the Senate, told this chamber:
Many other G8 countries, such as France, Great Britain, the United States and Australia, require similar disclosure. They have lived with the requirement for financial transparency for a long while without issue or cause.
Honourable senators, I regret to say that is simply not accurate. In the interest of time, I will focus on the experience in the United States.

Senator Eaton said the requirements proposed in this bill have existed in the U.S. “for a long while without issue or cause.” Certainly, there is a long history, but I do not believe it can be said accurately to have been “without issue or cause.” I commend to honourable senators a 2009 article by John Lund, Director of the Office of Labor-Management Standards. He describes the history of changes by the U.S. government in reporting and disclosure requirements for unions as having “generated considerable controversy.” Let me describe some examples from his article.

The 1959 Labor-Management Reporting and Disclosure Act generated heated debate between Senator Barry Goldwater and then-Senator John F. Kennedy. Senator Goldwater wanted unrestricted access by union members to transaction-level financial records. He argued that this was simply giving union members “at least the same right as a stockholder of a corporation.” Senator Kennedy replied:

I would object to a corporation being compelled to give every shareholder a list of all of its customers and the prices it is quoting and all the letters of information it receives on any matter in any of the books of the corporation.

Senator Goldwater’s amendment was voted down. I would suggest, honourable senators, that Bill C-377 would do precisely what Senator Kennedy objected to.

That was not the end of the issue in the United States. In 1992, during the last year of the presidency of George H.W. Bush, House Republican Whip Newt Gingrich wrote to then-Secretary of Labor Lynn Martin. He asked her to take “long overdue steps” that “will weaken our opponents and encourage our allies.” What were those steps, honourable senators? One was to order the Office of Labor-Management Standards to make changes to the union reporting and disclosure forms to require considerably more detailed financial reporting. Immediately before submitting his resignation, OLMS Administrator Robert Gutman denounced the changes. He said they were unnecessarily burdensome, and he characterized the functional activity category reporting — the sort of reporting requirements that permeate Bill C-377 — as “a lot of junk.”
The new regulations were nevertheless adopted under President George H.W. Bush in October 1992. In January 1993, they were rescinded by President Bill Clinton. “A lot of junk,” honourable senators, implemented deliberately to “weaken our opponents and encourage our allies.” Some heaven on earth.

Nothing further happened until the administration of President George W. Bush — another Republican administration, another expansion of disclosure and reporting requirements imposed on unions. Several sets of changes were introduced. Notably, in contrast to what is before us in Bill C-377, President George W. Bush never tried to impose the kind of sweeping reporting requirements that are found in Bill C-377 on all unions. Large unions with annual receipts of over $250,000 had to file detailed reporting forms, but all others had much less onerous requirements.

In January 2009, just before his term ended, President George W. Bush changed the reporting requirements for the very largest unions, making them even more detailed. The new rule required, for example, reporting of the value of benefits paid to and on behalf of officers and employees. Does that sound somewhat familiar, honourable senators? These requirements were rescinded by President Barack Obama a few months later. The U.S. Department of Labor made some interesting observations when the regulations were rescinded. It said:

... the Department may have underestimated the increased burden that would be placed on reporting labor organizations and overestimated the additional benefits to union members and the public of the increased data disclosures.

This is not surprising, honourable senators. The very first line at the top of the form to be completed by these unions reads as follows:

Public reporting burden for this collection of information is estimated to average 536 hours per response.

Honourable senators, 536 hours is more than 13 weeks or some three months working full-time to fulfill the obligations that we are being asked to impose. In the United States, these obligations were imposed only on the very largest unions, those with annual receipts over $250,000. Under Bill C-377, they would be imposed on all labour organizations. This proposal is from a government that likes to present itself to Canadians as the government that will remove administrative burdens. The Honourable Tony Clement, President of the Treasury Board, famously vowed to cut red tape. He said:

I am pleased to announce that the government is keeping its promise and implementing a “one-for-one” rule. This will require regulators to remove at least one regulation each time they create a new one that imposes administrative burden on business. Reduced administrative burden for business and an avalanche of new burdens for labour— I do not remember this being promised.

Honourable senators, to be clear, these administrative burdens will not fall on trade unions only. While the discussion around this bill usually assumes that the bill will apply only to trade unions, as drafted its scope would appear to be potentially much, much larger.

(1740)

The bill’s requirements apply to “labour organizations,” and they are defined as follows:

“labour organization” includes a labour society and any organization formed for purposes which include the regulation of relations between employers and employees, and includes a duly organized group or federation, congress, labour council, joint council, conference, general committee or joint board of such organizations.
This is a very broad definition. For example, contrast it to the Canada Labour Code. That federal law contains two definitions, one for “trade union” and another for “employers’ organization.” Let me read to you those definitions from the Canada Labour Code:

“employers’ organization” means any organization of employers the purposes of which include the regulation of relations between employers and employees.

...”

“trade union” means any organization of employees, or any branch or local thereof, the purposes of which include the regulation of relations between employers and employees.

Notice, honourable senators, how the wording here is virtually identical to that used in Bill C-377 — “any organization... the purposes of which include the regulation of relations between employers and employees” — except that, while the Canada Labour Code distinguishes between a trade union, which is “any organization of employees,” and an employers’ organization, which is “any organization of employers,” Bill C-377 says “any organization.” Applying basic principles of statutory interpretation, one can only conclude that the obligations of Bill C-377 are intended to apply to both trade unions and employers’ organizations, because no distinction is made in the bill between the two, as is done in the Canada Labour Code.

That means, for example, that an organization like Merit Canada, which lobbied vociferously for this legislation, would itself be caught by Bill C-377. It is certainly an organization formed for purposes that include the regulation of relations between employers and employees.

I have met with doctors, nurses and lawyers who believe that the bill may well apply to various medical and legal associations. Provincial medical associations negotiate tariffs — the pay that medical doctors receive — with provincial governments and, arguably, are organizations “formed for purposes which include the regulation of relations between employers and employees.” Legal aid societies negotiate legal aid tariffs with their respective provincial governments. They might now be caught by this as well.

“What costs are we imposing on all of these Canadian organizations to comply with this over-the-top bill? This government proudly proclaims that it will not impose new taxes, but it happily puts forward bills like this that will drive up costs for organizations with no resulting serious public benefit for Canada.”

Senator Eaton told this chamber that:

“Canadian charities have complied with similar requirements such as those prescribed in this legislation for over 35 years.”
However, honourable senators, that is not what the CRA says. The CRA was asked about the proposed reporting requirements relating to political activities and whether this is simply the same thing that is required of charities under the Income Tax Act. Their answer?

No. Registered charities are not required to report the percentage of time dedicated to political activities or to lobbying activities by their officers, directors and trustees.

The public reporting required by Bill C-377 is unprecedented.

This is not, unsurprisingly, a cost-neutral bill. I look forward to other honourable senators discussing the anticipated cost of administering this bill. How the CRA will manage these costs, even as it is cutting more than $250 million from its budget over the next few years, is hard to imagine. CRA has been one of the departments hardest hit by the government’s public service cuts. It is losing some 3,000 full-time positions. What will the remaining employees have to give up doing to allow them to take on this new task of overseeing the internal operations of labour organizations?

“Before I close, I must also add that there appear to be serious constitutional issues with this bill. A number of constitutional experts have raised concerns, based both on the Charter and on the division of powers. They say Parliament simply does not have the jurisdiction to enact this bill.”

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In brief, while it is framed as an income tax bill, the fact is that this legislation is really a labour bill. If it were truly an income tax bill, why would it target only labour organizations? There are many associations and businesses that benefit from tax deductions. If this were truly an income tax bill, it should apply equally to all of these groups alike.

There is the fact that disclosure of financial information by labour organizations is already mandated by statute: by labour laws at both the federal and the provincial levels.

Bill C-377 tries to sweep provincial laws away, to say, “We think you have made bad choices, and we are going to dictate what labour organizations are required to disclose.” This is a blatant invasion of provincial jurisdiction.

I also remark upon the irony that this bill is before us with the support of a government that refuses provinces’ pleas to join with them in pan-Canadian discussions on health care reform or a national energy policy. However, when it comes to demanding disclosure from provincial labour organizations, then this government jumps to intervene.

In fact, several provinces are already on the record as opposing Bill C-377. They say it is not necessary, as members of labour organizations already have the right to obtain financial information from their organizations. The provinces express their deep concerns over the negative impact this bill will have upon labour relations in their provinces.

The government in my home province of Nova Scotia wrote:

This legislation has the potential to disrupt collective bargaining, at a time when we need greater cooperation between governments, organized labour and business to resolve our economic problems.

The Ontario government said:

This bill... has the potential to drastically derail collective bargaining in Ontario. In these tough economic times we need governments, organized labour, and management to work together, and this bill as passed through the House needlessly intervenes in that process.
The Government of Manitoba sounded the same caution:

"The Bill's requirement to publicly disclose confidential financial information will likely unbalance and seriously disrupt labour relations between employers and unions, and adversely affect the collective bargaining process in Manitoba. It is not clear what benefit, if any, this Bill offers that would counter the harm it will do to our labour relations climate, our economy, and our communities."

Manitoba also wrote:

"This Bill may be seen as an incursion into, and a potential violation of, Manitoba's labour relations jurisdiction."

The Government of Quebec pointed out that Bill C-377 goes against their approach to the management of labour relations in Quebec. They cite constitutional experts who have said that Bill C-377 would be a violation of the division of powers and, therefore, unconstitutional.

Honourable senators, we have four provinces already on record opposing this bill and asking us not to pass it into law.

(1750)

There are serious constitutional issues and equally serious policy issues. To be clear, there are no pressing problems that this bill is needed to address.

"Not only is this bill not needed, but passing it would be the wrong thing to do. As a matter of individual, personal privacy, it is the wrong thing to do. As a matter of labour relations, it is the wrong way to proceed. The Harper government keeps telling Canadians that all its activities are focused on jobs and the economy, yet we have this bill that several provinces say will harm their ability to weather these tough economic times.

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The Canada we should be building as parliamentarians is one where all Canadians are equally respected. Where all are welcome to join in the public debate. Where policies are tested where it counts — against ideas that challenge them, rather than accept and acquiesce. Where the privacy of all Canadians is protected whether someone works for an organization that supports the government or not, and where power is used for the betterment of all, whatever one's political views. That is not what I see in Bill C-377, and that is why I am opposing its passage.

Honourable senators, I appreciate your patience, given the length of my remarks, but if this bill does somehow pass, I want the official record to show very clearly that it passed even though we all knew of its stunning shortcomings and its horrendous drafting. I have tried to highlight problems with this bill. Senator Segal did the same in his excellent remarks on February 14. I know that other honourable senators have concerns that they will raise in the chamber. However, sooner or later, we will be voting, and I want to be absolutely sure that we will be voting with our eyes wide open on this private member's bill, as the official record will show all Canadians.

Hon. Jane Cordy: I wonder if I could ask a short question. I know the honourable senator is probably quite tired.
Senator Cowan: Yes, certainly.

Senator Cordy: I thank the honourable senator for an excellent analysis of the bill and the harm that it will do.

“We have all been getting huge amounts of well-researched and well-thought-out information, emails and letters and so on. I was quite surprised that the author of the bill, MP Russ Hiebert, has admitted that he has not actually received a single complaint from a union member that could not get financial information from their union. That surprised me. Why would he bring the bill in? In 2011, a total of six complaints were filed with the labour boards across the country, all of which were resolved — six complaints out of 4.2 million union members throughout Canada. I was quite surprised that Mr. Hiebert would even bring forward a bill when he had gotten no complaints and there were only six complaints out of 4.2 million union members in Canada.

I know the honourable senator mentioned it briefly, but I wonder if he could reiterate why he thinks the government has brought forward this legislation when certainly the need for it does not seem to be demonstrated by what Mr. Hiebert has heard.

Senator Cowan: I thank the honourable senator for her question. As she suggests, there does not appear to be a public need. There is no demand from union members for this kind of reporting and disclosure.

According to most union members whom I have spoken to, even though they may not be happy with the way in which their unions are governed, it is not for a lack of information. That is not the source of their complaint or the reason for their complaints. Most union members whom I have spoken to seem satisfied with their ability to get the information that they require about the activities of their unions.

I am at a loss. I tried to address in my remarks the specific rationale for this bill that was put forward by Senator Eaton, such as issues of transparency and to make it consistent with treatment that is imposed on charities and other organizations in this country. I hope I have demonstrated that she misspoke when she said that and that those are not accurate comparisons.

In fact, the regime to be imposed under this bill is much more onerous than exists with respect to any other private organization and is more onerous than the level of disclosure that the government is prepared to allow with respect to those who work for our government. To impose it on a private organization when they are not prepared to impose it on their own employees seems to me to be a bit of a stretch.”