

# Oh, Canada

## Whip's words worth weighing

Six days ago an item about Whip Steve Scalise appeared on the celebrity gossip site TMZ.com, on the same page alongside status updates on LeBron James, Suge Knight and Kylie Jenner. That was around the same time Scalise hosted a dinner in Washington that was attended by senior White House officials and members of Congress, according to reports.

Two days ago, Scalise's statement on a pending trade deal between the U.S. and Canada was also picked up by the lion's share of this nation's top media outlets. In Beltway-centric publications like *Roll Call* and *The Hill*, it was the whip himself who served as the lead (or lede).

Coming out of a city where no statement can be overanalyzed, Scalise's words were as interesting as the media attention they were afforded, the motives that were subsequently ascribed by DC diehards and, generally, the timing.

This "Oh, Canada" moment arrived during a stage in the whip's political development where he was positioned firmly in the American mainstream — and in some respects just as he was settling in. Sure, the Jefferson Parish politico has long known the intimate glare of notoriety, after surviving a scandal involving alleged David Duke connections **and** surviving a shooting. But now his brand is brushing up against pop culture and, more importantly, sticking there. (Last week was not his first TMZ appearance.)

While many in Capitoland still look upon Scalise as alum and chum, outside of Louisiana he's many things to many people. In fact, the campaign accounts connected to Scalise could collectively spend more money this cycle supporting candidates in others states than they will for the whip's own election. (There's at least one fundraising drive underway for House Republicans where Scalise is offering a sizable match.)

In Washington specifically, Scalise has emerged as one of the most popular members of Congress — and a slick operator who's leveraging a mid-level leadership job for everything its worth. So when such a force stepped out on an issue like NAFTA, made a demand of another country, and then backed it up with the promise of congressional action, a few ears perked up. And some minds, naturally, wondered about motive. [Refer to his full statement in the text box.]

"This showed that Steve Scalise can step out on a big issue," said a veteran lobbyist. "We're not seeing (Majority Leader) Kevin McCarthy step out like that right now."

There's no doubting that Scalise wants to be speaker. But there's also no doubting that Scalise intends to keep his word and allow McCarthy to freely corral the 218 votes required for a speakership.

*"Now that the Trump administration has completed a new trade deal with Mexico, and continues negotiations on a better agreement with Canada, there is a growing frustration with many in Congress regarding Canada's negotiating tactics. Members are concerned that Canada does not seem to be ready or willing to make the concessions that are necessary for a fair and high-standard agreement. While we would all like to see Canada remain part of this three-country coalition, there is not an unlimited amount of time for it to be part of this new agreement. Congress takes seriously and intends to fully enforce the deadlines established in the Bipartisan Congressional Trade Priorities and Accountability Act (TPA). We will not short-circuit the open, transparent, and accountable process established under TPA to ensure that the full text is available to the public. Mexico negotiated in good faith and in a timely manner, and if Canada does not cooperate in the negotiations, Congress will have no choice but to consider options about how best to move forward and stand up for American workers."*

—Whip Steve Scalise (Sept. 18, 2018)

Should he fail, however, Scalise will be able to mobilize quickly. In the meantime, his “Oh, Canada” moment serves as a reminder to conservative members that he still means business.

If the GOP somehow manages to return a majority to Congress next term, and McCarthy indeed reaches for the Big Gavel, President Donald Trump’s role could be interesting. The president is on good terms with both men, even if one of them seems to be working harder to advance the White House’s agenda.

“This statement about Canada could be a courtship of Trump,” said a longtime staffer on the Hill.

Or maybe it was simply a frustrated Steve Scalise, speaking for himself while echoing the sentiment of many in the lower chamber, on an issue that needs help leaning forward.

We know Scalise does not intend to be a candidate for speaker. We know he does not intend to be a candidate for governor. We know he has enviable name recognition, an entry into American living rooms, and a finance structure that’s only beginning to hum.

What we don’t know is what’s next for the whip. Based on his own positioning, though, Scalise’s political future seems irreversibly linked to those of many others, from McCarthy to every House Republican on a ballot this fall.

So *what is next?* We have no idea, but our journey toward an answer is going to be a hell of a ride.

A message from The Picard Group

# Franco-Fête!



**Franco-Fête 2018**  
A French-themed luncheon fundraiser sponsored by



**LPFA**  
LOUISIANA PUBLIC FACILITIES AUTHORITY

benefitting the CODOFIL Escadrille Louisiane French teacher scholarship program  
honoring Acadiana’s native

**Senator Eric LaFleur**

for countless years of unequalled public service, and his strong support of  
French language programs and the mission of CODOFIL.

**Sunday, October 14<sup>th</sup>**  
11:30 a.m. — 2:00 p.m.  
City Club River Ranch  
Fleur de Lis Ballroom



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Each year, Franco-Fête raises funds to support French education in Louisiana, especially through La Fondation Louisiane’s “Escadrille Louisiane” scholarship program which allows dozens of Louisiana students to study in France (Brittany, Martinique, and Guadeloupe), before pursuing their careers as teachers in immersion schools across the state. CODOFIL, the Council for the Development of French in Louisiana, and their board of trustees help support and grow Louisiana’s francophone communities through scholarships, French immersion and various other community and language skill-building programs. Tyron Picard serves on the board of La Fondation Louisiane, the foundation arm of CODOFIL.

This year’s program will also feature the presentation of the “Marquis de La Fayette 2018” award to Louisiana Senator Eric LaFleur for his many years of public service and his strong support of French language programs and the mission of CODOFIL. Also in attendance will be Vincent Sciamia, Consul General of France in New Orleans, together with numerous CODOFIL partners, Louisiana senators and representatives, local elected officials, entrepreneurs, university professors and other Louisiana officials. The Picard Group congratulates Senator LaFleur on this distinguished honor.

Evan Boudreaux, Deputy Director of Policy at The Picard Group, is helping to coordinate the luncheon that will be held on Sunday, October 14 at 11:30 a.m. at City Club at River Ranch in Lafayette. For information on sponsorships and tickets, please contact Evan Boudreaux at 337-989-0071 or by email: [eboudreaux@thepicardgroup.com](mailto:eboudreaux@thepicardgroup.com).

## THE KAVANAUGH QUESTION

### *Johnson 'wasn't impressed by Anita Hill' Will Ford influence Cassidy & Kennedy?*

The Senate Judiciary Committee is scheduled to hear testimony Monday regarding assault allegations against Judge Brett Kavanaugh, who is President Donald Trump's Supreme Court nominee. If the proceedings go as planned, look for junior Sen. John Kennedy to steal a moment or two. As a committee member, he will have the opportunity to question both Kavanaugh and his accuser, Dr. Christine Blasey Ford.

Kennedy has spoken with Kavanaugh about the situation, and he huddled with his committee colleagues and Majority Leader Mitch McConnell in a closed, two-hour meeting Monday afternoon. "I think the American people need to hear from Dr. Ford and Judge Kavanaugh. I trust the American people to draw their own conclusions," he told reporters. (In later interviews, Kennedy expressed frustration with Ford's insistence on a FBI probe, and the failure of Senate Democrats to disclose the allegations before the initial hearings.)

Senior Sen. Bill Cassidy has echoed statements made by Judiciary Chair Chuck Grassley, saying the Senate would hear directly from Ford herself and take her comments into account before proceeding. (Cassidy previously voiced his intentions to support Kavanaugh's nomination.)

Capitol Hill has not seen this particular sort of high drama since the Anita Hill-Clarence Thomas saga gripped Congress for four days in October 1991. In a conversation with LaPolitics, former U.S. Sen. J. Bennett Johnston discussed his recollections of the Thomas hearings, his ultimate decision to vote for confirmation and what the historical indicator might mean for Kavanaugh.

According to Johnston, Thomas checked off every criteria that the senator used when evaluating a Supreme Court nominee. Like Kennedy and Cassidy with Kavanaugh, Johnston publicly expressed his intention to vote for the nominee before those earlier and separate assault allegations surfaced. When Hill, one of Thomas' former subordinates, did come forward and accuse him of workplace harassment, Johnston re-evaluated his position. But ultimately, he was unmoved. "I was not persuaded by Anita Hill," he said. "In my view, it may have been that he made some untoward remarks that she amplified. You couldn't tell exactly what had happened."

Johnston, like many senators at the time, took issue with the fact that Hill continued to stay in contact with Thomas after the alleged harassment. "After all these events took place, she called him and met with him as if nothing had happened at all. It seemed to me that this was implausible. If this was such shocking conduct, she should have avoided him," the former senator said.

In his view, Hill's account had some glaring holes. Multiple press reports have indicated that Ford's testimony against Kavanaugh may have similar deficiencies. "If it is a question of Dr. Ford saying he did and Kavanaugh and his friend saying he did not, then I don't think that is a strong enough case to throw him out," Johnston said. "We'll have to see what the evidence shows, but my guess is he gets confirmed."

**RJ & THE AG**

### THE DECUIR Q&A About that internet sales tax thing...

*LaPolitics Weekly: Why all the headlines and buzz about the internet sales tax?*

- **Jason DeCuir**, a principal with tax services firm Ryan and former executive counsel for the Louisiana Department of Revenue: All the headlines are related to the U. S. Supreme Court overturning one of the most significant cases in the history of state and local taxes — *Quill Corp. v. North Dakota*. In *Quill*, the Supreme Court affirmed the requirement that a company have "physical presence" in a state before a state could require that particular company to collect its sales or use tax. Therefore, "remote sellers," or out-of-state sellers, did not previously have to charge sales tax on those items sold to customers in Louisiana via telephone, catalogs, internet, etc. On June 21, 2018, the Supreme Court issued its decision in *South Dakota v. Wayfair*, overturning this long-standing precedent, and holding that "physical presence" was no longer a necessary requirement under the commerce clause. What this means for the average consumer is that you could be subject to paying sales tax on many types of items purchased from out-of-state retailers who were not previously required to collect and remit the sales tax to Louisiana.

*LW: Misinformation seems to plague this particular issue. What's being overlooked in the developing storyline?*

- **DeCuir**: Many people are of the opinion that Louisiana can now start to require internet retailers that don't have a "physical presence" in the state to collect and remit sales tax. This is a false premise on a number of fronts. First, while the Supreme Court in *Wayfair* did not endorse a specific

## **Dem chair wants joint hearing Caucus doing prep work for 2019**

House Democratic Caucus Chair Robert Johnson has requested a joint meeting of the health and welfare committees to look into the legal action undertaken by Attorney General Jeff Landry regarding the Adorable Care Act.

Landry recently joined a lawsuit brought by Texas AG Ken Paxton challenging the legality the ACA. Johnson said the caucus is concerned the litigation could jeopardize the nearly 840,000 Louisianans on insurance rolls with preexisting conditions.

"We want to ask the attorney general to come before the committee and possibly discuss a timeline for when that injunction would be issued and what Louisiana would be looking at, as the Legislature would be the ones having to come up with some type of plan," Johnson said.

Looking ahead to the 2019 regular session, Johnson said caucus members have been staying in touch and coordinating policy plans. A pay raise for teachers is almost certain to be on the docket when lawmakers re-convene, he said, and Gov. John Bel Edwards has called it his "number one priority." Johnson said he does not expect the debate over pay raises to be contentious. "I don't think of it as a partisan issue," he said. "I think that's a common-sense Louisiana issue."

### **Field Notes!**

- @MelindaDeslatte: @LouisianaGov confirms state ended last budget year with a surplus around \$300M, says it's a sign of improving economy... Edwards: Louisiana's expected \$300M surplus driven by better-than-expected personal and corporate income tax collections... @LouisianaGov didn't spell out a list of how he'd like to spend the surplus, but said "there's no shortage of needs," citing backlog of road projects and college building repairs.
- LEGISLATIVE WATCHLIST: Former Congressman and state Sen. Cleo Fields hosted a fundraiser this evening to support his 2019 comeback bid for the Senate.
- WBRZ: "Visitors will soon be able to walk through the State Capitol's front doors again after the 86-year-old building gets a new covered walkway."
- LEGISLATIVE WATCHLIST: Pipeline Construction & Maintenance, Inc. owner and chairman Michael "Big Mike" Fesi, Sr. plans to run for term-limited Sen. Norby Chabert's Senate District 20 seat. Fesi ran for the seat in 2015 and is a member of the Republican State Central Committee. His campaign consulting team, if you're wondering, is the Louisiana-based Innovative Politics. The firm notably produced a large portion of the nationally-aired television ads for the Trump for President campaign
- SOS PR: Former Louisiana State Senator A.G. Crowe today vowed to dedicate \$25,000 of his state salary if elected as Secretary of State this fall to a scholarship that will encourage students to think about the importance of voting.

"economic nexus" standard, it indicated that certain protections must be in place to prevent a state's collection requirements from discriminating against interstate commerce, such as a simplified sales tax collection system and rate structure. It is no secret that the Louisiana sales tax administration system, as a whole (state and local), is far from simple. In fact, Louisiana's sales tax system is arguably the most complex in the entire country, and ranked as the worst by most national tax organizations. Louisiana would not meet the "simplification" ideals expressed by the Supreme Court until it reforms its outdated and unduly burdensome tax collection system. Although a commission has been set up to attempt such, there is still considerable disagreement from local tax collectors. Until a uniform/centralized system is created between the state and local tax collectors, Louisiana (as a whole) will not be able to require remote sellers to collect and remit sales tax on their sales into the state. Secondly, there is discussion regarding Louisiana reforming its sales tax system as it relates to remote sellers only. This would be a terrible policy decision, add another layer of administration and only further complicate the Louisiana sales tax system. Louisiana is basically one of two states with such a bifurcated system (state and local), and it is time for us to reform our outdated, antiquated and uncompetitive sales tax system as a whole. This would not only lead us towards compliance with the Supreme Court's opinion expressed in *Wayfair*, but it is the single most necessary tax reform needed in Louisiana. Such a reform would align us with the rest of the country and allow us to become more competitive. Lastly, if local governments and tax collectors are unwilling to make the necessary reforms, it is possible that the state could leave them behind and only require remote sellers to collect and remit the state sales tax. Obviously, the state would be uniform with itself and likely meet the necessary "simplification" protections articulated in *Wayfair*.

- **SOS PR:** *Conservative Republican Rick Edmonds has received the endorsement of the Ascension Parish and Washington Parish Republicans in the special Nov. 6 election for Louisiana Secretary of State. (Based on our followup reporting, Edmonds split Ascension with Crowe and won Washington outright.)*
- **RUNNING:** Archie Chaisson III has announced his candidacy for the office of Lafourche Parish president. For the last two years he has worked for the city of Thibodaux as public works director.
- **CORRECTION:** In the last edition of LaPolitics Weekly, an interview with Louisiana Association of Business and Industry President Stephen Waguespack included an error. We transcribed his interview and mistakingly transformed an "aren't" into an "are." The sentence should have read as follows: *"The solutions that must be delivered upon **aren't** a surprise, and we've danced around them forever."*
- **New Orleans Mayor LaToya Cantrell** said that her administration is exploring moving the Big Easy's city government out of its current location and into another building. Possible new locations include the former Municipal Auditorium and the former Charity Hospital building.
- **The Advocate:** "Angered at extravagant trips, insurance benefits, plus lucrative per diem pay for board members and executives, Louisiana's utility regulators Wednesday shutdown two requests to increase monthly electric bills and ordered a sweeping investigation into the compensation and perks at all Louisiana's rural electric cooperatives."

### **They Said It (Kennedy-Kavanaugh Edition)**

- "So far, it's pretty much been an intergalactic freak show."*  
—U.S. Sen. John Kennedy, on the Kavanaugh confirmation process, on Fox News Sunday
- "The only thing missing was the genitalia-shaped headgear."*  
—Kennedy, on the initial hearings for Kavanaugh, on Fox News Sunday
- "Most Americans are looking at this and they're thinking that Congress has hit rock bottom and started to dig."*  
—Kennedy, on the Kavanaugh confirmation process, on Fox News Sunday
- "If you have ever read an FBI background check -- it's a cross between an endoscopy and a colonoscopy."*  
—Kennedy, on the vetting process for nominees, on Fox News
- "I've said it before, this is no country for creepy old men, or creepy young men, or creepy middle aged men."*  
—Kennedy, on unacceptable male behavior, on WAFB

### **They Said It (Regular Edition)**

- "I managed my money from a lemonade stand when I was 5 better than you handled taxpayer money."*

*LW: If Louisiana moves forward with collections, state government could reportedly incur litigation. Is that true, and has that played out in other states?*

- **DeCuir:** If Louisiana were to try and enforce state and local sales collections with remote sellers today, litigation is certain to occur. As of now, Louisiana's current sales tax system does not come close to meeting the "simplification" protections discussed in *Wayfair*. It will be interesting to see whether local collectors will ultimately agree to reform the current system, or instead try to retain "status quo" and pursue remote sellers. If the latter, litigation will occur. In the 2017 regular legislative session, a law was enacted to create the Uniform Local Sales Tax Board. This board was created to simply try and promote uniformity among local jurisdictions with respect to administering and/or interpreting the sales tax laws. However, some local collectors felt this simple reform was an overreach and sued to have the ULSTB declared unconstitutional. This litigation is still ongoing. If local collectors are not able to get on the same page with respect to the ULSTB, it would seem — at this point — that they would rather test the constitutional boundaries than reform its sales tax collections system. This will obviously cost the taxpayers of this state a significant amount of time, resources and money when the simple solution would be to reform our sales tax collection system such that it is not unduly burdensome on interstate commerce. Most states will not have to worry about incurring litigation because they already have a centralized and uniform system in place with respect to state and local sales tax collections. One issue that could arise in other states would be if a state attempts to enact "economic nexus" parameters that are significantly broader than those implemented by South Dakota and at issue in *Wayfair*. Although, the Supreme Court opined that the South Dakota

—Edwards Deputy Chief of Staff Richard Carbo, responding to former Jindal Chief of Staff Timmy Teepell, via Twitter

"It certainly beats a deficit."

—Gov. John Bel Edwards, on the state's projected surplus, on Ask The Governor

"We either have terrible fiscal management or we have been purposefully misled."

—Sen. Conrad Appel, on the state's projected surplus, in The Hayride

"I'm happy to get rid of them more than anybody else."

—Sen. Greg Tarver, on BRF operating North Louisiana hospitals, in The Advocate

"We're connected not at the hip but at the heart."

—LSU Health Sciences Center Shreveport Chancellor G.E. Ghali, on the new partnership with Oschner, in The Times

"I come into a utility that's bombarded with a lot of issues."  
—Sewage & Water Board Executive Director Ghassan Korban, on his new job, in The Times-Pic

"City Hall is a sick building and we have to be sure we have the ability to move or remodel."  
—New Orleans CAO Gilbert Montano, on a new municipal HQ, in The Times-Pic

#### LaPOLITICS WEEKLY

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Jeremy J. Alford  
Publisher-Editor-Lover-Fighter-  
Your Port Allen Podnuh

Mitch J. Rabalais  
Deputy Editor-Resident Historian

Mary "Lizzy" Elizabeth  
Ann Burleigh  
Accounts Manager-Lion Tamer-LaPolitics Ambassador  
to Shreveport

John J. Maginnis  
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Fan Mail  
[JJA@LaPolitics.com](mailto:JJA@LaPolitics.com)

Corrections/Hate Mail  
[Mary@LaPolitics.com](mailto:Mary@LaPolitics.com)

Bat Phone  
225-772-2518

Snail Mail  
Post Office Box 84779,  
Baton Rouge, LA 70884

Fax (We Have One)  
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law was not unconstitutional with respect to the "substantial nexus" requirement of the Commerce Clause doctrine, the court did not hold the specific standard or statutory language enacted by South Dakota to be the new bright-line rule pertaining to economic nexus. The court instead indicated that each state's action on this issue would have to stand on its own merits. In other words, it is possible that "economic nexus" provisions, such as the "small seller" exception, could be broadened or implemented differently and still be upheld by the court. It will be interesting to see, as more states enact "economic nexus" legislation, how aggressive they will be with testing the boundaries discussed in Wayfair.

LW: Will a nexus come into play in Louisiana? That was a concept lawmakers spent time on in the past.

- DeCuir: Yes, an "economic nexus" standard has been enacted in Louisiana. Basically, this means that "physical presence" is no longer an absolute requirement. If a company enters into 200 or more separate transactions or greater than \$100,000 of goods or services during the previous or current calendar year, they are considered to have an economic presence within Louisiana and subject to sales tax collection and remittance obligations. Again, it is not Louisiana's economic nexus statute that is the problem. The problem for Louisiana is that our current sales tax collection system does not meet the necessary "simplification" standards discussed in Wayfair and is unduly burdensome on interstate commerce. This aspect of our sales tax system must be reformed in order for Louisiana to be in compliance with constitutional boundaries.

LW: What's next?

- DeCuir: Unfortunately, for now it is the wait and see approach. Louisiana's "remote sales tax commission" continues to meet and discuss whether the state and local sales tax collectors can agree to reform the current system and meet the standards discussed in Wayfair. The early reports are not positive, however, and many local collectors do not feel they need to act or reform the current sales tax system. A few other questions to note: (1.) The Wayfair case is on remand back to the lower court. Will there be another constitutional challenge to South Dakota's statute that does not relate to the physical presence test? (2.) Will Louisiana attempt to apply its "economic nexus" law retroactively against remote sellers? (3.) When will rules, regulations or guidance be issued to "remote sellers," since they are incurring transactions daily post-Wayfair?