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(HANSARD)

**Thursday, December 9, 2010**



THE HONOURABLE NOËL A. KINSELLA  
SPEAKER

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

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## THE SENATE

Thursday, December 9, 2010

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

Prayers.

### SENATORS' STATEMENTS

#### UNIVERSITY OF VICTORIA

##### CANASSIST PROGRAM

**Hon. Sharon Carstairs:** Honourable senators, two weeks ago, I had the great privilege to visit CanAssist at the University of Victoria. This incredible organization is dedicated to improving the lives of those with disabilities, young and old alike, and it is engaged in a wonderful partnership at the university.

I met the staff including engineers and computer technicians who work together to create and distribute customized assistive technologies and devices. Let me describe some of the projects that I observed.

An iPod had been enhanced to allow brain-damaged individuals to function by prompting them as to how to perform certain tasks — for example, how to use the coffee maker — press the iPod; how to make the coffee — press the iPod; how to get to the office — press the iPod; and how to get to the gym.

I saw the same iPod adapted to be used by quadriplegics so they can enjoy the music they want by simply raising their eyebrows. The client in this case wears a chic headband with sensors invisible to others, but these sensors are so sensitive that they can detect the raised eyebrow.

I saw another device that allowed a severely disabled man to play catch with his dog. By a simple movement, he could fire balls 100 metres by activating a simple device on the side of his wheelchair.

I saw a project that enabled a non-computer-literate 90-year-old to use Skype simply by touching a picture image of the person with whom she wanted to speak, thereby enhancing her ability to remain in contact with family and friends and, similarly, they can contact her.

Technology is becoming so much a part of our everyday lives. It was a delight to see how these technologies can be adapted for the disabled by making products that enable these Canadians to lead lives similar to that of able-bodied Canadians.

I congratulate the University of Victoria and CanAssist for this remarkable program.

#### COMMISSIONER OF YUKON

MR. DOUGLAS GEORGE PHILLIPS

**Hon. Daniel Lang:** Honourable senators, I rise to mark the appointment of Douglas George Phillips as the twenty-ninth Commissioner of Yukon. Prime Minister Harper met with Commissioner Phillips last week to make the announcement here in Ottawa, and the commissioner will be sworn in formally in Whitehorse on December 17.

For those senators who are not aware, the position of commissioner in the Yukon is akin to that of the lieutenant-governor in a province. Commissioner Phillips brings an impressive resumé to his new position. He genuinely represents a love of the outdoors and a commitment to public service that endears him to all Yukoners.

A lifelong Yukoner, Mr. Phillips in his past life served as a member of the Yukon Legislative Assembly as well as in the cabinet of the Yukon Government.

He is well known for his work with the Yukon Hospital Foundation of which he is a co-founder. He is known as a conservationist and someone willing to volunteer his time for worthy community causes. I am sure Commissioner Phillips will do an excellent job.

While I am on my feet, I want to commend the work of retiring Commissioner Geraldine Van Bibber. She represented the Queen and the Governor General in the Yukon in an exceptional way that brought great credit to her, to Yukon and to our people. Honourable senators, I salute these two great Yukoners.

#### THE LATE MR. JAY ROBERTS

**Hon. Jim Munson:** Honourable senators, I stand today to pay tribute to my old friend Jay Roberts who died this past October. He is best known to Canadians as the legendary Ottawa Rough Riders tight end who, in the late 1960s, helped carry the team to two Grey Cup wins.

My friendship with Jay dates back to the 1970s after he retired from professional sports, and worked with the federal government and, of course, with many Aboriginal groups. On Saturdays, we would get together with a bunch of friends for touch football and followed by perhaps a pint or two.

Jay was a soft-spoken and humble man. He liked to laugh and have a good time, and he looked out for his family and friends. His son Jed was born with a severe hearing impairment and had to wear hearing aids in both ears. Those hearing aids were big and obtrusive, and growing up, Jed took a lot of teasing from his peers.

It was Jay who helped Jed get beyond the hurt and realize his dreams. When Jed decided to give football a try, Jay backed him all the way throughout an amazing Grey Cup winning career with the Edmonton Eskimos. The names of father and son were etched on the Grey Cup one over the other, Jay in 1968 and Jed in 1993.

My own son Jamie had to wear hearing aids, and when he was younger, I hated seeing him growing resentful and insecure about them. I turned to Jay for advice.

He arranged for Jamie and me to meet Jed. It was in Montreal about 12 or 13 years ago at Molson Stadium after an Alouette-Eskimo game. I remember walking across the field with my son and approaching this huge imposing player. Jed removed his helmet, greeted us with a smile, then casually slipped on his hearing aids.

For Jamie, seeing this was life changing. In that moment, he understood he was not alone and that a hearing aid was only a device to help him participate in the world. It could be that simple.

Wisdom, humility and determination were all qualities that characterized my friend Jay, all qualities he passed down to his son Jed. Jed now works at an Edmonton group home, helping children with behavioural issues.

• (1340)

After years of battling dementia, blood clots, circulation issues and, finally, lung cancer, Jay — or, as we knew him, “Hawk” — is gone, but his will to help others persists. He is the first CFL player to donate his brain and spinal cord to medical research so that doctors can study the effects of head trauma. His gift to science is also raising awareness of football-related concussions, which, I am sure, will help many people in the future.

I will miss my big, lovable friend.

#### THE LATE MRS. MARJORIE KATHRYN ELLIOTT

**Hon. Yonah Martin:** Honourable senators, there is a place in Hope, British Columbia, that my nephew once described as “a little piece of heaven on earth.” Even time seems to slow down, for as long as she can, to breathe in the clean mountain air, listen to the rush of Silver Creek and, in the spring or summer, marvel at the fruits and flowers that grow with abandon in the garden: roses, lilies, tulips, creeping jenny, forsythia, bergenia, sedum, grapevines, apple trees and a plum tree.

Inside the modest rancher, which had to be moved back when the creek swelled threateningly to wash the house away, lived the gardener of many talents — the little old lady of Silver Hope, Marjorie Kathryn Elliott, née Radley.

This is a tribute to Marjorie Kathryn Elliott, my husband Doug Martin’s late maternal grandmother, our beloved Gran E., who passed away on November 18, 2010, at the age of 91.

Gran E. was born in Wilton, Illinois, on May 29, 1919, during the period of her father’s study to earn his Master of Divinity, the third of five children: Gladys Scott, presently 94 and going strong; the late Edith Radley, a former nurse and United Church missionary, and companion of the Order of Canada for her transformative work in Africa; Gran E.; and Jeannette Wolfe, Ottawa resident, present in the gallery today with her daughters Pamela, Karen and Beverley Wolfe; and baby brother Don Radley.

[ Senator Munson ]

The family returned to Manitoba, the birthplace of Gran E.’s mother and where her father served as a minister in the United Church of Canada. Gran E. and her siblings spent their childhood playing and dreaming under the expansive prairie sky.

In Manitoba, they all received a good education. Gran E. earned her Bachelor of Arts at the University of Manitoba in 1940 and her Diploma in Education in 1941. Her first teaching post was in Cardale, Manitoba, where she also met her husband to be, Elvin Kingsley “Bud” Elliott. I should note here that his mother was Martha Jane Ireton Elliott, a formidable political activist and a leader of the United Farm Women of Manitoba during the suffragette years and member of the Manitoba Agricultural Hall of Fame.

In 1943, they would marry in Port Simpson near Prince Rupert, B.C. and settled in Richmond, B.C. by 1948. There they raised four children: Merle, Elaine, James and Jeannie. Her eldest daughter, Merle, is my late mother-in-law and the only one to follow in Gran E.’s footsteps as a teacher.

My mother-in-law told me once that she remembers her mother routinely vacuuming while reading. Gran E.’s passion was indeed reading — fiction, non-fiction and, most of all, the romantic poets; those famous “rebels and romantics” whose poetry remains unsurpassed to this day. She had an impeccable memory and could quote at length from Shakespeare, Milton, Keats and Shelley.

Gran E. had a great mind, one that enabled her to conjugate French irregular verbs in all their tenses, even in her final days. She was a wonderful conversationalist, a lively debater and a fierce Scrabble player, a champion at all costs. In fact, in her honour, our family will hold an annual Gran E. Scrabble tournament on her birthday.

#### MR. JOHNNY MAY

**Hon. Charlie Watt:** —

[*Editor’s Note: Senator Watt spoke in Inuktitut.*]

Honourable senators, today I would like to pay tribute to Johnny May, the first Inuk pilot in the Eastern Arctic Region. Recently, Johnny received the great honour of being inducted into the Québec Air and Space Hall of Fame.

His career started at the youthful age of 17 when he received his flying licence. He credits traditional knowledge of the land, ice and sea with his success and long career. Cheating death, saving lives and defying the harsh conditions of the northern climate is just a regular daily occurrence.

Over the years, he has provided commercial service, flown the medevac and conducted search and rescue missions. Today, he is still flying at 65 years of age. There are stories about flying at night without proper equipment, narrow escapes through the cockpit window, and witnessing many babies being brought into the world.

When I was an adventurous young man, I used to find myself in some interesting situations with Johnny. During the James Bay and Northern Quebec negotiations, I relied on Johnny to get me

out of some pretty tight spots. We had our days flying in and out of isolated communities, long before any runways existed in the North.

He has always been an exceptional bush pilot. He never hesitated to get up in the middle of the night to make emergency flights and deliver essential supplies to remote communities under the most challenging conditions.

His plane is known as “Santa’s sled” because every Christmas, he showers the community of Kuujjuaq with candies for the children and other valued gifts of parkas and clothing. His presence and service to the Inuit over the past 48 years has been extraordinary. He is an exceptional role model and a very dear friend. Today, I would like to congratulate him and, on behalf of the Inuit of Nunavik, say thank you very much.

### SPINAL CORD RESEARCH

**Hon. Nancy Greene Raine:** Honourable senators, we all recall that spectacular moment last February at the opening ceremonies of the Vancouver Winter Olympic Games when Rick Hansen wheeled the torch into the Olympic stadium to an overwhelming crowd of athletes and spectators from around the world. It was one of Canada’s proudest moments during the Games, and one which gave me goosebumps as I watched him approaching from across the stadium.

Thinking back to 25 years ago when he set out from B.C. to wheel around the world on his Man in Motion World Tour to raise awareness around spinal cord injuries, this man has accomplished amazing goals. A quarter of a century later, his work continues with a new initiative — to create a global registry for spinal cord research.

As honourable senators can imagine, there are many labs around the world with researchers working to find a cure for spinal cord injury. However, they remain isolated from others in their field and many centres do not have enough patients to conduct proper studies. A universal registry will help to solve these problems and encourage the exchange of knowledge on the subject. Through sharing of studies, theories and observations on spinal cord injuries, more will be possible and a cure could be closer at hand. Globally, there is a strong desire to come together in a global network, and that is what Rick’s new registry will make possible.

The Rick Hansen Spinal Cord Injury Registry, led by the Rick Hansen Institute, is Canada’s living database of information and is an invaluable resource for researchers, clinicians and health care administrators.

Participants in the registry will benefit from access to larger volumes of standardized data and data sets, increased participation in international research projects, and they will be able to share best practices to improve the care and treatment outcomes for patients, including, no doubt, the CanAssist projects mentioned by Senator Carstairs earlier today.

Already utilized by over 30 hospitals and research institutions, the registry for spinal cord research is now going global. Over the next two years, Rick Hansen will return to selected countries exactly 25 years after his Man in Motion World Tour visits, this time with the goal of bridging international borders for research.

Honourable senators, as reported in the media recently, funding for research into spinal cord injuries has been limited. However, the Rick Hansen Institute has received about \$30 million from Health Canada and more than \$30 million from various provinces. Unlike cancer or heart disease, traumatic spinal cord injuries, fortunately, are not as widespread. An estimated 44,000 Canadians are affected, and there are about 1,500 new cases each year. However, because of the smaller numbers, spinal cord injury does not always capture the attention of governments.

Rick’s world view, no doubt influenced by his tour 25 years ago, is to connect researchers around the world in order to collaborate. His initiative is sorely needed. The idea for a global registry was first developed after a conference in Vancouver some years ago. UBC’s Centre for International Collaboration on Repair Discoveries plays an important role. This research brings hope for the future. Finally, it is a great example of how just one man can make a huge difference.

• (1350)

### THE LATE LESLIE NIELSEN, O.C.

**Hon. Tommy Banks:** Honourable senators, the American film industry — or Hollywood, as we have all come to call it — has, from the very beginning, been peopled with a disproportionate representation of Canadians.

Many of the earliest movers and shakers — including Jack L. Warner and Mack Sennett — were Canadians. Louis B. Mayer was not born in Canada, but he spent his formative years in New Brunswick.

Honourable senators, our famous moviemakers have included Norman McLaren, Arthur Hiller, Norman Jewison, David Cronenberg, Jason Reitman, Paul Haggis, James Cameron and Toronto’s Howard Shore, who won three Academy Awards for his music for *Lord of the Rings*.

Among the actors, Mary Pickford, “America’s Sweetheart,” was from Hamilton. Norma Shearer, Marie Dressler and Deanna Durbin were all Canadians, as were Walter Houston, Raymond Massey, Alexander Knox, Walter Pidgeon, Hume Cronyn, Jack Carson, Glenn Ford — it goes on and on. Fay Wray, with whom King Kong first escaped, was from Lethbridge. Yvonne De Carlo hailed from Vancouver. The list is endless.

Leslie Nielsen was perhaps, in his provenance, the most Canadian of them all. He was born in Regina, the son of a Mountie. He lived in the North. He moved to Edmonton, the most Canadian of all cities, where he went to school, grew up and went on to become a successful and distinguished classical and dramatic actor, on the stage first, both in Canada and then in New York, and then in films and on television.

His first film role was as the King of France in a movie with Kathryn Grayson, called *The Vagabond King*. He called it “The Vagabond Turkey.”

He was first a dramatic actor, and latterly turned into a deadpan comedy actor, the best of them all. He became a master. Siskel and Ebert called him “the Olivier of deadpan comedy.”

His most quoted film line was in response to the question, “Surely you’re not serious,” to which he responded, “I am serious, and don’t call me Shirley.”

Leslie Nielsen never forgot his Edmonton roots and he came home to Edmonton often. I had the honour and pleasure of working with him often, and of having been the butt of some of his more outrageous practical jokes.

The Leslie Nielsen School of Communications at the Northern Institute of Technology in Edmonton is named for him; and he was often seen in the halls of the Victoria School for the Arts, from which both he and his famous classmate, the great director Arthur Hiller, are distinguished graduates.

Leslie Nielsen died last week at the age of 84. He was a fine gentleman, an inveterate prankster and a world-famous actor whose work will be studied and admired by the ages.

[*Translation*]

#### VISITOR IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw to your attention the presence in the gallery of the Honourable Marie-Claude Blais, New Brunswick’s Attorney General and Minister of Justice and Consumer Affairs.

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

**Hon. Senators:** Hear, hear.

### ROUTINE PROCEEDINGS

#### AUDITOR GENERAL

PUBLIC SECTOR INTEGRITY COMMISSIONER—  
DECEMBER 2010 REPORT TABLED

**The Hon. the Speaker:** Honourable senators, I have the honour to table, in both official languages, a special report from the Auditor General of Canada pursuant to subsection 8(2) of the Auditor General Act.

#### THE ESTIMATES, 2010-11

SUPPLEMENTARY ESTIMATES (B)—SEVENTH REPORT  
OF NATIONAL FINANCE COMMITTEE PRESENTED

**Hon. Joseph A. Day,** Chair of the Standing Senate Committee on National Finance, presented the following report:

[ Senator Banks ]

Thursday, December 9, 2010

The Standing Senate Committee on National Finance has the honour to present its

#### SEVENTH REPORT

Your committee, to which were referred the Supplementary Estimates (B), 2010-2011, has, in obedience to the order of reference of Thursday, November 4, 2010, examined the said Estimates and herewith presents its report.

Respectfully submitted,

JOSEPH A. DAY  
*Chair*

(*For text of report, see today’s Journals of the Senate, Appendix A, p. 1083.*)

**The Hon. the Speaker:** Honourable senators, when will this report be taken into consideration?

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

[*English*]

#### VISITOR IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I would like to draw your attention to the presence in the gallery of the Honourable Dennis Fentie, Premier of Yukon.

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

[*Translation*]

### FEDERAL LAW— CIVIL LAW HARMONIZATION BILL, NO. 3

FOURTEENTH REPORT OF LEGAL AND  
CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

**Hon. Joan Fraser,** Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, December 9, 2010

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

#### FOURTEENTH REPORT

Your committee, to which was referred Bill S-12, A third Act to harmonize federal law with the civil law of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and

the civil law has, in obedience to the order of reference of Thursday, November 18, 2010, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOAN FRASER  
*Chair*

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

(On motion of Senator Carignan, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.)

[*English*]

### INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

#### TENTH REPORT OF COMMITTEE TABLED

**Hon. David Tkachuk:** Honourable senators, I have the honour to table, in both official languages, the tenth report of the Standing Committee on Internal Economy, Budgets and Administration.

### OLD AGE SECURITY ACT

#### BILL TO AMEND—FOURTEENTH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED

**Hon. Art Eggleton,** Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, December 9, 2010

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

#### FOURTEENTH REPORT

Your committee, to which was referred Bill C-31, An Act to amend the Old Age Security Act, has, in obedience to the order of reference of Tuesday, November 30, 2010, examined the said bill and now reports the same without amendment.

Respectfully submitted,

ART EGGLETON,  
*Chair*

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

(On motion of Senator Eggleton, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.)

### CONFLICT OF INTEREST FOR SENATORS

#### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES— SECOND REPORT OF COMMITTEE PRESENTED

**Hon. Terry Stratton,** Chair of the Standing Committee on the Conflict of Interest for Senators, presented the following report:

Thursday, December 9, 2010

The Standing Committee on Conflict of Interest for Senators has the honour to present its

#### SECOND REPORT

Your committee, which is authorized on its own initiative, pursuant to rule 86(1)(t), (i) to exercise general direction over the Senate Ethics Officer; and (ii) to be responsible for all matters relating to the Conflict of Interest Code for Senators, including all forms involving senators that are used in its administration, subject to the general jurisdiction of the Senate, respectfully requests funds for the fiscal year ending March 2011 and that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of its examination and consideration of such matters as are referred to it by the Senate, or which come before it as per the Conflict of Interest Code for Senators.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee are appended to this report.

Respectfully submitted,

TERRY STRATTON  
*Chair*

(*For text of budget, see today's Journals of the Senate, Appendix B, p. 1111.*)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

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

• (1400)

[*Translation*]

### NATIONAL HOLOCAUST MONUMENT BILL

#### FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-442, An Act to establish a National Holocaust Monument.

(Bill read first time.)

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

(On motion of Senator Comeau, bill placed on the Orders of the Day for second reading two days hence.)

## THE SENATE

### NOTICE OF MOTION TO RESOLVE INTO COMMITTEE OF THE WHOLE TO RECEIVE THE COMMISSIONER OF OFFICIAL LANGUAGES AND THAT THE COMMITTEE REPORT TO THE SENATE NO LATER THAN ONE HOUR AFTER IT BEGINS

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, at the end of question period and delayed answers on the sitting following the adoption of this motion, the Senate resolve itself into a Committee of the Whole in order to receive the Commissioner of Official Languages; and

That the Committee of the Whole report to the Senate no later than one hour after it begins.

[English]

## QUESTION PERIOD

### HEALTH

#### TOBACCO PRODUCTS

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, my question is for the Leader of the Government in the Senate.

On November 18, I and a number of honourable senators on this side asked the leader questions about reports that had been in the press saying that the government was not proceeding with plans to update the health warning labels on cigarette packages. The leader was very clear in her response. She said the government has not reversed its position; they have not cancelled the program.

In responding to Senator Merchant, the leader also said:

... it is absolutely insulting to suggest that because *The Globe and Mail* asks the question did we bow to the lobby or pressure from the tobacco industry, then it must be true. That is an outrageous statement that does not even warrant a response.

That was what the leader said on November 18.

Honourable senators, the other day, Health Canada documents were tabled before the committee in the other place and they paint a somewhat different picture. In September 2009, according to

those documents, Health Canada met with anti-tobacco advocates to provide an update on the labelling renewal initiative. At that meeting, the officials showed mock-ups and bigger, more graphic pictures and messages in preparation for drafting final regulations to be published in early 2010.

They show Health Canada having a series of private meetings between November 2009 and April 2010 to update the industry about the labelling renewal initiative — okay?

**Senator Comeau:** Multi-tasking.

**Senator Cowan:** I am getting to multi-tasking.

The tobacco companies, of course, have lobbied against these warnings and have argued that the government should concentrate on cracking down on contraband cigarettes. We all agree that is an appropriate thing to do.

It now appears there were a number of meetings, including four meetings at the Prime Minister's Office and more than 80 meetings over a two-year period. This was reinforced last evening on the CBC report that I am sure the leader saw, given her penchant for watching the news late at night. Big tobacco won this contest.

In May 2010, these same documents report that there was a meeting between Health Canada and Imperial Tobacco. During that meeting, Imperial Tobacco was informed of "suspended regulatory projects" and that the federal government would be cracking down on contraband cigarettes.

Why did the leader say on November 18 that the government had not made a decision when the government was informing Imperial Tobacco at a private meeting in May that they had done so?

**Hon. Marjory LeBreton (Leader of the Government):** I thank the honourable senator for the question. I was not watching the CBC last night. I was at the Conservative Christmas Party, being entertained by our Prime Minister. It was a great evening and lots of fun was had by all.

I was informed about the CBC report. I hate to disappoint Senator Cowan but, just like *The Globe and Mail*, the CBC report is wrong, as well.

Honourable senators, the Minister of Health and our government are committed to reducing tobacco use amongst our population and our youth. We are helping Canadians to quit smoking and we are addressing, as the honourable senator mentioned, the pressing issue of contraband tobacco. We are taking action on many fronts. For example, Bill C-32, the Cracking Down on Tobacco Marketing Aimed at Youth Act, which recently came into force, will make it harder for industry to entice young people to use tobacco products. Many people will agree that the use of social media outlets is probably a good place to start to target young people.

As I have said before, the additional health warning labels are still under review and I am informed that an announcement in this regard will be made very soon.



**Senator Cowan:** Is the leader saying that the government has not made a decision to suspend this program?

**Senator LeBreton:** That is what I am telling the honourable senator.

**Senator Cowan:** Honourable senators, to the point Senator Comeau made a moment ago about multi-tasking, could the leader explain to me why it is not possible for the government to proceed with the updated labelling programs that all of the surveys indicate are effective? There is not a single survey I have seen or been made aware of that indicates anything to the contrary.

Why is it not possible to proceed with those updated programs, which have cost millions of dollars to develop, the implementation cost of which is not borne by the Government of Canada but by the tobacco companies, at the same time we are enhancing and improving the battle against contraband tobacco? If the leader can double-task here, why can she not double-task there?

**Senator LeBreton:** I could do better than double-task; I can multi-task.

Honourable senators, no government has taken on big tobacco more than this government with regard to what we have done with kiddie packs and flavoured tobacco.

The CBC report is wrong. The additional health warning labels are still under review. I use the word “additional” because we already have warning labels. As I said a moment ago, I am informed an announcement will be made soon in this regard.

• (1410)

I point out again that in addition to the labels on cigarette packages, which are a valuable tool to help people to quit smoking, the government is using other means to reach youth, particularly with social media. It seems to me, as I am sure it does to most people, that the best thing to do is to prevent youth from starting to smoke. That is why social media is so important. Obviously, labelling on cigarette packages is useful, but by the time those labels come into play, people are already buying cigarettes.

**Senator Cowan:** In that case, is it correct that not only are the CBC and *The Globe and Mail* wrong, but the documents that were tabled in the other place the other day that indicated that this labelling renewal initiative was being shelved are also incorrect?

**Senator LeBreton:** I will repeat that additional health warning labels are still under review. I am informed that an announcement in this regard will be made soon. That is all I can tell the honourable senator.

**Hon. Catherine S. Callbeck:** Honourable senators, my question is directed to the Leader of the Government in the Senate on the same topic. Is the leader saying that at the meeting of provincial health ministers in September the federal health minister did not indicate that this initiative had ended?

**Senator LeBreton:** I was not at the meeting and I was not privy to the discussions at the meeting. I will take that question as notice.

I can only tell honourable senators what I know to be the case, and that is that the reports regarding the additional labelling are not true and an announcement will be made soon.

**Senator Callbeck:** I would be interested in hearing the leader's answer as to what the minister said at that meeting. We are hearing that the minister indicated to the provincial ministers that this initiative had ended, and that nothing would take place regarding these labels.

The leader said an announcement will be made soon. Is “soon” a week or a month? How far down the road is it?

Canada used to be first on the world stage on this issue. We were the first to put graphic labels on cigarette packages. We were the first to meet the recommendation of the World Trade Organization for warnings covering 50 per cent of the package. However, in the last 10 years we have dropped from number 1, the top country in the world, to number 15. We have fallen tragically behind.

I would like to know the time frame. The leader says that the minister is considering this issue and that there will be an announcement soon. How long do we have to wait before we know whether this government will take any concrete action?

**Senator LeBreton:** First, honourable senators, it was a Conservative government that first started putting warning labels on tobacco products.

Second, Senator Callbeck is talking about a meeting that the Minister of Health had with her provincial and territorial counterparts. It is hearsay that the minister said a certain thing at this meeting. I have no knowledge of that statement, and I have no reason to believe that is the case. I do not believe this statement is something that has been on the public record.

I will ask for clarification from my colleague Minister Aglukkaq, the Minister of Health, on what the discussions were at that meeting with regard to tobacco control.

With regard to “soon,” well, soon is soon. To paraphrase the honourable senator's former leader, a former prime minister and hero of Jim Munson, the proof is the proof is the proof.

**Senator Mercer:** He is the hero of many of us.

**Hon. Grant Mitchell:** Honourable senators, I want to be encouraged but I do not want to become too excited about this announcement.

The leader said recently that we should be hopeful that we will have an announcement soon on the Nortel disability pensioners issue, and now we hear that we will have an announcement on new cigarette package labelling “soon.”

Can the leader stand in the Senate right now and confirm those two things so that, one, we can hold her accountable when and if they happen or do not happen, and, two, so that we do not have to watch CBC to find out what is going on?

**Senator LeBreton:** I will not give the answer I was planning to give. Senator Mitchell might not like what I was going to say.

In terms of the Nortel pensioners, I pointed out with regard to long-term disability that we made a commitment in the Throne Speech to look at ways we can improve the situation of LTD pensioners who work for companies that go bankrupt.

With regard to the tobacco announcement, soon is soon is soon. That is all I can say.

## INDUSTRY

### LONG-TERM DISABILITY BENEFITS— NORTEL EMPLOYEES

**Hon. Art Eggleton:** Honourable senators, my question is directed to the Leader of the Government in the Senate. Bill S-216 has been defeated, but the problem remains. The minister commented on dealing with LTD employees, but from what I heard in her answer, she is talking about the future. There are still 400 Nortel workers who are looking for a just settlement and to live out their lives in dignity, despite their disability, and I present their case again today, as I have all week.

I have an impact statement from Marc Girard. He says:

... I am 45 years of age and I live with my wife in Blainville Quebec with our 3 adolescents. I was diagnosed with Multiple Sclerosis in 1998. In 2002, following a major MS crisis, I was declared totally disabled and started receiving LTD benefits from my employer Nortel.

During the last 8 years, my physical condition has worsened after several MS crises. I started to use a cane and since the last 3 years I must use a wheel chair for my daily usage. This rapid deterioration of my physical condition has greatly affected all members of my family. It has become a psychological burden for my wife and children.

In 2002 when I was declared totally disabled, I thought that my financial situation would be preserved by receiving my LTD benefits till age 65 as defined in my benefit package, benefits that I was contributing personally in addition to the portion covered by Nortel.

At the beginning of this year, I was informed by Nortel that the final payment of my LTD income would end in December 2010. It has become evident that our family financial situation will be very critical in January 2011. The main family income to support our needs will come from my wife's salary which will barely cover the basic needs of our daily expenses. The scholarship cost for my children's education will suffer and the access to superior studies will be compromised by the lack of LTD income which will end in December 2010. It will also be difficult to financially support my medical services and drug expenses.

It is very difficult to live with a physical limitation and not being able to work and take care of my family obligations and that is why I must seek help from the political instances who have been elected or appointed to take the necessary decisions to help me and all those who face a similar situation.

Please help to correct this injustice.

• (1420)

Tony Clement said in the House of Commons in response to similar questions, "We are for solutions that will work." That is fine. Will the leader make representation to Mr. Clement to sit down with representatives of the Nortel disabled and their financial and legal advisers to work towards a solution for these people before time runs out at the end of this month?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, as I have said on each and every occasion that Senator Eggleton has read into the record one of these sad cases, no one can underscore the effect of Nortel's actions on these individuals. There is no other way to describe the situation than as serious and unfortunate. All senators on both sides of the house, and everyone who has encountered these individuals, sympathize with the most serious situation faced by Nortel pensioners, most particularly long-term disability recipients.

Senator Eggleton knows well that the situation would not have been resolved by Bill S-216. Unfortunately, as pointed out by Senator Greene when he spoke to this issue, this settlement was the result of a court-approved settlement agreement between all parties under the legislation at the time.

The situation of former employees of Nortel is at the forefront of people's minds and it is in the news. I have said to the honourable senator before that the government takes the matter of pensioners, especially long-term disability pensioners, seriously. For that reason, when the Speech from the Throne was delivered in this chamber earlier this year, the government made a commitment to protect workers better when the employer goes bankrupt.

Minister Clement is absolutely correct in saying that the government is working, and has been working for some time, to find solutions that will work. The government will continue to try to resolve these unfortunate situations. There is not a lot I can add.

Concerning the honourable senator's direct question, many representations have been made to government by many individuals affected by the Nortel bankruptcy. The government is troubled by what has happened to these individuals and will seek solutions to better protect workers who face such a situation.

**Senator Eggleton:** Sympathy, whether it is the leader's or mine or someone else's, will not bring these people the kind of just settlement they deserve, and it will not keep them out of poverty and allow them to live a life of dignity.

The leader mentioned the court settlement, which was the best that could be reached under the existing rules. Even those people who were part of the settlement negotiations said that it would

not keep the disability pensioners, by any means, out of poverty or pay for their medical bills and other items they need to live. The settlement simply will not do that.

My bill would have done that. I totally disagree with the leader's assessment of my bill. Experts in this area of law advised me on what should be in a bill. Bill S-216 could have worked. Nevertheless, the bill is gone. The sympathy remains, but that is not enough.

The leader talked about the better protection of workers in the Speech from the Throne, and about the government finding a solution in the future. I do not know why it is taking so long. My bill and this whole issue were on the table last spring when I talked to Mr. Clement. I do not understand why it is taking so long to find a solution.

I understand from the leader's response to my question that she is writing off doing anything for the people from Nortel. She is talking in terms of the future as opposed to dealing with these people for whom time runs out at the end of this month.

Will the leader ask Mr. Clement to sit down with these people to try to find solutions that include not only future bankruptcy issues but also the immediate issues faced by 400 former employees of Nortel?

**Senator LeBreton:** Honourable senators, I suggest that Senator Eggleton not put words in my mouth.

I am sympathetic to these individuals but we cannot change what has happened. Nortel went bankrupt and there was a court-ordered settlement, in which people participated.

**Senator Tkachuk:** You should have brought your people out yesterday. That is what you should have done.

**Senator LeBreton:** I cannot make commitments on behalf of my colleagues as to whether they will meet individuals. I will pass the honourable senator's request to my colleague.

## NATIONAL DEFENCE

### F-35 AIRCRAFT PURCHASE

**Hon. Wilfred P. Moore:** Honourable senators, my question is for the Leader of the Government in the Senate. Yesterday, two more countries sounded the alarm bells regarding the *Joint Strike Fighter* program. The Italians are moving toward cancelling a portion of their order, and the Dutch Minister of Defence, Hans Hillen, cautioned that the price per unit will be \$121 million. This price approaches three times the original price quoted by Lockheed Martin. What guaranteed price per unit does Canada have?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I believe Senator Moore is misinformed. No country has cancelled its order for this aircraft.

My answer is in the form of a question to the honourable senator: Why would anybody wishing to form a government in this country turn their back on an agreement they initiated and that would put at risk the jobs of 80,000 Canadians?

**Senator Moore:** Honourable senators, I would like an answer to the question.

We are hearing now from Senator Tkachuk. This is beautiful. Honourable senators, allow me to quote from someone who is now part of the Reform-Alliance coalition. He said:

Frankly, the Reform Party has been getting a free ride. Like all the extremist parties, they practice the politics of envy — the reason you, the voters, do not have is because others do. We have heard this before, whether it be the rich, the Jews, the multi-nationals; history is full of examples. Find someone to blame. The Reform Party painted politicians with the broad brush of envy, those who were there, and deftly used the propaganda tactics so exceptionally described by Hitler in *Mein Kampf* in his chapter on propaganda. The sins were opulence, sumptuous offices, gluttony practised in subsidized restaurants, vanity, barber shops . . .

On and on from the man who swallowed the Kool-Aid — David Tkachuk, senator.

• (1430)

I would like an answer to the question. I would like to know what is the guaranteed —

**Senator Tkachuk:** What does that have to do with airplanes?

**Senator Moore:** It has to do with you and your comments, senator, which you railed against before but now you have swallowed the Kool-Aid and you think it is fine.

**Some Hon. Senators:** Oh, oh.

**Senator Moore:** Honourable senators, I would like to know from the minister what the guaranteed price is per unit. I would like to know the guaranteed amount of the regional industrial benefits.

**Senator LeBreton:** Honourable senators, I have some absolutely delicious quotes from members of the Liberal Party about things they have said about their own members. If we play that game we could be here —

**Senator Tkachuk:** What did you say about Senator Cowan?

**Senator LeBreton:** Having said that, Senator Tkachuk and I, and many of us who eventually —

**Senator Mercer:** Drink the Kool-Aid!

**An Hon. Senator:** Proud of it.

**Senator LeBreton:** — reunited our party, came to the conclusion that it was absolutely the urgent thing to do because we had to save the country from the scourges of a Liberal government.

**Some Hon. Senators:** Hear, hear.

**Senator LeBreton:** With regard to the senator's specific question, I will take it as notice.

**Senator Moore:** The leader can take it as notice and add this to her notice, because her party promised, in its 2008 election campaign, that they:

... will leverage these dramatic increases in defence procurement to ensure that new high technology jobs are created in Canada through a combination of buying Canadian-made defence equipment and securing high-value industrial benefits when equipment is purchased . . . .

We know from the Pentagon that Canada will get \$3.9 billion in industrial and regional benefits, IRBs, and she has said \$12 billion. I want to know what the guarantee is for the IRBs and the guaranteed price on the jets per unit.

**Senator LeBreton:** We are not the only ones to say it was \$12 billion. A witness from Lockheed Martin said that, before a committee in the House of Commons.

## ORDERS OF THE DAY

### GENDER EQUITY IN INDIAN REGISTRATION BILL

#### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Brazeau, seconded by the Honourable Senator Braley, for the third reading of Bill C-3, An Act to promote gender equity in Indian registration by responding to the Court of Appeal for British Columbia decision in *McIvor v. Canada* (Registrar of Indian and Northern Affairs).

**Hon. Mobina S. B. Jaffer:** Honourable senators, I rise before you to speak at third reading of Bill C-3, an act to promote gender equity in Indian registration by responding to the Court of Appeal of British Columbia decision in *McIvor v. Canada*.

Bill C-3 was studied by the Standing Senate Committee on Human Rights, of which I am deputy chair. We heard from the Honourable Minister John Duncan, who stated:

Bill C-3 focuses on two objectives. First, the legislation would eliminate a cause of gender discrimination in the Indian Act as identified by the Court of Appeal for British Columbia. Second, it would meet the deadline imposed upon Parliament in the court's ruling. Last year the Court of Appeal for British Columbia ruled that two paragraphs in section 6 of the Indian Act discriminate between men and women with respect to registration as an Indian, and, therefore, violate the equality provision of the Canadian Charter of Rights and Freedoms.

Unfortunately, as the committee continued its study, I learned that this particular piece of legislation would not eliminate gender discrimination, nor would it provide equal rights for Aboriginal men and women.

Although I am sure many of you are familiar with Sharon McIvor's case, for those of you who are not, I will provide a brief background about her battle with the Canadian government.

Sharon McIvor first applied for status in 1985. After completing the application process, she and her siblings were granted section 6(2) status and her children were denied status altogether. This situation prompted Sharon McIvor to begin her battle. Seventeen long years into her quest for recognition, in July 2006, Sharon McIvor received a letter from the Department of Justice acknowledging that the registrar had made a mistake and that she was entitled to section 6(1)(c) status and that her son now had section 6(2) status.

Sharon McIvor, however, was not pleased with this outcome. Although she and her siblings were all now section 6(1) status, her brother's children were also granted section 6(1) status and his grandchildren were granted section 6(2) status. Sharon McIvor's son, on the other hand, was granted section 6(2) status and Sharon McIvor's grandchildren would be denied status all together.

Despite the fact that Sharon McIvor and her brother were born from the exact same set of parents, her brother was in a better position solely because of the fact that he was a male. Sharon McIvor expressed her discontent to the committee:

It is quite bizarre that my brother, who as I said did absolutely nothing, is all of a sudden in a better place only because he is a male.

... I was seeking equality, all of a sudden my male siblings got better equality than I did, or they got better status than I did, and I have no equality.

On the issue of 6(1) status, I believe that in order to fully address the issue, I am entitled to 6(1)(a) status, and my son is entitled to 6(1)(a) status. That is the only thing that will bring full equality to my situation.

Honourable senators, Bill C-3 will indeed grant Sharon McIvor's son section 6(1) status, to which he is entitled. However, I think it is foolish to believe that Sharon McIvor was fighting this battle solely for this purpose.

After hearing her heartfelt testimony, it has become clear to me that Sharon McIvor was not fighting only for her son's birthright, but instead she was fighting on behalf of all Aboriginal women across the country, who are routinely denied basic human rights.

Sharon McIvor, in her testimony, urged us all to recognize that Bill C-3 did not take into account the illegitimate daughters of Indian men. She explained that a court case in the late 1950s, early 1960s, stated that a male descendant of an Indian man is

entitled to status. However, a female descendent of an Indian male is not. Sharon McIvor went on to explain this situation by offering the following example:

I actually have a niece and a nephew, the boy born in April of 1979 and the girl born in June of 1980. The mother is non-Indian; the father is status Indian. My nephew got status at birth. My niece did not get status until after April 17, 1985, Bill C-31. She has 6(2) status and he has 6(1) (a) status. They have identical parents; the only difference is male and female. It stays that way. She cannot pass her status on her own right like her brother can, because she is female.

Honourable senators, if Bill C-3 is an act that supports gender equality, then how is this situation acceptable? How can we support a bill that allows for discrimination based on sex? I understand that there is a perceived urgency to pass this particular bill. However, I think it is important that we all recognize the fact that it took Sharon McIvor 20 years to reach this point. She has fought and continues to fight to ensure that the rights of Aboriginal women are equal to those of Aboriginal men.

Sharon McIvor's lawyer made a statement at the committee that continues to echo through my mind. Her lawyer, Gwen Brodsky, stated:

Bill C-3 and the exercise we are engaged in today make me very ashamed as a Canadian. It seems that we are having a conversation about whether it is acceptable for Parliament to put its seal of approval on discriminatory legislation. Is this Canada in 2010?

• (1440)

Honourable senators, this is not the Canada that I have come to love. Canada is a country that champions human rights. We advocate for women's rights all over the world. Why is it that we allow women living within our own borders to be discriminated against in this way?

Throughout my career, it has become painfully clear to me that in our country the rights of Aboriginal women are often inferior to the rights of non-Aboriginal women. This is unacceptable. We cannot allow this to continue. The rights of a woman, regardless of her religion, race or culture, are always equal to the rights of a man. This is not only a Canadian value; it is a universal value that we have a duty to uphold.

Honourable senators, I urge you all not to support Bill C-3.

**Hon. George Baker:** Honourable senators, I have just a few words concerning this legislation and to suggest to members of the Senate that the bill be passed, on division, for the following reasons.

Honourable senators will be interested to know that the bill cannot be amended, according to a judgment of the Speaker of the House of Commons. The bill came to the House of Commons, was amended in a committee of the House of Commons, and came back to the House of Commons at report stage, where the Speaker ruled that all amendments that were put in by the committee were out of order in that they did

not meet two conditions. First, the Speaker said it must be within the four corners of a ruling by the Court of Appeal of British Columbia. Second, the Speaker said that because of that, because of what he called the "restrictive nature of the ruling of the Court of Appeal of British Columbia," it could not be changed in such a manner as to qualify any further persons than those approved at second reading in the House of Commons.

It is a very interesting ruling, and I think it is a precedent as far as rulings go. It allowed for minor changes in wording as far as the title of the bill is concerned, or minor grammatical changes, but it did not allow the bill to be extended any further than that approved at second reading by the House of Commons.

The amendments at the committee, which I think received general support, passed the committee and were ruled out of order for that particular reason. As the previous speaker noted and as the mover of the motion, Senator Brazeau, noted, it concerns questions of a violation of the Charter, namely section 15, on the basis of sex.

Honourable senators, what happened is that a case took 20 years to go through the courts, stemming from an amendment to the Indian Act that we passed in 1985. I remember it well. I sat on the Justice Committee in the other place in the early 1980s that dealt with this case. An error was made in that bill, as sometimes happens. As honourable senators know, we always ask representatives from the Department of Justice who attend committee meetings, "Has this passed or would it pass Charter challenge?" The Charter came into effect in 1983, but there was a three-year delay in the implementation of section 15 of the Charter, the section on discrimination. The opinion that was received at the time by the Senate and the House of Commons was that this would pass Charter scrutiny. It did not.

The case started in the courts in about 1989. It started at the lower court in British Columbia. One would think that it would have started, as Senator Angus would have suggested, in the Federal Court because the Federal Court, as honourable senators know, has exclusive jurisdiction to deal with matters that pertain to decisions of cabinet ministers, designates of cabinet ministers or quasi-judicial bodies that pass judgment on federal legislation.

It started in the lower court. Of course, the Department of Justice represented the federal minister in these actions. The department put up barriers to the hearing, which is normal. They move motions to strike; they move motions that the affidavits are improperly worded; they move motions that the documents were not presented properly and so on in pretrial arguments. The matter took 20 years.

It was finally pronounced upon in 2007 by a Superior Court judge in British Columbia, which ruling said that there is rampant discrimination — these are my words, not the judge's words. To encapsulate it, it involved discrimination to such a scale that if you were a descendant of a woman, you did not have the rights that your descendants would be granted if you were a descendant of a man. The Superior Court judge in British Columbia, in the opinion of a reasonable person reading it — it was an extensive judgment of some 70 pages — addressed the problem overall of the act. The judgment said, "Yes, we agree with Ms. McIvor," who, by the way, honourable senators, when she appeared before the Senate committee and other committees, did not mention the

fact that she was a lawyer herself. She did not mention that she was a professor of law. She did not mention that she had a doctorate. She was very well versed in the law, as was her lawyer, who has appeared before the Supreme Court of Canada many times on human rights issues.

You had a judge declaring that here is a general discrimination. You then had the Court of Appeal turn around and — without becoming too specific here because it is complicated — what the Court of Appeal said, as a bottom line, is that you cannot argue someone's Charter violation unless it is your Charter violation. In other words, you cannot go before a court and say, "So-and-so's Charter rights were violated." No, the rule is that it is your Charter violations that were violated. What are the ramifications of that?

The Court of Appeal said that in order to solve this discrimination, a minor change could be made. It was not minor. As Senator Brazeau says, 45,000 people would benefit from this bill, which should be passed now, and I agree with him on that, but that is the change that should be made. In other words, the Court of Appeal said we will restrict it to what her rights were in correcting this discrimination, leaving out all of the other persons who were discriminated against as a violation of section 15 of the Charter. That was the ruling of the Court of Appeal.

• (1450)

Along came the bill in which the Court of Appeal gave the government until this past April to enact a change to the act. That has been extended now until January of next year, when this bill must be passed. Here we are with this bill. The committee at the House of Commons took it and said "There is a general discrimination here; let us change the act so that it is outside of the declaration of the Court of Appeal of British Columbia, but it will meet the requirements of the Charter." The Speaker ruled it out of order and said "No, it cannot meet the requirements of the rules of the House of Commons, in that it cannot go outside the parameters of the decision of the Court of Appeal of British Columbia and, thereby, it cannot exceed the parameters, even to the point of adding on any further individuals than what was approved at second reading in the House of Commons."

Your Honour, you and I know that the *Rules of the Senate* are not exactly the same as those of the House of Commons — at least the interpretation of the rules is not the same. However, our problem is, as honourable senators pointed out in the committee — and they did an excellent job in the Human Rights Committee — if we amended the bill, then it would go back to the House of Commons for approval. However, the ruling has already been made there, so it would be struck down and we would be left with the same bill again. Time would have passed, and those 45,000 people would not have received the benefits of this legislation.

Honourable senators, I think that the passage of the bill is in order. I imagine that some people on this side will say "on division," but the bill will benefit some 45,000 people.

**The Hon. the Speaker *pro tempore*:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

[ Senator Baker ]

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

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** On division.

(Motion agreed to and bill read third time and passed, on division.)

## CANADA CONSUMER PRODUCT SAFETY BILL

### THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Martin, seconded by the Honourable Senator Kochhar, for the third reading of Bill C-36, An Act respecting the safety of consumer products.

**Hon. Joseph A. Day:** Honourable senators, this is third reading debate on Bill C-36. I would like to thank and congratulate Senator Martin on the fine job that she has done in sponsoring this bill on behalf of the government and in taking it through this chamber, as well as the committee. I would also like to thank and congratulate all the other members of the committee for the work that they have done in dealing with this particular bill.

Honourable senators, there is no dispute that Bill C-36 is an important piece of legislation. I do not believe there is anyone either in this chamber or outside of the chamber who would argue that he or she does not want to keep children safe. I do not believe there is anyone who can deny that there must be measures and guidelines in place to ensure that products we acquire and use are safe. This is, therefore, by no means a partisan issue. Members of both sides are in complete agreement with the fundamental principle of this bill.

We are told that the measures and guidelines that are currently in place are out of date and in need of repair. This is a common theme that we have heard from the minister and from the department for some time with respect to the proposed consumer product safety legislation and the need for that legislation to replace Part I of the Hazardous Products Act. There is, however, as I indicated at second reading, no indication of an immediate need for this particular legislation, as has been clearly demonstrated by the minister when the previous Bill C-6 died because of prorogation and the minister did not reintroduce legislation for some six months later and then did not move on that for another three and a half months.

Honourable senators will have heard in the media recently about two actions taken under the Hazardous Products Act. The first one is a new regulation to limit lead in children's toys. This was announced November 29, just last week. Honourable senators will note that the health minister has presented new tough regulations to limit the presence of lead in children's products.

The minister pointed out that the new regulations will also give Health Canada the authority to prevent the importing or selling of a long list of products if they have lead levels in excess of the

new limits. Health Canada will also be able to take any of those products off the market if they are found to violate this regulation. That was passed under the Hazardous Products Act. That is the kind of rights and the kind of power that the minister, in her presentation to us and in her various press releases, has said she is looking for in the new legislation. We know this kind of activity can take place under the existing legislation.

Honourable senators, a second announcement came out recently, on December 1, 2010, regarding new rules for cribs, cradles and bassinets. Federal Minister of Health Aglukkaq said at a news conference last Wednesday that Canada's requirements for cribs and cradles are already among the toughest in the world and that these changes will make those regulations even tougher.

Later in that same announcement, honourable senators, it was stated that the rules will also require manufacturers and importers to keep records about the sale, advertising and testing of these unsupervised sleeping products for at least three years. That, again, is a power that the minister was looking for and for which she said that she needed the new legislation in order to acquire that particular power.

Honourable senators, there is and there was ample opportunity for us to review this legislation without any emergency and to do the job that we normally would be expected to do here.

This bill, honourable senators, proposes a new scheme of a bureaucratic or an administrative type of governance. The basis for this legislation is criminal law legislation. However, rather than go through the time-honoured process of an offence under the criminal law jurisdiction and the checks that have been built into that to protect the individual, with which we are very familiar and comfortable here in Canada, this legislation proposes a new type of administrative process. Instead of offences, it refers to "violations." That, honourable senators, is the reason this bill deserves considerable study and why it must be scrutinized at the highest degree to ensure that, under this new scheme, individual rights and fundamental freedoms are not unnecessarily interfered with.

- (1500)

Honourable senators, I will turn briefly to the bill to help you understand what is in this legislation and what we are being asked to consider, because that is how we assess whether there is overreach here; if the minister has gone too far, farther than is necessary to achieve the objectives.

I will start with section 2. There are two areas I will bring to your attention. One is the definition of "confidential business information" and the other is the definition of "government." These definitions become important as these terms are used later on.

"Confidential business information" — in respect of a person to whose business or affairs the information relates — means information that is not publicly available, that has been protected by that individual and kept confidential, and that has an actual or potential value to that individual or that business.

That definition is a classic definition of intellectual property and trade secrets, honourable senators. That is what confidential information is.

In addition to that definition, there is a definition of "government." Just as confidential information is all encompassing, likewise the definition of "government" is all encompassing. It includes the federal government, all corporations under Schedule III of the Financial Administration Act, and all provincial governments and provincial bodies. "Aboriginal government" is defined.

The area that causes me concern, and I want to understand why this area is critically important, is that the definition of "government" includes "a government of a foreign state or of a subdivision of a foreign state."

A subdivision of a foreign state, in many jurisdictions around the world, includes sovereign corporations. Business activities, businesses run by the government — and we had a lot of them — we used to call Crown corporations. Honourable senators, that portion of the definition causes me concern when I take honourable senators to the area where that word is used.

Section 14 of the act was covered recently by Senator Cordy in her statement, and I will not refer further to that section. Those of us who were here heard Senator Cordy's concerns. She is one of the members of the committee.

Sections 15, 16 and 17 deal with privacy and the disclosure of confidential business information. Honourable senators, I believe this area needs to be tightened up so that we can feel comfortable about the government determining on its own to divulge private or corporate information that is confidential.

Section 15 states that "The Minister may disclose personal information to a person or a government. . . ."

We looked at the definition of "government": a foreign entity, an entity of a foreign government. We can think of the situation that has happened recently in Veterans Affairs Canada with the disclosure of personal information of Colonel Stogran, as he then was, ombudsman for Veterans Affairs Canada. He brought forward information about how the various departments used the personal information of an individual who was making a request to that particular department, without that individual knowing.

It is the knowledge. If someone knows their information is to be disclosed and they have a chance to say, "That is not entirely correct, and let me tell you why it is not correct," or, in the extreme situation, if the person is informed afterwards that their personal information was made available to all these government departments or foreign entities, that knowledge would probably provide the balance. However, that amendment was not accepted, honourable senators.

There are three different disclosure schemes in sections 15, 16 and 17: in section 15, no notice at all; in section 16, a confidentiality agreement with the company or the entity before the information is made available; and in section 17, a requirement for disclosure afterwards.

What we were looking for in an amendment was a provision that created the same kind of balance in each of the three sections. However, honourable senators, that balance is not what is in this particular bill. The amendment was not accepted.

I refer honourable senators quickly to section 21, which deals with verifying compliance. This provision means that inspectors can go into a property — they do not have to suspect that there is an infringement, a breach, or a violation of the act — and verify compliance. However, when they go in to verify compliance, they also can seize any product or vehicle for the purpose of verifying compliance. Furthermore, they can require the person whose product was seized to move that product somewhere else at that person's own expense.

Why is it necessary for this legislation to go that far? Why would inspectors not have the right to seize certain samples to verify; and then, if there is a breach or violation, they take the necessary steps?

There is no requirement for a warrant to enter into and over private property. The requirement for a warrant appears only with respect to dwelling houses, and then it is a weak warrant provision of *ex parte*, meaning that the warrant can be obtained without anyone knowing about it, without the knowledge of the person whose property will be violated, and without any representation there.

This area is another one where we had asked for a warrant in the cases where it is reasonable to have a warrant before entry. In the extreme situation, we have always recognized that the minister may have to act quickly. However, in the normal course, there is no reason why there cannot be the same kind of warrant provision that we are familiar with on other bases, where there must be reasonable grounds that there is something going on; that there is a violation of some provision of the act or the regulations.

Honourable senators, sections 41 and 59 highlight the difference between the administrative approach and the court judicial approach. Section 41 clearly states that in the case of an offence, due diligence is a defence. Section 41(2) states that due diligence in a prosecution for an offence is a defence. If someone has done everything they can do, if they tried to prevent this from happening and they had all the checks in their programs, but something happened, that is due diligence, and that is a defence.

Under the administrative scheme set up here to replace the judicial scheme, the opposite is the case because section 59 states that it is not a defence if the process is by way of a violation by the administrative route. If the defence is good enough, over many centuries, to have been developed in a criminal law process, then why is it not good enough in this administrative law process? That is another question we asked. We tried to amend the bill to provide for that defence, but it was not accepted.

Honourable senators, there are many other items I could bring to your attention such as redundancy, unnecessary words that appear that should not be there.

- (1510)

The reason we are trying to clean this up is to prevent some wise lawyer two, three, ten years down the line from pointing out an inconsistency causing the legislation, as it will be presumably at that time, to be unable to stand and therefore be struck down. Part of our job here is to try to prevent that, to be that check on the rough-hewn product that comes from the House of Commons

through that confrontational partisan body to this body where we can fine-tune it, provide that sober second thought, and determine how it might impact areas that have not been considered previously. Honourable senators, I do not think this has been done. We have failed to do our job in this chamber as a chamber of sober second thought.

Honourable senators, we have an obligation to ensure that legislation referred to us is carefully considered. Unfortunately, honourable senators, I do not feel we have considered this bill to the extent that it deserves or requires. The Standing Senate Committee on Social Affairs, Science and Technology held two meetings, and three quarters of the witnesses at those two meetings were government officials who were there to tell about all of the positive points in this legislation. Honourable senators, our job is to ensure that legislation that has potential impact on the public does not adversely affect the people to whom it will apply. We have to hear from those Canadians, honourable senators, and we did not do that to the extent that I respectfully suggest we should have.

Honourable senators, immediately following that second meeting, when we had one panel of four or five outside people telling about this bill, we proceeded to clause-by-clause consideration. That was in spite of objections from some honourable senators, and the reason for that, honourable senators, is that those of us who objected felt that we deserved the opportunity to consider the information we had just heard.

In order to proceed with the clause-by-clause consideration, it was necessary to extend the sitting time, and that sitting time was extended without the permission of either whip in this chamber and to the objection of certain senators who had to leave because they had other commitments. That, honourable senators, helps paint a picture of what happened in this particular area.

Honourable senators, my office has received almost 1,000 emails requesting that the Standing Senate Committee on Social Affairs, Science and Technology take the time to hear from witnesses who are familiar with the proposed legislation and to consider carefully the powers being sought by the government and ensuring that they are necessary and desirable.

Mr. Shawn Buckley was recommended as a possible witness, but the senators on the government side have refused to hear from him, and I asked myself why. Mr. Buckley is a very reputable constitutional lawyer and is highly qualified, probably one of the most qualified on this proposed legislation of anyone in Canada. We heard from Mr. Buckley in the previous version of this bill when it was Bill C-6, and he was very informative and insightful. Naturally, when the bill was reintroduced, he was the person we immediately suggested should be brought in to discuss the changes, those changes that were not made, as well as to enlighten us on the strengths and weaknesses of this new legislation being proposed. Unfortunately, the Conservative senators unanimously voted down Senator Cordy's motion to allow Mr. Buckley to appear before the committee.

**Senator Mercer:** Shame.

**Senator Tardif:** Shame.

[ Senator Day ]



**Senator Day:** Honourable senators, I made a second motion to extend the hearing times for one more session to allow additional outside witnesses to be heard. Sadly, this too was defeated unanimously by the Conservative majority on the committee.

Honourable senators, I received 10 written submissions regarding Bill C-36 from organizations whose submissions could have been very helpful to us. They were from the Asper School of Business at the University of Manitoba, Canadian Consumer Specialty Products Association, Canadian Consumer Product Safety Coalition, Canadian Toy Association, Canadian Environmental Law Association, Health Action Network Society, Natural Health Products Protection Association, David Suzuki Foundation, Consumer Interest Alliance Inc. and Johnson & Johnson Inc.

Honourable senators, allow me just quote from the Health Action Network Society:

Our organization has been told that we are unable to make a presentation to your Committee on Bill C-36, and have been asked to write to you instead. There is something missing when you cannot meet face to face, unfortunately, but here are our points: . . . .

Honourable senators, that letter is typical of the letters we received concerning this proposed legislation. These people were cut off for some reason from coming, and many of them would have told us that this legislation was improved over the previous legislation but there were certain other portions that should have been made.

Honourable senators, this should illustrate to us that we have not done our job on this bill. It should also indicate that we have offended a large segment of society by rushing this process for no reason. There was absolutely no reason to rush this process because we all agreed —

**Senator Mitchell:** However, they might prorogue again.

**Senator Day:** — with the fundamental principle. The principle of the bill was universally agreed upon. It is difficult to understand why partisan politics should interfere with ensuring that the bill gets the attention it deserves, honourable senators.

**Some Hon. Senators:** Hear, hear!

**Senator Day:** Instead of considering the amendments and motions put forward, we were accused of “ragging the puck,” as if it were not our job or duty to be sure and certain that all the provisions of the bill were carefully thought out and that we have a final product that is the best we could have and in the best interests of Canadians.

Bills, honourable senators, and proposed legislation are the first order of business of this chamber I put to you, not policy reports. Something is out of balance when a committee can spend countless meetings on policy studies and drafting a report thereafter but can only hold two meetings on a bill that will affect Canada for many, many years to come.

This bill has come a long way, honourable senators. Since it was introduced as Bill C-52 and later Bill C-6, many of the amendments put forward by us were made, and we thank the government for doing so. However, I must reiterate that I do not feel that we, as senators, have done the best we can do with this particular bill.

I proposed several amendments at committee, all of which were voted down without debate, without discussion and, regretfully, I must say, with very little understanding. We then hurried through the clause-by-clause consideration, honourable senators. The reputation of the chamber is dependent on us fulfilling our duty as senators, and in failing to do so we have not given this bill the consideration it requires to be a sound piece of legislation.

Honourable senators, we have heard discussions in this place — Senator Comeau just yesterday — about practice and how practice is important. Practice is not the written rules but rather the traditions, the customs of this place in terms of extending time, in terms of showing courtesy to fellow senators who might have other things to do. That is what makes this chamber work, honourable senators, not the rules but all of the other practices and traditions and courtesies that we show to one another.

I know we are in this chamber now adjusting, we on this side adjusting to the important role of opposition and you on that side adjusting to the equally important role of how to handle majority power. I understand that, however, I very much look forward to the time when we get through this transition period and get back to showing the courtesy for one another that is important and to doing the job that is important in this place.

• (1520)

**Hon. Jane Cordy:** Would the honourable senator take a question?

**Senator Day:** I would be pleased to.

**Senator Cordy:** I was very pleased that Senator Day clearly told the chamber what it was like being on the committee when it was very challenging. We are supposed to be the chamber of sober second thought and, indeed, that was not the case during the committee hearings. It was very frustrating that three of the four panels we heard, as the honourable senator said, were made up of government officials, who were, of course, talking in favour of the bill because that is their job. On one panel, which made up 25 per cent of the panellists whom we heard from, the witnesses were from outside of government. That does not seem like a good fit to me.

When Senator Martin spoke the other day, I spoke about the term “foreign entity.” I am sorry that I do not have a copy of the bill before me, so I cannot cite the exact clause it is in. However, I am concerned about the term “foreign entity” and that a foreign entity could initiate a complaint. There is no definition of “foreign entity” in the bill. There are many definitions in the bill, but that one does not appear.

With respect to how a complaint can be initiated, if I say a foreign entity is a foreign government, I can accept that because governments should be working together to ensure that the

products are safe. However, on the one panel of non-government witnesses we did have, two of the witnesses expressed concern that foreign entities may mean private businesses in another country who may be making mischief and, in fact, just saying that perhaps a product made in Canada was not safe just so that their own products would have a better market within Canada.

Does the honourable senator have a better definition or feel for what the term “foreign entity” means within Bill C-36?

**Senator Day:** I thank Senator Cordy for that question. I was here when she asked that question of Senator Martin, as well, and I referred to it earlier on. It is in clause 14 of the bill. Clause 14(1) (d) states that the minister can initiate a recall based on a recall or a measure that is initiated for human health or safety reasons by a foreign entity. That is one of the places where the term is used.

Senator Cordy has expressed a concern about an entity doing this for mischief reasons, for example, having a small recall in a particular area to get a competitive product off the market. That is a concern, and the real concern is that the term is not defined and thereby leaves it wide open for inspectors and government people to take actions and say that it was based on a foreign entity activity.

If one looks at the definition of “government,” it is so terribly broad that it includes so many subsections of government operating in foreign areas. “Foreign entity,” I would say, would be interpreted as something broader than that, and that is just virtually every group, organization, company or business anywhere in the world, quite frankly. It is troublesome.

**Hon. Tommy Banks:** I ask all senators, if they can, to place before them, please, a copy of Bill C-36, because I am about to make an amendment. I want honourable senators to see exactly what I am talking about.

Before I get there, I want to reiterate some of the things that Senator Day has said. The government is going down what could be a very slippery slope here, as Senator Day has explained to us, by moving things that were previously considered offences in criminal law into a new regime called “violations.” Those would be violations under regulations, the guilt of which is determined by a process, which, if one reads this bill carefully, allows for no possibility that a person, having been issued a notice of violation, can ever be found not to have committed the violation, regardless of what representations at any level the person so charged makes.

In addition, there is the matter that Senator Day referred to that is very important in that connection. The things that are now called “violations” and not “offences” are, in this act, made not susceptible of a defence in common law. In common law, we have always been able to defend against a charge of an offence by reason of having done demonstrable due diligence or by demonstrating that we reasonably believed in facts, which, if they were true, would be exculpatory. We have always been able to do that.

Now here are these “violations,” not offences, in which this bill states the defence of common law, of due diligence, or of having believed in facts, which, if they were true, would be exculpatory, is

no longer applicable. One cannot use the common law as a defence here. That is the beginning of a slippery slope, honourable senators. I hope we are not going down this staircase.

There is another matter in here. I am sorry to have said this so many times before, but we are used to constabulary authority being given to people who have some demonstrable capability, expertise, training or ability in that respect. In this act, inspectors are named who have all kinds of access to search and seizure and can obtain ex parte warrants. They are persons, not peace officers, constables, game wardens, fisheries officers, immigration officers, customs officers or anybody who has any demonstrable measure of capability and expertise to carry out the role of “inspector,” and could come into one’s place of business on occasion without a warrant.

Nobody would mind if someone goes into a store that is trading in something that it ought not to be trading in. This bill is not about only cribs and lead in toys. It is about consumer products. If someone is selling something that is unsafe, will make people sick or harm people, we ought to have someone who can go in and seize things right now. Nobody argues about that.

However, if one is an owner of a business that has 15 stores, and one has an administrative office on the 15th floor of a building where nothing is being sold, is it reasonable that an inspector should be able to come into that place of business without a warrant, take everything on one’s computer, use one’s printer to print it out, and seize all that material? I have some problems with that.

I will come now to my amendment, and it is something that Senator Day referred to as well, that I want honourable senators to read.

• (1530)

Please turn, if you will, to page 9 of the bill, in clause 15, which is headed: Disclosure of Information by the Minister. This is private information.

Please read with me section 15 and then section 16. First, we will read section 16, because it is okay.

The Minister may disclose confidential business information —

— intellectual property —

— to a person or a government that carries out functions relating to the protection of human health or safety or the environment — in relation to a consumer product —

That is fine. It is restricted to this.

— without the consent of the person to whose business or affairs the information relates and without notifying that person if the person to whom or government to which the information may be disclosed agrees in writing to maintain the confidentiality of the information and to use it only for the purpose of carrying out those functions.

Terrific; it circumscribes the kind of information it can be given — it has to have something to do with consumer affairs — and it requires that the minister obtain an undertaking that the foreign government of Liechtenstein will use that information only for the purposes that it was intended, and to keep it otherwise confidential.

Now look at section 15(1). We have seen in section 16 the protections that are given to businesses and corporations, and we have seen the circumscription in the kind of information that can be given. Now let us read section 15(1).

The Minister may disclose personal information —

— which is described earlier as being everything about you —

— to a person or a government that carries out functions relating to the protection of human health or safety without the consent of the individual to whom the personal information relates if the disclosure is necessary to identify or address a serious danger to human health or safety.

There are no further undertakings. There is no requirement to keep that information confidential on the part of the recipient government. When the minister decides to give this to the Government of Guatemala, the Government of Guatemala can do whatever it likes with the information.

I urge honourable senators to consider that the protection in terms of the circumscription of the kind of undertaking we are talking about, and the undertakings that must be obtained by the minister from the foreign government or entity to whom the information is being disclosed, ought to be no less for an individual Canadian than it is for a Canadian corporation. Individual Canadians deserve the same kind of protection as that given to Canadian corporations.

The Privacy Commissioner has said it is all covered, and Senator Martin told us that when I asked this question earlier; she said it is covered in the Privacy Act. It is, but the coverage in the Privacy Act is tautological. Here is what it says:

The purpose of this Act is to extend the present laws of Canada that protect the privacy of individuals with respect to personal information about themselves held by a government institution . . .

— Section 8(1) of the Privacy Act states:

Personal information under the control of a government institution shall not, without the consent of the individual to whom it relates, be disclosed by the institution except in accordance with this section.

Section 8(2) states:

Subject to any other Act of Parliament, personal information under the control of a government institution may be disclosed...

(b) for any purpose in accordance with any Act of Parliament or any regulation made thereunder that authorizes its disclosure;

— so there is no protection —

(f) under an agreement or arrangement between the Government of Canada or an institution thereof and the government of a province, the government of a foreign state, an international organization of states or an international organization established by the governments of states, or any institution of any such government or organization, for the purpose of administering or enforcing any law or carrying out a lawful investigation...

(m) for any purpose where, in the opinion of the head of the institution,

(i) the public interest in disclosure clearly outweighs any invasion of privacy that could result from the disclosure...

I could go on, but honourable senators, I have read this from stem to gudgeon and it is tautological. It is covered and under this bill, it says you can give whatever you want to whomever you want. There is no protection under the Privacy Act here.

#### MOTION IN AMENDMENT

**Hon. Tommy Banks:** Therefore, honourable senators, I take pleasure in moving:

THAT Bill C-36 be amended in clause 15, on page 9,

(a) by replacing line 13 with the following:

“information in relation to a consumer product to a person or a government that”; and

(b) by replacing lines 17 to 20 with the following:

“relates only if

(a) the person to whom or government to which the information may be disclosed agrees in writing to maintain the confidentiality of the information and to use it only for the purpose of carrying out those functions; and

(b) the disclosure is necessary to identify or address a serious danger to human health or safety.

(2) The Minister shall provide prior notice of the intended disclosure to the individual to whom the personal information relates unless doing so would endanger human health or safety.

(3) If the Minister discloses personal information under subsection (1) without providing prior notice, he or she shall, as soon as practicable but not later than six months after the disclosure, notify the individual to whom the personal information relates.

(4) For greater certainty, nothing in this”.

**The Hon. the Speaker:** On debate on the amendment.

**Hon. Yonah Martin:** I, too, wish to move an amendment.

**The Hon. the Speaker:** Honourable senators, the question before the house is the motion in amendment and we are on debate on that.

**Senator Martin:** I wish to have some time to consider the amendment and would like to adjourn the debate in my name.

**The Hon. the Speaker:** Honourable senators, there is no debate on an adjournment motion. Senator Martin had the floor and has moved the motion to adjourn.

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

(On motion of Senator Martin, debate adjourned.)

### BILL PROTECTING CHILDREN FROM ONLINE SEXUAL EXPLOITATION

#### SECOND READING—DEBATE SUSPENDED

**Hon. Bob Runciman** moved second reading of Bill C-22, An Act respecting the mandatory reporting of Internet child pornography by persons who provide an Internet service.

He said: Honourable senators, I am pleased to rise today to support Bill C-22, an act respecting the mandatory reporting of Internet child pornography by persons who provide an Internet service.

I think we would all agree that we bear no greater responsibility than the protection of our children. As parliamentarians, we have the privilege and honour of helping shape Canadian society so that our children can grow, learn and thrive in a safe and secure environment.

• (1540)

Canada's framework to combat child pornography is one of the most comprehensive in the world. However, we can, and must, do more to ensure that children are safe from sexual exploitation.

**Senator Munson:** I would like to have some order so I can hear the honourable senator.

**Senator Runciman:** The Internet has provided many positive opportunities for the global community. However, it has also provided new ways for offenders to distribute and consume child pornography. The Internet has resulted in a significant increase in what I believe all of us would consider disgusting material. The Canadian Centre for Child Protection, through Cybertip.ca, processes some 600 reports a month related to the sexual exploitation of children online. Let me repeat that: 600 reports a month.

This morning's newspapers drive home the need to deal with the scourge of child sexual exploitation aided and abetted through the use of the Internet. A global child exploitation investigation

launched by police in Canada and involving authorities in Germany and the United Kingdom resulted in 218 charges against 57 men, including 25 Canadians. According to police, hundreds of thousands, if not millions, of sexual abuse images were traded over the Internet by this perverted network.

These sickening photos are not abstract; they involved real victims. Police have rescued 25 children, 10 of them from Canada. Four of the children who were rescued are from right here in Ottawa, including a 4-year-old.

Honourable senators, the threat is real, the public cares about it and they feel strongly that it is our responsibility as legislators to act on this concern. That is why the new federal statute before us today focuses on the Internet and, in particular, on the distribution of child pornography over the World Wide Web.

This bill proposes to enhance Canada's capacity to protect children from sexual exploitation by requiring providers of Internet services to report child pornography. This legislation strengthens Canada's ability to detect potential child pornography offences. It will also assist in reducing the availability of online child pornography and will help identify, apprehend and prosecute offenders.

Most important, this legislation could help identify the victims so they may be rescued from sexual predators.

Honourable senators, this bill focuses on the Internet and those who provide Internet services to the public, because the widespread use of the Internet is largely responsible for the growth in child pornography over the last decade or so. The Internet has allowed pedophiles to form networks to traffic their revolting products.

Those who provide Internet services to the public are uniquely placed to discover child pornography crimes because they provide Canadians with a medium through which these crimes are committed. This legislation will require them to report tips about child pornography that may be available on the Internet and to notify police and safeguard evidence if they believe their service has been used to commit an offence.

This bill will apply to more than the Internet service providers, ISPs, those who provide access to the Internet through the wires and signals that go into our homes. The bill also includes those who provide electronic mail services, such as web-based mail, those who host Internet content and social networking sites where the public can upload images or other material.

The bill will also apply to those who provide complementary Internet services to the public, such as cybercafés, hotels, restaurants and public libraries. This broad scope will ensure we eliminate as many safe havens for pedophiles as possible.

The first new duty imposed on Internet service providers by this bill is to report to a designated agency any Internet address that is brought to their attention as possibly containing child pornography. To be clear, ISPs are required to report only the Internet address. The designated agency will take it from there.

At that point, the designated agency, first, will determine if the Internet address actually leads to child pornography as defined by the Criminal Code and, second, establish the geographic location of the web servers hosting the material. Once the agency has confirmed the nature of the material and its location, the agency will contact the appropriate law enforcement agency for action.

The second duty imposed on those who provide Internet services to the public is to notify police when they have reason to believe that a child pornography offence has been committed using their Internet service. For example, if an email provider, while conducting routine maintenance of its servers, discovers that the mailbox of one of its users contains child pornography, the email provider will be required to notify police.

The service provider is obligated to preserve the evidence for 21 days after notifying authorities. This provision provides police with a reasonable period of time to obtain a judicial order for further preservation or production of the evidence. After the expiry of the 21-day period, unless the time is extended by a court order, the service provider is required to destroy any information that would not be retained in the ordinary course of business.

Bill C-22 has been designed to work in concert with those provincial and foreign jurisdictions that have already introduced similar mandatory reporting requirements. Four provinces in Canada have done so.

The bill has been tailored to limit duplicate reporting for those who are already required to report child pornography under the laws of the province or the jurisdiction in which they operate.

#### BUSINESS OF THE SENATE

**The Hon. the Speaker *pro tempore*:** Honourable senators, it being 3:45 p.m., pursuant to the order adopted yesterday, the sitting is suspended. We will resume by 5 p.m., after a 15-minute bell.

The purpose of the suspension, as I understand it, is to allow for the unveiling of the Corbel portrait of Her Majesty Queen Elizabeth II in the foyer of the Senate. The Governor General and other dignitaries will be present, and I urge all honourable senators to attend this event honouring the Queen of Canada.

(The sitting of the Senate was suspended.)

• (1700)

(The sitting of the Senate was resumed.)

#### BILL PROTECTING CHILDREN FROM ONLINE SEXUAL EXPLOITATION

##### SECOND READING—DEBATE ADJOURNED

**The Hon. the Speaker:** Honourable senators, it being five o'clock, pursuant to the house order, the sitting is resumed.

**Hon. Bob Runciman:** Honourable senators, I will never complain about being interrupted by the Governor General.

Bill C-22 has been tailored to limit duplicate reporting for those who are already required to report child pornography under the laws of the province or jurisdiction in which they operate.

It is important to note, honourable senators, that Bill C-22 was crafted in accordance with the overarching principle that the legislation should not create new consumers of child pornography or contribute to the spread of this appalling material. The bill explicitly states that it does not require or authorize any person to seek out child pornography. Providers of Internet services will not be required to monitor their networks in order to find child pornography or to investigate the activities of their users. They will not be required to confirm the content of an Internet address after they have received a tip.

This bill does not add a substantial burden to Internet service providers. Canada's major ISPs already voluntarily report child pornography when they encounter it. This bill ensures that all other providers of Internet services do likewise. Failure to comply with the duties under the bill would constitute an offence punishable by summary conviction with a graduated penalty scheme.

For individuals — in other words, sole proprietorships — the maximum penalty would range from a \$1,000 fine for a first offence to \$5,000 for a second and, for subsequent offences, a fine of up to \$10,000 or six months jail. For corporations and other entities, maximum fines would range from \$10,000 for a first offence, \$50,000 for a second offence and \$100,000 for subsequent offences. The two-tier penalty scheme recognizes the diverse circumstances of Canada's Internet service providers.

While some might argue that these penalties are too soft, we should remember that this bill will complement existing measures to protect children against sexual exploitation, including tough sentences in the Criminal Code for child pornography offences.

Canadian laws against child pornography are among the most comprehensive in the world. According to section 163.1 of the Criminal Code, it is illegal to make, distribute, transmit, access, sell, advertise, export or import, and possess child pornography. The Criminal Code contains a broad definition of child pornography that includes visual, written and audio depictions of the sexual abuse of a person under 18 years of age. It includes written or audio material that advocates or counsels such unlawful activity or that has descriptions of such unlawful activity as its predominant focus. The Criminal Code also imposes significant penalties, including mandatory minimum sentences, for all child pornography offences. On indictment, the maximum penalty for making and distributing child pornography is 10 years in prison.

While strong criminal laws are essential to combat this scourge, they are not enough. That is why the government renewed its commitment to work with its partners through the National Strategy to Protect Children from Sexual Exploitation on the Internet. This initiative has helped over the last few years to ensure that the growing number of young people on line stay safe and that we crack down on sexual predators. The government is investing \$71 million over five years to ensure that the national strategy remains a success.

With these investments, the government is strengthening its ability to combat child sexual exploitation over the Internet through the work of the National Child Exploitation Coordination Centre, which works to reduce the vulnerability of children to Internet-facilitated sexual exploitation.

Through the national strategy, the government is also supporting the Canadian Centre for Child Protection to help young people stay safe online through initiatives such as Cybertip.ca, which is Canada's tip line for the reporting of online sex crimes against children.

Honourable senators, I would like to quote from a recent report by Cybertip.ca which contains disturbing facts about the prevalence of online child sexual exploitation and the increasing use of younger children and more violent acts. The report states:

Most concerning is the severity of abuse depicted, with over 35% of all images showing serious sexual assaults. Combined with the age ranges of the children in the images, we see that children under 8 years old are most likely to be abused through sexual assaults. Even more alarming is the extreme sexual assaults which occur against children under 8 years old. These statistics challenge the misconception that child pornography consists largely of innocent or harmless nude photographs of children

As I mentioned at the outset of my comments, the news today that 25 child victims, one a four-year-old from Ottawa, have been rescued from horrific sexual abuse truly drives home the need to do all we can to stop the degenerates who perpetrate these crimes.

Honourable senators, I encourage you to support Bill C-22, legislation that will better protect children from sexual exploitation.

**Hon. Sharon Carstairs:** Will the honourable senator accept a question?

**Senator Runciman:** Yes.

**Senator Carstairs:** One issue that I do not think is being adequately addressed, although generally I think the legislation is a step in the right direction, is the vulnerability of children to other children.

• (1710)

I often hear instances of a child persuading another child perhaps to dance nude in front of a web cam. Do we have a national program to explain to children their vulnerability on the Internet and how they can protect themselves; not only how they need to be protected from others? I am reminded of programs such as "*My body is my body: Don't Touch*" and that type of program.

Does the honourable senator know what this bill or existing legislation will do to encourage that kind of programming?

**Senator Runciman:** I am not aware of any program of that nature, but I agree with the honourable senator that the concern is a valid one. I have heard of messages being delivered informally, but not through a formal program. It is an increasing concern because many children under the age of 18, in particular those who are very young, are being enticed to do what Senator Carstairs suggests is occurring, without appreciating the

implications of that image on the Internet being circulated around the world. The concern is a legitimate one and I encourage Senator Carstairs to raise it during the committee process. I share the concern with her and other honourable senators.

**Hon. Jim Munson:** Honourable senators, I will take the adjournment of the debate. I am the critic on Bill C-22 but I received notice of this bill only on Monday. This bill is good work, but I share the sentiments of Senator Carstairs that perhaps more can be done, of course, going before a committee to study this ever so briefly.

During the break, I met with Bernard Lord of the Canadian Wireless Telecommunications Association. The association is putting in place something at the corporate responsibility level to deal with "sexting." Sexting is when a young person does improper things that end up on the Internet where any one might see it, including a boyfriend. In this particular case, a young woman of 15 committed suicide.

It is a serious subject. I do not have my notes prepared but I truly want to speak to the bill and take a hard look at the issue. This bill is a good one, but I need to speak to it. Between now and Christmas, I do not think I have the time to do so. Therefore, I take the adjournment of the debate.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Senator Runciman just finished his speech on the bill. Generally, we permit questions to be asked because he moved second reading. Will Senator Munson agree to other honourable senators asking questions of Senator Runciman today? By no means will this side deny Senator Munson taking the adjournment.

**Senator Munson:** Absolutely.

**Hon. A. Raynell Andreychuk:** Honourable senators, for the record, the Standing Senate Committee on Human Rights has been studying the issue of sexual exploitation, and there is a great deal of evidence within that committee. The committee has yet to put its report forward, but it deals with the issues of children enticing other children, and the whole issue of new technologies and how they have made children vulnerable. The valuable evidence can be applied to the committee that will consider Bill C-22, which I anticipate being the Standing Senate Committee on Legal and Constitutional Affairs.

As well, parents need to be educated about what tools children are using; this education is extremely important. Cybertip.ca has been involved in such education.

Several years ago, a bill was before the Standing Senate Committee on Legal and Constitutional Affairs. At that time, Internet service providers said that they simply could not manage monitoring their own services and systems; therefore, nothing mandatory was put in place. The system was more a voluntary scheme. This bill addresses more forcefully that some responsibility must be taken by Internet service providers.

My question is: What is the test for a reasonable response from Internet service providers? Is it due diligence and, if so, who defines it? Will it ultimately be decided within the courts or will it be within the industry?

[ Senator Runciman ]

**Senator Runciman:** My suspicion is that it will be determined ultimately by the courts. This bill provides the industry with guidance with respect to how they should respond. As I indicated in my comments, Internet service providers are not required to monitor the service, but if they are made aware of something suspicious or through a situation where they become aware within their service that this is occurring, they will have obligations under this bill.

If the situation involves their own service, they have a requirement to report it to the police. If it is something they hear more broadly with respect to a site that might provide this sort of material, they will report it to the designated agency, which in all likelihood will be [Cybertip.ca](http://Cybertip.ca).

**Senator Andreychuk:** The difficulty is that we need some sort of standard for the industry that can be self-administered by the industry. However, for the benefit of children and for Internet providers, there must be a balance in terms of what a responsible Internet service provider will do because there can be international repercussions. I hope that the committee will address the issue of having a standard and accountability. There cannot be the expectation that they will be responsible for catching each and every case. There is the definition of pornography as well, which they cannot be expected to know. There must be a better standard and a better adherence than there is presently. I trust that is what the honourable senator is saying in his comments.

**Senator Runciman:** Honourable senators, four provinces have passed somewhat comparable legislation. I believe that Nova Scotia and Manitoba have enacted it, and Alberta and Ontario have yet to proclaim the legislation.

In Manitoba, the legislation has been in force for one year and the province has seen a 120-per-cent increase in reported concerns, if you will, with respect to this activity.

A track record is being built with respect to provincial legislation that is already in place. That record will help to guide us during committee hearings as well.

(On motion of Senator Munson, debate adjourned.)

## SUSTAINING CANADA'S ECONOMIC RECOVERY BILL

### SECOND READING

**Hon. Elizabeth (Beth) Marshall** moved second reading of Bill C-47, A second Act to implement certain provisions of the budget tabled in Parliament on March 4, 2010 and other measures.

She said: Honourable senators, I am pleased to move the sustaining Canada's economic recovery bill at second reading in the Senate. Allow me to bring honourable senators up to speed on where things stand with respect to the economy.

I am sure honourable senators will know that our government has been extremely busy putting in place year two of Canada's Economic Action Plan. We put this plan in place to help create

jobs and economic growth and we have done so quickly and effectively. In the words of Auditor General Sheila Fraser, who reviewed the way the government handled Canada's Economic Action Plan in her latest report:

I would give the government high marks. . . . They paid a lot of attention to managing the risk around that, and I think they deserve a lot of credit for that.

• (1720)

In so doing, we have provided a model for other countries to follow. Canada has created an effective road map to economic recovery, both in how we prepared before the downturn and in the way we responded after it arrived on our shores.

As a result, the decline in our economic output was the smallest in the G7. We have seen our economy grow for the past five straight consecutive quarters. We have recovered all the jobs lost during the course of the recession, with over 440,000 jobs created since July of last year.

As well, the International Monetary Fund and the Organisation for Economic Co-operation and Development project that Canada will lead the G7 in growth in the years ahead. Indeed, the International Monetary Fund declared "Canada's standing as the strongest fiscal position in the G7," and said our government's economic policies were "welcome, growth-friendly measures to support Canada's long-run economic potential."

Honourable senators, we can listen to the *Wall Street Journal*, which recently noted that Canada

. . . has pulled through the downturn in better shape than most of its peers, with the healthiest banking system and the strongest economic recovery in the Group of Seven wealthy nations.

That being said, the economy remains fragile, as witnessed by the present challenges facing European countries such as Ireland. We are not an island. What happens outside our borders will continue to affect Canada. This effect is especially true of what happens in the U.S., as 75 per cent of our exports go to the United States. That is why our government's number one priority remains the economy; protecting and creating jobs, economic stability and financial security.

That is why we continue to move forward with Canada's Economic Action Plan through the sustaining Canada's economic recovery bill. The bill, which includes measures from Budget 2010, represents a key component of Canada's Economic Action Plan and will provide real benefits for families, consumers, businesses and taxpayers.

The proposed act includes measures to help Canadian families get ahead by indexing the Working Income Tax Benefit; allowing registered retirement savings plan proceeds to be transferred to a registered disability savings plan on a tax deferred basis; allowing a 10-year carry forward for registered disability savings plan grants and bonds; implementing employee life and health trusts reform; and further strengthening federally regulated pension plans.

The bill also includes measures to cut red tape by helping registered charities with disbursement quota reform; by allowing taxpayers to request online notices from the Canada Revenue Agency; and by reducing the paperwork burden for certain taxpayers.

Bill C-47 also includes measures to close down tax loopholes by targeting tax incentives better for employee stock options and addressing aggressive tax planning related to tax free savings accounts.

The proposed act also includes measures to protect consumers by improving the complaint process for consumers when dealing with the financial services industry.

Finally, the bill includes measures to promote clean energy by expanding access to accelerate a capital cost allowance for clean energy generation.

Honourable senators, I will take a moment to highlight a few of the measures I have mentioned, starting with the improvements to the registered disability savings plan.

We must never forget the most vulnerable in our society. We know Canadians with disabilities make significant contributions to our communities and to our economy. Last March our government ratified the United Nations Convention on the Rights of Persons with Disabilities. This convention promotes the full inclusion of persons with disabilities around the world.

We support Canadians of all abilities, all across this great country. One of the most important actions our Conservative government has taken in support of persons with disabilities has been the creation of the registered disability savings plan, RDSP, which was announced in Budget 2007.

The RDSP helps parents and family members provide long-term financial security for a severely disabled child. Today's act includes two proposals to further improve the RDSP. Under the current rules for registered retirement savings plans and registered retirement income funds, RRIFs, the proceeds of a deceased person's RRSP or RRIF may be transferred on a tax-free basis to the registered retirement savings plan of a financially dependent infirm child or grandchild.

To give parents and grandparents more flexibility in providing for a disabled child's long-term financial security, today's bill proposes to allow the proceeds of a deceased individual's RRSP or RRIF to be transferred on a tax-free basis to the registered disability savings plan of a financially dependent infirm child or grandchild.

As a second improvement to the RDSP, today's act also proposes to allow a 10-year carry forward of Canada's disability savings grant and Canada disability savings bond entitlements in an RDSP. This carry forward is in recognition of the fact that families with children with disabilities may not be able to contribute regularly to their plans.

Ms. Tina Di Vito, director, retirement strategies, BMO Financial Group, has heralded these changes as fantastic measures. I will add, honourable senators, that Ms. Di Vito

testified before the Standing Senate Committee on National Finance on Tuesday morning and it was a fascinating exchange regarding the RDSPs. She added:

With the RDSP, Canada is leading the world in showing how smart policy can help provide financial security and independence for people with disabilities.

... the benefit will be huge, allowing more people with disabilities to live more comfortable and independent lives.

The RDSP is giving Canadian families peace of mind by helping them save for the long-term financial security of a loved one with a disability, and these two important changes will further that goal.

Honourable senators, staying with our Conservative government's role of providing assistance to those who need it most, all parliamentarians should recognize the invaluable role that charities play in communities across Canada.

Since 2006, our government has acted decisively to support charities and facilitate the great work they do. Indeed, in our first budget we introduced an exemption on the capital gains tax associated with the donation of publicly listed securities to public charities. In Budget 2007, we extended this exemption to donations of publicly listed securities to private foundations.

Today's bill proposes another significant reform. This time it is related to the disbursement quota for charities. The disbursement quota introduced in 1976 was intended to ensure that a significant portion of a registered charity's resources is devoted to its charitable purposes.

Many observers have noted that the disbursement quota has been unable to achieve its intended purpose as it does not take into account the varying circumstances of particular charities.

Imagine Canada, for example, believes that the disbursement quota imposes "an unduly complex and costly administrative burden on charities — particularly small and rural charities."

Today's bill proposes to eliminate all disbursement quota requirements except those related to the requirement to disburse annually a minimum amount of investments and other assets not used directly in a charity's operations. This requirement is being updated to provide charitable organizations with a greater ability to maintain reserves to deal with contingencies.

In recent years, the Canada Revenue Agency's ability to monitor charities has been strengthened through the introduction of new legislative and administrative compliance tools. These compliance tools will help the Canada Revenue Agency ensure that charitable resources are devoted to charitable purposes. These reforms will reduce administrative complexity and better enable charities to focus their time and resources on charitable activities.

The feedback we have received on this measure to date has been extremely positive. For instance, the Salvation Army cheered it and said:

... the removal of the quota will provide The Salvation Army, one of Canada's largest charities, with increased flexibility. ... We are very pleased with this announcement. The



proposed changes will allow us to better respond to the needs of the people we serve in 400 communities across Canada.

Jeffrey McCully, writing in a recent edition of the *Ottawa Citizen*, after examining the reforms concluded:

In sum, it is clear that both the proposed changes in the law and the CRA are clearly protecting the interests of donors to charity and the charities themselves by ensuring both transparency and accountability in charitable activity.

• (1730)

Honourable senators, Canadians also remain concerned about the long-term viability of their pension plans. We are listening to their views on how we can strengthen the security of pension plan benefits and ensure the framework is balanced and appropriate.

Almost a year ago, the government proposed reforms aimed at federally regulated private pension plans. In early 2009, the Parliamentary Secretary to the Minister of Finance embarked on a cross-country tour consulting with Canadians on federally regulated pensions.

From what we heard across the country, our government came up with some strong, practical changes to strengthen our federally regulated pension system. These reforms will protect pensioners by requiring companies to fully fund pension plan benefits on plan termination and make pensions more stable.

The sustaining Canada's economic recovery bill will further implement these changes to ensure we have a strong pension system in Canada.

With the challenges faced by Canadians, particularly seniors, they should rest assured that our Conservative government stands with hardworking Canadians, who are counting on their pension plans for a stable retirement. We are taking the steps necessary to make sure Canada's pension framework remains strong.

Honourable senators, as I mentioned at the beginning of my speech, our government is reducing taxes for Canadian families. In Budget 2008, we introduced the single most important personal savings vehicle since the introduction of the RRSP: the Tax-Free Savings Account, or the TFSA, as we know it. This flexible, registered general purpose account has allowed Canadians to watch their savings grow tax-free. It was the first account of its kind in Canadian history. For those of you who have not yet taken advantage of a TFSA, let me quickly review the benefits.

First, Canadians can contribute up to \$5,000 every year to a registered Tax-Free Savings Account, plus carry forward any unused room to future years. Second, the investment income, including capital gains earned in the account, will be exempt from income tax even when withdrawn. Third, Canadians can withdraw from the account at any time without restrictions. Better yet, there are no restrictions on what they can save. Finally, to ensure no loss in a person's total savings room, the full amount of the Tax-Free Savings Account withdrawals may be recontributed to the account in any future year following the year of withdrawal.

The proposed amendments in today's bill respond to recent concerns that have arisen regarding the use of the Tax-Free Savings Account in tax-planning schemes. Specifically, the proposals will ensure that the Tax-Free Savings Account remains viable and strong for Canadians today and in the future, and the use of inappropriate transactions to draw excessive benefits are avoided.

Honourable senators, to conclude, we are reducing taxes for Canadian families, creating and maintaining jobs, and helping Canadians who are hardest hit by this global recession. The stimulus package the government is providing is one of the largest and most effective among G7 countries.

As an editorial in the *Victoria Times-Colonist* recently heralded:

The truth is that far from needing a lecture on financial management or sound public policy, Canada should be delivering one. We are not, as nearly half of Europe is, tottering on the brink of bankruptcy. Unlike the U.S., we have a system of government that faces problems rather than hiding from them. . . . Another day it might be different. But this time around the facts are plain. Our handling of the economic downturn has been an example for the world.

However, as I mentioned earlier, the global recovery remains fragile. That is why we must stay on track and fully implement Canada's Economic Action Plan to help ensure continued job creation and economic growth across the country. That is why we must pass the sustaining Canada's economic recovery bill.

Honourable senators, I urge all of you to join me in supporting this bill.

**Hon. Joseph A. Day:** Honourable senators, let me congratulate the Honourable Senator Marshall on that presentation and also to thank her and congratulate her on the work she is doing on the Standing Senate Committee on National Finance. She has been a very welcome and capable addition to our committee.

Honourable senators, this is second reading of Bill C-47. This bill was referred to the House of Commons on November 4 and was received by us in the Senate on Tuesday, December 7 of this year, which is several days ago.

Normally, honourable senators, we would go through second reading; it would then be referred to our committee and our committee would commence its study at committee, and we would report back at third reading. However, this is one of those special cases where we anticipated that it would be late coming to us. Senator Comeau took the initiative, with our consent, to allow us to do a pre-study of this particular bill. We have in fact started the pre-study, honourable senators, on Bill C-47. On November 16, we had 17 government witnesses from various departments, including Gérard Lalonde, who has come before our committee on several occasions. Mr. Lalonde is of great assistance because he is very knowledgeable on tax policy matters. We thank him for his help.

In addition to tax policy personnel, we had the Human Resources personnel, HRSDC; we had the Canada Border Services Agency; and we had representatives of the Office of the Superintendent of Financial Institutions. All of those individuals came before us to help explain the rather technical aspects of the bill.

Honourable senators, this is almost an omnibus, pick-up-all-those-little-issues type of bill that we see from time to time. They must keep a list of those in the various other financial departments. It is omnibus within those departments and not within the government generally. It deals, honourable senators, with many issues that have been outlined by the Honourable Senator Marshall. I thank Senator Marshall for going through that list. We also heard from the Bank of Montreal financial services personnel, as Senator Marshall indicated.

Once this bill is referred to us, which we anticipate will happen in the next few days, we will be in a position to deal with it on a clause-by-clause basis and to report back here the outcome of that clause-by-clause deliberation.

There is a wide range of different areas. Senator Marshall highlighted the Registered Disability Savings Plan, on which we have had extensive evidence. In the interest of moving forward and having this bill referred to our committee, I propose to deal with my observations of the Registered Disability Savings Plan evidence that we received in the pre-study at third reading.

Senator Marshall talked about charities and the new initiatives. Let me say that many of these initiatives are very positive. Some of them fine-tune programs that have been in existence for a while. For the last two years, we have had the new Tax-Free Savings Account. You put tax-paid money into it but you do not pay tax on the gain in the program. With any new program like this, there are always adjustments that have to be made. In this one, some certain tax avoidance rules had not applied and now Canada Revenue Agency feels they should apply because people were purposely overpaying. They see how it is being taken up and then they are picking up where the gaps are and rectifying them. It is perfectly acceptable and expected, frankly, that they should be doing that.

• (1740)

Honourable senators, there are many other items in this bill and I am wondering why the government has wasted an opportunity. This is a budget implementation bill at a time when unemployment is 2 per cent higher than it was during the last election; at a time when we had a \$55 billion deficit last year; and at a time when we lost 200,000 full-time jobs from the economy.

The Honourable Senator Marshall talked about creating employment, but that employment is part-time jobs and many of them are lost. The fact is that there is 2 per cent higher unemployment now than previously.

I ask honourable senators to look at the predictions and the projection of the increased base of our debt. I heard the Minister of Finance recently say, "We should be able to clean this up so we do not have a deficit in four or five years or so." It is the "or so" that is slowly being worked in here now.

[ Senator Day ]

If you accept the government's figures, it will be \$150 to \$200 billion more debt than we had previously. Honourable senators can calculate whatever the interest rate will be on that particular debt, but that will be a lot of money — for example, at 10 per cent, it is \$20 billion — that we will not have for other programs.

Collectively, honourable senators, we must work on programs that reduce the annual deficit and avoid repetition of this excessive spending on matters like advertising programs, and so on, and the billions of dollars spent on fake lakes and other expenditures when we know that we cannot afford those particular matters.

That is my only concern about this particular bill, honourable senators, namely, the lack of focus on what would really help the situation that we are in right now.

As the Honourable Senator Marshall has pointed out, there are provisions with respect to shared custody. That is a good idea, but that could have been worked in anywhere. The rollover aspect of the Registered Disability Savings Plan is both good and positive, but where is the focus on some of the issues that will help us with our situation today?

There were some abuses with the employee stock option, so they are trying to deal with those abuses. I have nothing against that, but why is that the big focus at this particular time? There is a capital cost allowance for set-top television boxes. Perhaps that is important to people who buy set-top television boxes to have an accelerated capital cost allowance, but I am worried about the \$55 billion deficit that we incurred last year.

**An Hon. Senator:** As are we all.

**Senator Day:** There are online notices and another interesting provision here, which is external complaints made to banks. Banks are required to join this new organization, and the government will create regulations. This group oversees complaints and deals with the complaints to the bank, but then the government says that they will also have the Financial Consumer Agency of Canada oversee the overseers. This looks to me like extensive, excessive oversight in a particular area. I do not know from where the impetus or the need for this particular bureaucracy has come; we will have to pursue that at another time.

There were a number of other what are referred to as "non-priority issues," honourable senators, such as equalization payments. If the registered education fund is not used for education purposes, then the growth portion of that becomes taxable because it was not used for education. We have a provision in here that takes up several pages to provide that the federal government can now share that bounty with the provincial governments. That is fine.

Another provision is equalization payments. About two years ago, the government said, with our new formula, if there is a particular province that gets less in equalization sharing than in previous years, we will top it up so that you do not get less. There

are provisions in here that say we will do it another year, but we do not want you to think it will be here forever. That is what is in here.

I wanted honourable senators to know what was in here so you can see that there are some worthwhile initiatives that we commend the government for taking action on, but it would have been a lot better if we could have seen some action on the real issues that confront us at this time.

**Senator Marshall:** Honourable senators, I would like to speak to some of the comments Senator Day made and thank him for his comments.

**The Hon. the Speaker:** Honourable senators, at this point we are into questions and comments of Senator Day. I understood Senator Marshall to say that she is making a comment that might even lead to a question of Senator Day.

**Senator Marshall:** Honourable senators, Senator Day said that he would like to see the government focusing more on the deficit and where it is going in the future. We have been discussing that in the Finance Committee. With the information that is being provided, does the honourable senator not think the government is on track with its expenditure plan?

**Senator Mitchell:** No, absolutely not.

**Senator Day:** My colleague tells me, “No, absolutely not.”

I think there is a difference of opinion on a number of issues, but at least we become informed of them through our Finance Committee meetings. I appreciate the honourable senator’s involvement in those meetings.

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

**Hon. Senator:** Question!

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

**Some Hon. Senators:** Agreed.

**An Hon. Senators:** On division.

(Motion agreed to, on division, and bill read second time.)

#### REFERRED TO COMMITTEE

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

(On motion of Senator Day, bill referred to the Standing Senate Committee on National Finance.)

### FIGHTING INTERNET AND WIRELESS SPAM BILL

#### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Oliver, seconded by the Honourable Senator Cochrane, for the second reading of Bill C-28, An Act

to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act.

**Hon. Grant Mitchell:** Honourable senators, I find myself having to support this bill. When that began to dawn on me, I thought, “What is going on?” I remember that as recently as a year ago I supported another government bill. I thought, “How often will that happen?” Then I realized that, thanks to prorogation, it was the same bill, so I was okay. I am maintaining my pure record, I think, of not supporting more than one government initiative a year.

**An Hon. Senator:** You have only made one mistake, then.

• (1750)

**Senator Mitchell:** That is right. It has been a pretty good year.

However, now I am in tremendous trepidation when I say that I support something, because surely it will be just days before Senator Tkachuk will read back my words in Hansard, trying to make some obscure point, saying, “My gosh, the senator supports something the government is doing; it must be right.”

**Senator Tkachuk:** I must have touched a nerve. Sorry about that.

**Senator Mitchell:** However, I will say that Senator Tkachuk will have much more trouble finding what I say in this Hansard than in the Alberta Hansard, because the Alberta Hansard has a search function. If only we could get a search function here. However, that is not what I am talking about.

I have enjoyed working on this bill. I had a great briefing from the department. I was surrounded by intelligent public servants. I felt secure, because there was a political representative from the minister’s office just to ensure that those public servants were not telling me anything that they should not. That was reassuring.

I will say that Senator Oliver has been excellent to work with. We discussed a few issues that we felt were worthy of discussion. In fact, I think some changes have been made to this iteration of the bill that were evident after our debate of the previous bill a year ago. This underlines the importance of the work the Senate does and the fact that the government would be wise to accept our amendments and comments on these bills perhaps a little more often than they do. They have been reluctant to do that, so it is nice to see that they have done it this time.

I will not go into a great deal of detail. Senator Oliver explained the bill exceptionally well.

This is a bill designed to protect electronic commerce by prohibiting the sending of electronic commercial messages without prior consent. It is an anti-spam bill. I used to think that spam was simply too many emails. Then I became a senator,

and I get so many emails that I realized that could not possibly be it. However, I did limit my view of spam to emails, but of course it is much broader than that.

One of the key problems associated with spam is the downloading of unwanted and sometimes dangerous software. This bill is comprehensive in the way that it addresses what we have commonly called “spam.”

It is not too strong a word to say that spam is dangerous to our economy and to business. Spam is unsettling and distracting to business. It can lead to or actually involve criminal activity, so it has profound implications in that regard. Of course, spam can be a real affront or offence to privacy.

Canada, unfortunately, is one of the last Western industrialized nations — I think the third-last OECD nation and the last G8 nation — to have this kind of legislation, so it is long past overdue. We have increasing problems in relation to our reputation abroad. In fact, these problems are compounding even as we speak, with Mr. Baird in Cancun unrelentingly criticizing China, with whom we would one day hope to have good, strong trade relations, which are being jeopardized by this kind of activity. We have increasingly had problems with our international reputation over the last five years. This is at least one problem we can fix. We have had the reputation of being a haven for spammers, but we will get over that, I hope.

This is a classic case of non-partisan — or bipartisan, to use an American expression — cooperation and collaboration. This arises out of a number of events.

First — and I want to take credit for this on behalf of the Liberal Party — it was the Liberal government that established the Task Force on Spam in 2004, which ultimately led to this legislation. The process was augmented, enhanced and improved by the work of Senator Oliver, who had worked on a number of private members’ bills, and by the work of Senator Goldstein, who is no longer with us. This is the culmination of efforts from both sides, and I believe that all those involved are to be congratulated.

A number of prohibitions under Bill C-28 are worth emphasizing. This bill will prohibit the sending of unsolicited commercial electronic messages in, as I said, both emails and software. The legislation describes the meaning of “unsolicited.” The word used is “consent.” The legislation requires express consent on behalf of people to receive whatever the message is in order for it not to be defined as spam. Express consent is considered to exist only when an individual chooses to receive or opts into a process of receiving email electronic communication.

Implied consent is limited. Someone cannot assume that one has implied one’s consent, except under very limited and restrictive parameters, which is a good thing. Implied consent is intended for existing business and non-business relationships.

False and misleading representations online, including websites and various other kinds of electronic addresses, are prohibited. The use of computer systems to collect electronic addresses without consent is ruled out by this legislation. The unauthorized altering of transmission data, the installation of computer programs without consent, and the unauthorized access to a computer system to collect personal information without consent are all absolutely prohibited as well.

[ Senator Mitchell ]

There are some exemptions so that this legislation does not become overly onerous and inappropriately applied. The bill only covers unsolicited commercial intent; it does not include political, family or personal relationships. The bill also allows for the automatic downloading of upgrades of legitimate software.

Several other provisions in the bill are worthy of note. Surprisingly, the bill uses a regulatory approach instead of a criminal approach. I expect the government will feel uneasy that its work is not quite complete and that there will be legislation in the future to provide for mandatory minimum sentences for whatever it is that people should not do under this bill. However, at this time, common sense prevailed to say that this should be done quickly, that it had to be done quickly, and this was facilitated. That is not to say that the bill is unreasonable in its rigour in relation to fines. An individual who transgresses the bill, or what will be the act, can be fined \$1 million; and a company that transgresses the act can be fined \$10 million.

The regulatory approach will be coordinated through the CRTC, the Office of the Privacy Commissioner and the Competition Bureau. The bill also creates a Spam Reporting Centre where harmful Internet messages can be sent and investigated by relevant authorities. It will store and analyze spam, and ensure access to the spam database by all three enforcement agencies.

The bill also includes a private right of action so that, as a consumer, a business person, a business, or an Internet service provider, one can take action against violators; and the bill provides for coordination among the three enforcement agencies and international partners.

One of the weaknesses in the bill a year ago was brought to our attention by companies like RIM. RIM met with me — the meeting is probably registered under the act as lobbying — and it was very informative. RIM pointed out that the way the act read previously, they could easily be accused of and held liable in civil courts for accessing information on what would generally be considered public websites that are used by spammers. However, the spammers could have made those websites off limits to that by simply registering them or indicating on the website that they were unauthorized if people did not have prior permission to use them. That would make it almost impossible for companies like RIM to pursue spammers who might literally be destroying their system, and to pursue them quickly.

The government listened to that input and made the point of changing “unauthorized” to language that said that it would exclude only those activities that were in contravention of an act of Parliament.

That is a happy change for companies like RIM, Research In Motion, and demonstrates a legitimate, useful and welcome response by government to that kind of input and to input from this Senate chamber.

• (1800)

For those who would be concerned, because there was concern that this could mean that companies could pursue private information, get past a certain wall or barrier to people’s personal computers, et cetera, that is not the case. This remains limited, and I have been convinced, in the study that I have done, that in fact privacy will be upheld and certainly not jeopardized by the way in which this bill is structured.

Honourable senators, I have a couple of questions or concerns. First, if these three bodies or agencies are to make it work, they will need some money, so we will need to ensure they have adequate resources. I am concerned they may not. The government is exceptionally good at making announcements, passing bills, confusing the fact that just because it is in the press it does not mean it will actually happen.

Of course, the legislation also provides for a national coordinating body that “will coordinate public education and awareness efforts, track and analyze statistics in trends and lead policy oversight and coordination.” It sounds like a great thing we could also set up for climate change — track trends, public education, do analysis. I just had to get that in.

What sort of resources will be dedicated to this national coordinating body? Again, we want to ensure that, as important as this initiative is, this bill is supported by sufficient resources to make it work or it is nothing more than a public relations exercise and will not get us off the list of those concerned with Canada around the world and our state of review and management, if you will, of this important electronic data communication issue.

Honourable senators, if this bill gets through committee without any particular problems and we squeak through third reading without anything else coming up, I will actually vote for this bill.

**The Hon. the Speaker *pro tempore*:** Further debate? Are honourable senators ready for the question?

**Some Hon. Senators:** Question.

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

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

**The Hon. the Speaker *pro tempore*:** When shall this bill be read the third time?

(On motion of Senator Comeau, bill referred to the Standing Senate Committee on Transport and Communication.)

[*Translation*]

#### THE SENATE

MOTION TO SUSPEND THURSDAY'S SITTING FOR  
THE PURPOSE OF ADJOURNMENT OR TO RECEIVE  
MESSAGES FROM THE HOUSE OF COMMONS  
ADOPTED

**Hon. Gerald J. Comeau (Deputy Leader of the Government),**  
pursuant to notice of December 8, 2010, moved:

That following the completion of the Orders of the Day, Inquiries and Motions on Thursday, December 9, 2010, the sitting be suspended, if either the Leader or Deputy Leader of the Government so request, to resume at the call of the chair with a fifteen minute bell; and

That, when the sitting resumes, it be either for the purpose of adjournment or to receive messages from the House of Commons.

(Motion agreed to.)

[*English*]

#### CRIMINAL CODE

BILL TO AMEND—  
AMENDMENTS FROM COMMONS CONCURRED IN

On the Order:

Resuming debate on the motion of the Honourable Senator Frum, seconded by the Honourable Senator Mockler:

That the Senate concur in the amendments made by the House of Commons to Bill S-215, An Act to amend the Criminal Code (suicide bombings); and

That a Message be sent to the House of Commons to acquaint that House accordingly.

**Some Hon. Senators:** Question.

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

(Motion agreed to.)

#### CRIMINAL CODE

BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Day, for the third reading of Bill C-464, An Act to amend the Criminal Code (justification for detention in custody).

**The Hon. the Speaker *pro tempore*:** Are honourable senators ready for the question?

**Some Hon. Senators:** Question.

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

(Motion agreed to and bill read third time and passed.)

#### INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

NINTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the ninth report of the Standing Committee on Internal Economy, Budgets and Administration (*revised Senate Taxi Policy*), presented in the Senate on December 7, 2010.

**Hon. David Tkachuk** moved the adoption of the report.

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

**Some Hon. Senators:** Agreed.

**Hon. Joseph A. Day:** I am sorry, but I do not recall having received a copy of this revised policy or having been briefed on it. Would it be possible to have a quick explanation of what it is? Is it a new taxi policy?

**Senator Tkachuk:** The committee recommended that the current taxi policy adopted by the Senate on December 20, 1989, be repealed. We are repealing it and adding the taxi policy that we currently use.

**Senator Day:** Thank you, Senator Tkachuk.

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

(Motion agreed to and report adopted.)

• (1810)

#### STUDY ON ISSUES RELATED TO NATIONAL AND INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

FOURTH REPORT OF HUMAN RIGHTS COMMITTEE—  
DEBATE ADJOURNED

The Senate proceeded to consideration of the fourth report (interim) of the Standing Senate Committee on Human Rights, entitled: *Canada and the United Nations Human Rights Council: Charting a New Course*, tabled in the Senate on June 22, 2010

**Hon. Mobina S. B. Jaffer:** Honourable senators, this report by the Human Rights Committee is entitled: *Canada and the United Nations Human Rights Council: Charting a New Course*.

Honourable senators, I will prepare a speech for this report next week, and I would like to use the rest of my time next week to complete my speech on it.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** The Speaker may help me on this report. I was not sure whether Senator Nancy Ruth wanted to speak on this one. My understanding is that if the adjournment is taken now, it will deny her the right to speak on the report next week.

**Some Hon. Senators:** No.

**Senator Comeau:** She will still have the right to speak.

**Some Hon. Senators:** Yes.

**The Hon. the Speaker *pro tempore*:** It has been moved by Senator Jaffer, seconded by Senator Munson, that further debate on this matter be adjourned until the next sitting of the Senate.

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

(On motion of Senator Jaffer, debate adjourned.)

#### STUDY ON RISE OF CHINA, INDIA AND RUSSIA IN THE GLOBAL ECONOMY AND THE IMPLICATIONS FOR CANADIAN POLICY

FIRST REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE—  
DEBATE ADJOURNED

Resuming debate on the consideration of the first report (interim) of the Standing Senate Committee on Foreign Affairs and International Trade, entitled: *Canada and Russia: Building on today's successes for tomorrow's potential*, tabled in the Senate on March 31, 2010.

**Hon. Consiglio Di Nino:** Honourable senators, this report is related to the study by the Standing Senate Committee on Foreign Affairs and International Trade on Brazil, Russia, India, and China, the BRIC countries; Brazil is in the process of being studied now. We have completed the report recently, and I have not had a chance to put it all together to be able to speak on it. I want to adjourn the item in my name for the remainder of my time.

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

(On motion of Senator Di Nino, debate adjourned.)

#### THE SENATE

MOTION TO CALL UPON CHINESE GOVERNMENT TO RELEASE LIU XIAOBO FROM PRISON—  
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Stewart Olsen:

That the Senate of Canada call upon the Chinese Government to release from prison, Liu Xiaobo, the 2010 Nobel Peace Prize Winner.

**Hon. Vivienne Poy:** Honourable senators, I want to thank Senator Day for yielding the floor to me. When I complete my remarks, the floor will fall back to him.

Yesterday, I listened carefully to what Senator Di Nino and Senator Munson said in the chamber regarding the Senate of Canada passing a motion asking the Chinese government to release Nobel Prize winner Liu Xiaobo. Senator Day will speak on this motion in relation to international law.

Today, I speak from the perspective of someone who grew up within the Chinese culture and as someone who understands its history. As a person who has always been able to say what I think publicly, I understand how devastating it must be to have one's voice silenced.

I want to state from the outset the importance of freedom of speech, which is central to human rights. I do not claim to have met Liu Xiaobo, as Senator Munson did, but I have the greatest respect for him, and I have an immense appreciation for his teaching and writing. Ever since he was a lecturer at the Beijing Normal University, he has been an outspoken human rights activist.

Honourable senators, I do not believe the motion before us will do anything to help Liu Xiaobo to be freed from prison. In fact, if this motion is passed, it could make it worse for him, his family and supporters, especially if this motion is publicized and receives attention from the Chinese government.

The unintended consequences could be worse treatment for Liu Xiaobo and his family. Understanding Chinese culture as I do, this motion may inadvertently cause the resentment of the Chinese population because it will be viewed as foreign interference in internal Chinese affairs. While the Chinese can criticize their own family, they are sensitive to criticism from outside.

I ask honourable senators to think what would happen if the National People's Congress passed a motion to tell the Canadian government what to do with our internal policy. I can cite a good example when Charles de Gaulle weighed into our internal Canadian politics when he made his infamous statement, "Vive le Québec libre," in 1967.

I believe the content of this motion should be dealt with through our Department of Foreign Affairs and International Trade in ongoing diplomacy between the two governments.

Despite the fact that Western democracies value freedom of speech, we sometimes censor or attempt to silence those with whom our government does not agree. The most recent example happened last year when Canada effectively barred long-time former British member of Parliament George Galloway from entering Canada, citing security concerns, a decision later overturned by a federal court judge who declared the move as politically motivated.

This year, we had the cancellation of a speech by Zijad Delic, National Executive Director of the Canadian Islamic Congress, who was scheduled to speak to the Department of National Defence as part of Islamic History Month. Whatever we may think of these individuals, the point is that we do not accept all forms of free speech in Canada, either.

I noted that Senator Downe suggested that Senator Di Nino be sent to Norway to represent the Senate of Canada to press this issue. I want to inform honourable senators that several legislators from the Democratic Party of the Hong Kong government left for Norway yesterday to demonstrate against the incarceration of Liu Xiaobo, and to ask for his release by Beijing. They took Liu Xiaobo's books, pamphlets, photographs and postcards with them in suitcases to be distributed at Oslo City Hall during the Nobel Peace Prize ceremony.

When asked what they will do with the empty suitcases upon their return, they said they would fill them with Norwegian smoked salmon.

As legislators from Hong Kong, which is part of China, surely these individuals are better placed to have an impact on Chinese authorities in Beijing.

I believe any improvement in the internal policy of a country must come from within, and Western democracies are often misguided in thinking that they can transplant their ideal government to another part of the world that has a completely different culture and history. To me, the most effective way of influencing democratization of China is through the education of this generation of Chinese youth, many of whom are being educated in Western democratic countries such as Canada. They have brought back, and will continue to bring back, what they have learned to China, and change will come, even though it will not be tomorrow.

Honourable senators may know that Taiwan changed from a dictatorship under martial law to a democratic government without bloodshed in 1987. With the influence of Hong Kong, Taiwan and that of Western education for its youth, change will come to China. It may not happen in my lifetime, but it will happen. Considering the Chinese sense of time and history, when we compare 5,000 years of civilization to 143 years since Canada became a nation, it is understandable that Westerners are impatient with this evolution.

I remind honourable senators of the typical government response when Canadians are incarcerated abroad. Generally, Canada cites the sovereignty of other nations and the independence of their judicial processes. When Canada does have concerns, it expresses them through the Department of Foreign Affairs and International Trade because to do otherwise might result in the loss of face and in negative consequences. Diplomacy is the best option.

• (1820)

Honourable senators, in closing, I would like to reiterate that I do not believe this motion to be an effective way of influencing the Chinese government. In fact, I believe it may have an adverse effect of making conditions worse for Liu Xiaobo in China. In the end, if China is to evolve toward a more democratic state, action must be taken by the Chinese people alone, not by censorious foreigners, however well meaning they may be.

**Hon. Jim Munson:** Would the honourable senator accept a question?

**Senator Poy:** Yes, certainly.

**Senator Munson:** I certainly respect the point of view of the honourable senator. However, sometimes in the life of an institution, that institution must collectively make a decision.

Yesterday we discussed Mr. Liu Xiaobo, and I think sometimes that we forget how important this issue is. As a reporter, I covered Prime Minister Mulroney on the issue dealing with apartheid in South Africa. As a nation and as institutions, this country stood together, not individually, to say Nelson Mandela must be released from a prison in which he spent 27 years.

I covered a bit of that too, when I walked with Prime Minister Mulroney, whether we were in Malaysia when he stood up against Margaret Thatcher and others who said there is an evolution that must happen within South Africa. It takes institutions sometimes, honourable senators, to change.

In the case of Andrei Sakharov in Russia, or Aleksandr Solzhenitsyn in Russia, it took institutions to stand up. One individual senatorial voice, while it may be laudable to me, does not mean a whole lot; but collectively as an institution, it means a lot.

I mentioned that when I was in China there was a professor named Fang Lizhi. He did not have the international press, and neither does this gentleman have the international press on side. However, sometimes countries and institutions have to say, hold on just one second.

I have watched how China has progressed, I have witnessed how China has progressed and that is wonderful. However, on the issue of human rights, for Pete's sake, there is a certain time when we have to, as an institution, say, look, can we not collectively just stand up for one man, one voice, who is saying all he wants to do is reflect the constitution of China?

Take a look at the manifesto of what he has said. He is not talking about the overthrow of anything.

In my question to the honourable senator, why should we wait any longer? Tomorrow is a very significant day. Mr. Liu will not be there. His wife will not be there. Millions of Chinese will not know even that this has happened.

Honourable senators, I am not trying to preach what should change in China. I am just talking about one voice to say, let us get on with being able to have an adult conversation about extending human rights, and not being afraid.

Why is the Chinese government so afraid of one man who is sitting in a prison? Eleven years is a long time — eleven more years. As a person, he stood in Tiananmen Square. He was the man, as I said yesterday, who was trying to negotiate a peaceful resolution to what was happening in Tiananmen Square.

There was a fight within the Chinese government between Prime Minister Lee Pung and Zhao Ziyang, who was the Communist Party's general secretary and they were trying to work something out. Here was one man who said, let us try and work. Now here we are at 2010.

**Senator Poy:** Does the honourable senator have a question?

**Senator Munson:** The question is once again, as yesterday, why can we not, as a collective body, speak with one voice?

**Senator Poy:** The honourable senator mentioned Prime Minister Mulroney; he was the Prime Minister of Canada. That is different. Our Prime Minister has to — whatever he wants to do, and he has done — say what he wants to the prime minister of another country. This is just an institution; the Senate is an institution.

The honourable senator mentioned that many people can write in the press. I think that is effective. However, as an institution within Parliament, I believe that it will backfire. It would mean a loss of face.

[ Senator Munson ]

Yes, I do not understand how the Russians work or how other countries work, but I do know how things work in China. This is all I am saying. I was not in Tiananmen Square when you were there, but I followed the news very closely and I do it every day. I listen to AsiaNews, I look at news in Chinese; I have listened to a lot of news and read the newspapers so I know what goes on.

I do not really believe it will work. I believe that it will backfire. This is what I am trying to say.

**Hon. Consiglio Di Nino:** Honourable senators, first, I, too, would like to stress that I respect the opinion of my colleagues, whether I disagree or not. That is the fundamental principle of free speech. We will always, regardless of what side we are on, defend it.

That is not happening in China. This man cannot speak for himself. If we believe in human values, someone must speak for them.

Is the honourable senator aware that the House of Commons yesterday unanimously passed a similar resolution, which included the Prime Minister, the Leader of the Opposition, the leader of all of the other parties, as well as every member of the House of Commons? Not a single voice said no. They unanimously passed a similar resolution. Is the honourable senator aware of that?

**The Hon. the Speaker *pro tempore*:** The time for Senator Poy is up. Are you asking for more time?

**Senator LeBreton:** Five minutes.

**Senator Poy:** I do know that a resolution was passed in the House of Commons. I understand that it did happen.

Senator Losier-Cool yesterday raised the question of why this is not done between our two governments. I have a question for the honourable senator. What is our Foreign Affairs department doing, our Foreign Affairs minister doing in this case? I do not know. I really believe that it should be government to government when there is a problem.

**Senator Di Nino:** We have a difference of opinion.

**Senator Poy:** I do believe in free speech; that is why we all speak our mind. I do believe in it, but what I am saying is I do not want anything to backfire on Liu Xiaobo.

**Senator Di Nino:** I happen to agree with the honourable senator that she has the right to speak her mind and I have mine. I honestly and truly respect that.

• (1830)

It disturbs me that Senator Poy seems to have been comparing China with Canada with regard to freedom of the press, freedom of religion, freedom of speech, freedom to walk the streets or freedom to have a demonstration.

Was Senator Poy comparing China with Canada when she made her comments on those issues?



**Senator Poy:** To a certain extent, I was. Whenever something happens in Canada, I wonder why we do not clean up our own house before pointing fingers at other governments. It is not only the Chinese government, but other governments as well, and I will not name those other governments now.

I am sensitive to the issue when people are not allowed to speak here.

**Senator Di Nino:** I thank the honourable senator for her answer.

**Hon. Sharon Carstairs:** Honourable senators, I concur with Senator Poy. We agree that Canada should be held to a higher standard because we have a tradition of democratic practice. When we appear to go against those democratic practices, we should be held to a higher standard than a country such as China, which does not have that tradition.

I also have sensitivity to Senator Poy's position that speaking to governments from the Senate is not the appropriate thing to do. Governments speak to governments. Perhaps speaking to the Chinese parliament would be different from speaking to the Chinese government.

Would Senator Poy have been more comfortable if we had proposed a resolution to the effect that the Canadian Senate regrets that Liu Xiaobo will not be able to accept his Nobel Peace Prize in person? Would that have given her a greater level of comfort?

**Senator Poy:** Yes, it would, but that is not the motion of Senator Di Nino.

**Hon. Gerald J. Comeau (Deputy Leader of the Government) :** It has been indicated to me by a number of my colleagues, who do not happen to be in the chamber at this moment, that they wish to speak to this motion. Therefore, I move the adjournment of the debate.

**The Hon. the Speaker pro tempore:** Senator Comeau, when Senator Poy began to speak she said that she had permission to do so from Senator Day, in whose name this item stands, and that after she speaks the item would revert to Senator Day.

It has been moved by the Honourable Senator Poy, seconded by the Honourable Senator Mitchell, that this debate be adjourned in the name of Senator Day.

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

(On motion of Senator Poy, for Senator Day, debate adjourned).

#### APPROPRIATION BILL NO. 4, 2010-11

##### FIRST READING

**The Hon. the Speaker pro tempore:** informed the Senate that a message had been received from the House of Commons with Bill C-58, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2011.

(Bill read first time.)

**The Hon. the Speaker pro tempore:** Honourable senators, when shall this bill be read the second time?

(On motion of Senator Comeau, bill placed on the Orders of the Day for second reading two days hence.)

#### EDMONTON'S BID FOR EXPO 2017

##### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Banks calling the attention of the Senate to the decision by the Government of Canada in respect to Edmonton's bid for the 2017 World Expo.

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, it was with great interest that I listened to Senator Banks' inquiry speech on the failure of this government to support Edmonton's bid for the 2017 Expo. I share my fellow Edmontonians' disappointment and outrage at this government's decision not to support the only Canadian bid for this international event.

Since I was a member of the board of directors for both the 2001 IAAF World Championships in Athletics and the 2005 World Masters Games held in Edmonton, I have witnessed firsthand the value and benefit such events can have for a city, a province and a country. I have no doubt that Expo 2017 would have been a success, given Edmonton's stellar reputation of hosting spectacular world-class events that are always on budget.

This government has misled Canadians by stating that security costs could have been in the range of hundreds of millions of dollars. In fact, documents obtained by CTV Edmonton show that the total security bill would have been \$91 million, with the federal government being responsible for approximately \$11 million, or one ninth of the cost.

As some seem to have forgotten, Expo 2017 is not the G8 or the G20. We are looking at a low-threat security assessment for an event that would have been economically beneficial to our country. Further, as Senator Banks noted in his inquiry, most of the costs associated with Expo 2017 would have come after 2015, the year by which our Prime Minister and his Minister of Finance have indicated that we would have eliminated the deficit.

This government does not appear to care about Edmonton's aspiration to be recognized on the world stage. Not only would Expo 2017 have showcased the oil sands, but it would also have given Alberta and Canada the chance to educate millions of visitors on this subject. Not supporting Edmonton's bid further demonstrates how this government sees Albertans as nothing more than a guaranteed vote and, therefore, easy to ignore.

As Paul Marck, editor of *Alberta Venture* magazine, notes on his blog:

... there is not one shred of evidence offered by the feds over alleged high security costs of the Expo bid, other than the example of its own clumsy, fumbling ineptitude.

Marck is not alone. In a series of letters sent to the *Edmonton Journal*, many Edmontonians are voicing their frustrations. For example, Sylvia Kother of Edmonton writes:

Why should Harper and his Conservatives care about Edmonton when we vote for them regardless of what they do or say?

They had a huge surplus when they got elected as the government; they have not spent all the stimulus monies, but, hey the Prime Minister's Office and communication keeps spending more and more money to ensure the Conservative message gets out.

They are taking Edmontonians for granted.

Albertans in communities across the province are also livid. Stewart Shields of Lacombe writes:

Alberta got exactly what it deserves from this unpredictable federal government that gets their vote regardless.

Why would the Harper Tories waste federal spending on a province that will continue to return Tory MPs to Ottawa?

Better to have the type of spending Edmonton sought for Expo 2017 spent in areas such as Ontario and Quebec, that may reward the Tories for their stand.

If these letters are any indication, there is a growing sense that, to this government, Alberta simply does not matter. Further, more and more Albertans feel they are being abandoned by a government to which they have been exceptionally loyal. This feeling of abandonment can be explained by Edmonton's weak representation at the cabinet table.

In the November 23 edition of the *Edmonton Journal* journalist Gordon Kent notes that Mayor Stephen Mandel:

... pinned the blame squarely on Public Works Minister Rona Ambrose, the region's representative in cabinet, saying she didn't do enough to sell the project to her colleagues.

• (1840)

This sort of situation would not have happened when the Honourable Anne McLellan was in Parliament. The only Liberal member of Parliament from Alberta, she served as Deputy Prime Minister and was Alberta's voice at the cabinet table. As Senator Banks noted, she did not always say yes; she knew when and how to say no.

During her 13 years of service as an MP for Edmonton Centre, the city and the province directly benefited from the presence of a strong advocate in Ottawa. Ms. McLellan took Alberta's and Edmonton's concerns and aspirations to heart, often securing funding and government support for events she knew would be beneficial to the cities and to the province in the long run.

[ Senator Tardif ]

Honourable senators, what stings most about this decision is that we Edmontonians and Albertans were allowed to dream about the 2017 World Expo and what it would bring to the city. We were allowed to hope but, all of a sudden, this hope was squashed like a bug on a rug with little to no explanation.

**Senator Mitchell:** They are laughing.

**Senator Tardif:** It is no laughing matter. Edmonton was encouraged to dream and to invest money in an event that would never be. If the reason behind the government's rejection to support the bid is economic, then they should have had the gall to inform the bid committee when the bid was first developed. They could have said, "We cannot offer you the \$700 million you are asking for; but this amount is what we can give you."

If this had happened at the outset, I am positive that the 2017 World Expo bid committee and the City of Edmonton likely would have been able to find the missing funds. Instead, the bid committee was met with three years of silence with no indication that funding was even an issue.

Honourable senators, Edmonton, Alberta and Canada had much to gain from this event. The organizing committee of the 2017 World Expo were expecting major economic spinoffs, with an estimated increase in gross domestic product of \$2.6 billion, the creation of over 37,000 jobs and more than 5 million visitors.

At the same time, Alberta would have been able to showcase the new West and highlight its success in the energy sector, as well as its innovative solutions to answer tomorrow's energy needs. Unfortunately, this plan was only a dream, a dream that included celebrating Canada's one hundred and fiftieth birthday with the rest of the world.

Honourable senators, the decision of the government to kill Edmonton's bid to host Expo 2017 is both exceptionally disappointing and extremely discouraging to both Edmontonians and Albertans.

**Hon. Grant Mitchell:** Honourable senators, I want to address this inquiry and support the comments of Senator Banks and Senator Tardif. It seems that we cannot say enough if we are to have any hope whatsoever of getting through to this government and assisting them in understanding exactly what they have done to Edmonton, to Alberta and to the prospects of Canada in this project.

The most profoundly disturbing feature for me is the depth of lost opportunities. The world knows that these kinds of expositions are often transformative for the host countries and the host cities. One only needs to look at Vancouver in 1986 and what that event did to catapult, compound and enhance the evolution of that city's presence in the world. That presence, in and of itself, is a lost opportunity for Edmonton, which is a world-class city but has so much more promise than it has yet realized.

This particular exposition proposal by the City of Edmonton embodied another profoundly important opportunity that was captured in its theme of energy in our time. A problem is building for the Alberta energy industry, in particular the oil sands,

because the world does not understand properly the importance of that oil sands project to secure and safe oil that can be extracted in an environmentally sound manner.

In many ways the oil sands are already leaders in the world in that respect. That is not good enough; they still have more to do. This exposition would give Alberta and Edmonton a chance to showcase our energy industry in a way that is often not seen around the world — in an environmental context of strong environmental initiative and desire to do even more to strengthen that environmental initiative. Such an opportunity does not come along frequently. The 2017 World Expo would have given us the chance to grasp an opportunity and do something for that industry and for Canada.

I hope that this government will not last long enough to cause much more damage to our international reputation. It will take time for that reputation to be recovered. A well structured exposition — a window on the world — attracts the attention of people from around the world. A 2017 World Expo in Canada would go a long way to establishing our strength, presence and prestige in the international sphere.

Honourable senators, the 2017 exposition could have been the anchor for Canada's one hundred and fiftieth birthday celebrations. Remember 1967 when Expo 67 brought Canadians together from across the country to celebrate the wonder and marvel of this country and its accomplishments. The one hundred and fiftieth anniversary is equally significant, and yet this government has proposed nothing. There seems to be nothing in the works whatsoever to celebrate that event in a significant way. The 2017 World Expo was an obvious opportunity to act as the anchor for Canada's one hundred and fiftieth birthday celebrations.

Edmonton, Alberta and Canada missed the chance to have that celebration: to convey the message about what a remarkable place Canada is in general; and specifically to demonstrate how much we are doing in the energy industry for the world and within an environmental context. The event would also focus our attention in Canada and in Alberta on doing more for the environment to ensure that our presentation of those energy resources was within the highest possible environmentally sound context. All of that opportunity is lost.

The government will say that it is a question of money. If it is a question of money, it is only a question of money because this government has been so fundamentally incompetent in managing the fiscal regime of this country. There has been an \$80 billion increase in expenditures since it became government. That is a 40-per-cent increase in expenditures by a hard-nosed right wing government that said it could manage government in a fiscally responsible manner; but all of the evidence is to the contrary. It will spend \$16 billion — they say \$16 billion but we know it will be more — on jets that they have accepted without a tendering process.

What kind of fiscal responsibility is that? The government squandered a good portion of \$1.3 billion on the G8 and G20 because they cannot manage even that kind of project. The government will spend billions of dollars to build prisons that will not make us safer but in fact, will make us less safe.

What is the Prime Minister's leadership response to all of that? He increases his office budget by 30 per cent over two years. Of course, he did have leadership in that regard.

**Senator Mercer:** Where is he from?

**Senator Mitchell:** He is from Alberta.

**Senator Mercer:** He is from Calgary.

**Senator Mitchell:** We will not go there because Calgary is a fine city as well.

The Prime Minister provided leadership to his cabinet, which increased expenditures by 16 per cent. Honourable senators can see where the fiscal responsibility hens have come home to roost, as it were; and Edmonton, Alberta, is paying the price for a government that literally has squandered money.

I cannot neglect to mention the United Arab Emirates issue, whereby \$300 million was lost because of fundamental international relations incompetence. That \$300 million would have gone a long way in support of the 2017 World Expo.

Let us talk about the specific money involved in the project. The amount of \$700 million for capital expenditures and other support would be required from the federal government. The federal government said that the figure would be over \$1 billion. The difference is about \$300 million to \$400 million, which the government attributes to security costs. Even if that were the figure for security costs, those would not be entirely the responsibility of the federal government. The federal government would be responsible for about 10 per cent of them but in fact those are not the security costs. The security costs are \$91 million estimated in 2017 dollars, which would be about \$11 million for the federal government, bringing their financial responsibility and contribution in this project to just over \$700 million.

• (1850)

That is not an insignificant amount of money. Certainly, it is not an insignificant amount of money when one sees how much money the government has squandered by its fiscal incompetence. However, if one considers that it is not money that is required tomorrow, it will be spread out over seven or eight years. That sounds to me like \$100 million a year.

This government, with its 27 Alberta members of Parliament, who you would think would be able to represent their province at least to the tune of \$100 million a year, has completely and utterly let down that province, Alberta and Edmonton, and that project, for what is not an insurmountable amount of money.

Moreover, this money will be loaded at the later end — 2015 to 2017 will be a huge portion of it, and the government has said that they will balance the budget around 2014 or 2015. Does their reluctance to at least project that they could have money in 2015 to 2017 for this project suggest they do not have confidence in the projection that they would balance the budget by 2014 and have three years of presumably surplus budgets to fund this project? That is in itself a startling and ominous kind of observation that perhaps this government is just spinning its 2014 balanced budget objective.

**Senator Day:** That is my guess.

**Senator Mitchell:** Honourable senators, the other element that is disturbing is simply the way in which Edmontonians and Albertans have been treated. The minister responsible for this area was very encouraging, and in fact very explicitly encouraging to Edmonton. After Edmonton believed what this government said — Mr. Moore — they created a strong group to develop the proposal and have worked on that for several years. They spent a good deal of money in the process of developing that proposal and they were denied federal involvement and contribution with absolutely no warning. To make matters worse, the organizing committee and others had requested a meeting with Minister Ambrose on numerous occasions over an extended period of time and she simply did not have the decency to meet with them. How is it that the minister would not even meet with this important group working on this important project? What does it take?

Then, when she received the proposal, there was no effort made for them to sit down and talk about differences of opinions or assessments about the figures to determine ways in which this project might have been worked out. No, this was denial by fiat; not even the common decency to deal with the people of Edmonton, the Mayor of Edmonton, the city of Edmonton in a way that was not rude, but in a way that was polite, respectful and at least try to demonstrate some understanding of the aspirations of that city.

Honourable senators, I am hearing some heckling from the leader here and it really underlines the kind of attitude that Edmontonians exactly confronted in that process. Why would Minister Ambrose not have met with them? It is absolutely true.

Then one asks the question: How is it that they could have done it in this way? How is it that they could have done it when in fact the expense is not all that onerous and when it is needed we will, if we believe the Minister of Finance, in fact have the money to do it? Why would they treat Edmontonians in this way? It is, I think, that the answer lies in politics. The things this government is competent at are political spin, politics and political strategy.

It is very advantageous politically for the Prime Minister to say to Albertans and Edmontonians that he will not give Edmonton this money. What does that do for him politically? It sends a message across the country that he is very tough on expenditure. It is an effort to obscure that fact that he has spent more money than any government in the history of this country. We have a record deficit in the history of this country, but it is an effort to spin away from that, distract people from that and send a message that he is a tough money manager. That is what he does at the expense of Edmontonians.

Of course, it also sends a message to those cities across the country that might want to get assistance from the federal government for their hockey arenas.

Honourable senators, let me mention that this is very different from a hockey arena. As I said, this is a question of aspirations and opportunities for the people of Edmonton, the people of Alberta and ultimately the people of Canada. This is a remarkable project that would establish Canada's and Edmonton's and

Alberta's presence in the world. It would reclaim some of our stature in the world and it would send a strong message about our commitment to environmentally sustainable energy in the future.

Instead, this government has sacrificed all of that, not for some higher level principle, not even in a way that would be considerate of the feelings and the aspirations of the people of Edmonton and the people of Alberta; no, in a brutal, rude and inconsiderate way that puts this government's, this party's, the Prime Minister's political interests ahead of the aspirations of the people who he represents in that province. It is disgraceful and it is enormously unfortunate. I hope there is some way we can prevail upon this government to reconsider and do what is right by this project for the people of Alberta, Canada and Edmonton.

**Some Hon. Senators:** Hear, hear.

**Hon. Terry M. Mercer:** Honourable senators, I am embarrassed for Albertans from all across the province, but I am particularly embarrassed for Albertans from Northern Alberta. We can only take the Stampeders versus Eskimos and Flames versus Oilers so far, but the Prime Minister has taken it to a new level, where a bid has been made for Expo 2017, the one hundred and fiftieth anniversary of the Confederation of this country. He has stooped to petty politics to punish northern Albertans, to punish the people of the city of Edmonton because they have not consistently been loyal to him or to his party or to predecessor parties.

If you drive into Edmonton you will see a huge sign that says "Edmonton, the City of Champions." It has been the city of champions — the Eskimos, the Oilers, et cetera. They have put in such an effort. This is a community that has come together to propose this bid for Expo 2017.

Everyone in this room is old enough to remember and many of us lived the experience of Expo 67. Many of us got on trains, buses, cars and planes and went to Montreal to experience the wonderful euphoria of Expo 67. People from all across this country went to Montreal to celebrate the one hundredth anniversary of the Confederation of this country. It was a celebration for all Canadians. It happened in Montreal but everyone across the country celebrated.

Honourable senators, this is an opportunity for all of us to celebrate our one hundred and fiftieth birthday and to celebrate it in Edmonton, a wonderful city. It bothers me that this Prime Minister and this government have ignored Northern Alberta.

Quite frankly, from a political point of view, I know what I will tell people across the country during the next campaign: Do not bother voting Conservative because you do not get anything anyway. The people in Edmonton all voted Conservative, all but one seat that voted New Democrat, and they are treated this way. Twenty-seven out of twenty-eight seats are Conservative and they do this to Albertans. Shame on them. Albertans deserve better.

Where is our good friend Senator Bert Brown? Has he been defending the bid for Expo 2017? He was "elected" by the people of Alberta to represent them here in this chamber. So much for the elected senator from Alberta. I do not see him up defending the good people of Edmonton in their bid for Expo 2017.

• (1900)

Honourable senators, Albertans are Canadians. Northern Albertans are Canadians. People in the city of Edmonton are Canadians. We need, as Canadians, to stand with them and to say that we think that the bid for Expo 2017 is a good idea. This government should get onside, and they should respect and support the good people of northern Alberta.

(On motion of Senator Peterson, debate adjourned.)

### RACISM IN CANADA

#### INQUIRY—ORDER STANDS

On the Order:

Resuming debate on the inquiry of the Honourable Senator Oliver calling the attention of the Senate to the state of Pluralism, Diversity and Racism in Canada and, in particular, to how we can develop new tools to meet the challenges of the 21st century to fight hatred and racism; to reduce the number of hate crimes; and to increase Canadians' tolerance in matters of race and religion.

**Hon. A. Raynell Andreychuk:** Honourable senators, I am standing to indicate that I will be speaking on this matter, but Senator Oliver has indicated that there is some interest from the side opposite. Just to clarify, anyone can speak at any time. I would be delighted to step aside and I am sure it will be returned in my name.

(Order stands.)

### PARLIAMENTARY REFORM

#### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cowan calling the attention of the Senate to the issues relating to realistic and effective parliamentary reform.

**Hon. Jim Munson:** Honourable senators, this is at day 14. Senator Hubley has informed me that she is looking at her notes and she would like me to reset the clock and address this issue.

(On motion of Senator Munson, for Senator Hubley, debate adjourned.)

[*Translation*]

### WOMEN'S CHOICES

#### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Poy, calling the attention of the Senate to the choices women have in all aspects of our lives.

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, Senator Pépin asked me to adjourn this inquiry in her name. Therefore, I move the adjournment in the name of Senator Pépin.

**The Hon. the Speaker *pro tempore*:** Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

(On motion of Senator Tardif, for Senator Pépin, debate adjourned.)

[*English*]

### 2010 OLYMPIC WINTER GAMES

#### INQUIRY—DEBATE CONCLUDED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Raine calling the attention of the Senate to the success of the 2010 Olympic Winter Games held in Vancouver, Richmond and Whistler from February 12 to 28 and, in particular, to how the performance of the Canadian athletes at the Olympic and Paralympic Games can inspire and motivate Canadians and especially children to become more fit and healthy.

**Hon. Joan Fraser:** Honourable senators, I indicated 15 sitting days ago that I had told Senator Raine that I did not intend to speak on this matter. I do not feel myself qualified to speak on this matter, although I admire her for raising it. I indicated to the chamber then that if anyone wanted to speak to this inquiry, I would be delighted to yield to it. No one has taken advantage of that since I made my offer. Is it the will of the chamber for me to seek the adjournment of the debate again?

It is not.

(Debate concluded.)

### SUSTAINABLE DEVELOPMENT TECHNOLOGY

#### INQUIRY—DEBATE ADJOURNED

**Hon. Grant Mitchell** rose pursuant to notice of October 21, 2010:

That he will call the attention of the Senate to the importance of Sustainable Development Technology Canada.

He said: Honourable senators, in case you have not been here long enough, I thought I would make a few comments on something that has been a very good news story, but the risk is that if the government does not take some obvious and relatively, I would say, easy action, then it will become a bad news story.

I want to speak to Sustainable Development Technology Canada, an institution established in 2002 by the Liberal government as a policy instrument to deliver environmental and economic benefits to Canadians and to do that through

well-placed, expertly analyzed investments in clean tech, high tech initiatives in Canada. Over these last eight years, it has fostered the development and demonstration of a variety of technological solutions that address, among other things, clean air, clean water, clean land and, yes, you guessed it, climate change.

It does this by forging innovative partnerships and building a sustainable development technology infrastructure, which has become literally one of the most highly recognized and appreciated such infrastructures in the world, consisting of expert technology analysts, investment analysts who have forged an immensely successful track record over those last number of years. I will refer to it as SDTC.

SDTC bridges the gap that has frequently been missed in the important chain of stages in the development of innovative ideas ultimately to commercially-viable products and services. There are many links in the innovation chain between research and commercialization. We think that it is from research to commercialization that successful projects and products evolve, but in fact there are a variety of steps along the way. Two of them are development and demonstration. These are, unfortunately, traditionally unsupported, but SDTC was established specifically to fill that gap and to take technologies from the laboratory, often literally, and to give them the resources or assist them in getting the resources to develop full-scale, real-world test situations from which they could derive greater funding and support, so that these could go on to be commercially viable products and processes.

The track record has been truly outstanding. Over those eight years, SDTC has received \$550 million in funding from the federal government. The majority of that came under the federal Liberal government. They have placed upwards of \$500 million to this point. That \$500 million has supported 195 projects. In turn, these projects have generated about three times again as much seed funding from the private sector and, in total, they have resulted in commercial projects in the order of \$17.7 billion. This has resulted in thousands of jobs. I should point out that this money has been invested across the country, creating those jobs in each corner of this country.

• (1910)

They do this not by being interventionist in a classic sense or any kind of negative sense. SDTC has been very careful to develop its model of investment through collaboration among private, academic and public sector partners. As I mentioned earlier, they have provided tremendous leverage in the private sector equity markets for companies receiving their funding. In fact, there is tremendous analysis that demonstrates that companies that receive SDTC funding end up with a great deal more leverage for private sector funding than companies that do not receive that.

That is in part because the private sector capital markets have such confidence in the ability of SDTC to pick winners; certainly, if they are not all winners, at least to pick very good technologies and companies that promise to have tremendous success. The very success of the SDTC is not something that they, in a sense, have to speak of themselves. It is proven by the private sector, which follows their lead in investing in these 195 companies.

I will mention two companies from Alberta that are very timely, given the debate right now about climate change and about the oil sands. Titanium Corporation is an Alberta company that extracts

heavy minerals, primarily zircon — I know that Senator Day, who is an engineer, will know exactly what that is — and bitumen from tailings ponds. That is a prevalent problem in the media and in the environment at this very moment.

Titanium Corporation is developing a technology that promises to solve that problem in a way that is much quicker, reduces the water required in these tailings ponds, and can be done in a very economic way. That is one project that has received SDTC funding that is making real progress and promises to solve a huge problem for my home province of Alberta.

Quantum Technologies Inc. is another Alberta company that has developed a coating for furnace tubes used to develop plastics derived from olefins, one of the most energy intensive petrochemicals to manufacture. This coating extends the lifetime of these furnace tubes and lowers the temperature needed for chemical reactions, which means the furnace is operationally more efficient, requires less fuel, is a less expensive process, and reduces the emissions of greenhouse gases as a result. It is particularly flexible in its application because this technology can be retrofitted to existing furnaces. The huge potential market for this technology could be as much as \$1 billion globally.

I draw the attention of colleagues in the Senate, particularly on the government side, to this agency, SDTC, because it has done so much good in an area that is so important and in need of capital market support. It has distinguished itself in a way that we can only wish that every government agency that works with the private sector could distinguish itself. It has more than just distinguished itself, it is seen by the private sector to be a leader in this area of analyzing, for investment purposes, high-tech investment opportunities.

SDTC is truly a win for Canada. It is truly a win for our economy, for those people who have received jobs because of it, and it has tremendous potential for the future. There is no reason for it to stop, except one, and that is that it has not received any more funding from this government.

I simply raise this issue to encourage honourable senators, particularly on the government side, to approach their Prime Minister, the Ministers of Industry and Finance, to ensure that money is provided to SDTC so that it does not become yet another casualty of this government's inability to manage both the economy and the fiscal regime of this country.

(On motion of Senator Day, debate adjourned.)

## THE SENATE

### MOTION TO RECOGNIZE DECEMBER 10 OF EACH YEAR AS HUMAN RIGHTS DAY— DEBATE ADJOURNED

**Hon. Mobina S.B. Jaffer**, pursuant to notice of December 7, 2010, moved:

That the Senate of Canada recognize the 10th of December of each year as Human Rights Day as has been established by the United Nations General Assembly on the 4th of December, 1950.

She said: Honourable senators, I rise today to urge you to support the motion requesting that the Senate of Canada recognize December 10 of each year as Human Rights Day, as was established by the United Nations General Assembly on December 4, 1950.

Honourable senators, for the last 60 years December 10 has been recognized as International Human Rights Day by the international community. It was on that day that the Universal Declaration of Human Rights was first established 62 years ago, in 1948. The day of recognition and the declaration were the result of a number of visionaries such as Eleanor Roosevelt, René Cassin, P.C. Chang, Charles Malik and our own John Humphreys, among others. These individuals and many others had seen the destruction and suffering that World War II and previous conflicts had brought on the world and wanted to create a framework that would prevent any such disasters from happening again.

The declaration sets out 30 basic principles that provide inalienable rights to all human beings on the basis of being human. There is no discrimination; no one is exempt. As the preamble of the declaration proclaims, all humans are deserving of this equal and inalienable right, regardless of nationality, language or religion. No one is exempt from these rights. These rights are universal.

On December 10 this year, as has been done for the last 60 years, individuals from every walk of life will come together to celebrate the Universal Declaration of Human Rights and its accomplishments. Indeed, there have been many accomplishments. However, there are many abuses in this world and I want to highlight two specific abuses.

The first is the case of Bu Dongwei's release from a labour camp in China in July 2008, where he was serving a 30-month sentence in connection with his activities as a member of the Falun Gong spiritual movement. Bu Dongwei was working in Beijing for the U.S.-based Asia Foundation when police detained him on May 19, 2006. He was accused of resisting the implementation of national laws and disturbing social order. Police claimed that they discovered 80 copies of Falun Gong literature in his home, although his family says there were no more than eight Falun Gong books in the house when Bu Dongwei was detained.

As punishment, Bu Dongwei was put into "re-education through labour facility" in China. However, it was due to continuous support of human rights activists around the world, who pushed for his release, that he was freed four months earlier than expected.

Then there is the case of Birtukan Mideksa, the leader of the Unity for Democracy and Justice Party in Ethiopia. Birtukan Mideksa was first arrested on charges of treason following the elections in Ethiopia in 2005. Alleging election fraud, Birtukan Mideksa, along with other opposition politicians and parliamentarians, was charged with treason, tried and sentenced to life imprisonment. After nearly 18 months in detention, Birtukan Mideksa was pardoned and released by the government, having negotiated an agreement and signed letters of apology.

In November 2008, Birtukan Mideksa spoke about the process that led to a pardon during a public meeting in Sweden. When she returned to Addis Ababa, the government demanded that she retract her statement. She did not comply and on December 28, 2008, she was rearrested in Addis Ababa. Shortly afterwards, the Ministry of Justice issued a statement revoking her pardon and re-imposing her original life sentence. However, it is as a result of international pressure from human rights groups and activists who respect her human rights that, very recently, Birtukan Mideksa was freed from prison after serving 21 months of her life sentence.

- (1920)

Honourable senators, whether the Universal Declaration of Human Rights has been used to promote the rights of free speech and peaceful demonstrations, as seen in the examples given, or the right to adequate housing in South Africa, or the right to equal employment in India, it has served as a catalyst for bringing freedom, equality and justice to all people.

We have reason to celebrate the advances on halting human rights abuses, but we all know there is still a lot of work to be done. Since the establishment of the Universal Declaration of Human Rights, the world has experienced numerous wars and genocides, where countless died; poverty rates have increased, not only in the Third World, but globally; easy access to food and clean water is still a challenge in some places; many girls still lack access to proper education; and issues of maternal mortality still prevail.

I named but a few problems the world faces, and each one of these problems equates to a human rights violation for an individual person. This individual is someone who is not being guaranteed the basic principles that have been promised to him or her. This is not acceptable.

I am sure all honourable senators are aware of Aung San Suu Kyi's recent release from arrest in Myanmar. However, what may be a lesser-known fact is that many of her supporters within the country are still being punished.

Su Su Nway, a member of the National League for Democracy, is currently serving a sentence of eight and a half years for taking part in political protests in 2007. Specifically, Su Su Nway participated in a street rally against sharp increases to fuel prices. She narrowly avoided arrest and went into hiding.

On September 13, 2007, when she put up an anti-government banner near the Yangon Hotel where the UN Special Rapporteur on human rights was staying, authorities arrested her. A year later, she was convicted of treason and offences that relate to damaging "public tranquility," a charge commonly used to criminalize peaceful political dissent.

Su Su Nway is now serving an eight-and-a-half-year term in Hkamti prison, where conditions are deplorable. She is not receiving enough food or clean drinking water, nor is she receiving adequate medical attention. One media source reported in July of this year that she had been ill with malaria and gout. Furthermore, it is written that part of her punishment includes periods in solitary confinement.

On December 6, 2006, the Canadian organization Rights & Democracy honoured Su Su Nway with the John Humphrey Freedom Award “for her inspiring efforts to hold Burma’s military junta accountable for its forced labour practices.”

Su Su Nway is a prisoner of conscience, detained only for peacefully expressing her beliefs — a right guaranteed to her by the Universal Declaration of Human Rights. She should not be punished.

Honourable senators, in our chamber we have heard a lot about this year’s Nobel Prize winner, Liu Xiaobo. For years, Mr. Liu has been a prominent critic of the Chinese government, constantly demanding protection of human rights, political accountability and democratization within the country and for this he has repeatedly been punished.

Since December of 2008, Liu Xiaobo has been detained for co-authoring the document entitled Charter 08, which is a proposal that calls for political reform and democratization in China.

Liu Xiaobo is serving an 11-year prison term. We all heard the eloquent and articulate speeches of Senator Di Nino and Senator Munson about the suffering of Mr. Liu.

On Friday, Mr. Liu will be presented with the Nobel Peace Prize for his work in China. However, he will not be in attendance to accept the award. He will be in prison. It was expected that perhaps his wife, an activist herself, would be there to accept the award on his behalf. However, since the announcement that her husband had won the prize, she has been kept under illegal house arrest.

This year at the Nobel Peace Prize ceremony in Oslo, an empty seat will represent this year’s highest human rights honouree. Honourable senators, I know that you will agree with me that we will all be in spirit with Mr. Liu Xiaobo and his wife.

Honourable senators, I can vouch to you that if it had not been for the Canadian human rights activists, my family and I would never have been able to leave Uganda. We arrived in Canada because of the work of human rights activists here. I believe that the work of human rights activists is effective. I believe that protesting to governments does work and I believe we need to continue to do this.

Honourable senators, it is true that there are many shortcomings with the human rights framework we currently

work within. We have yet to perfect it. However, I believe that what we have now is better than having nothing at all.

The Universal Declaration of Human Rights has had great accomplishments thus far; however, as I have highlighted, we have so much more to do. It is with the participation of all Canadians that we can fulfill this achievement.

International Human Rights Day has been recognized by governments, organizations and individuals worldwide. They have taken action on this important cause. Honourable senators, today I stand before you and ask for your support. We, as a country, are champions of human rights around the world. I ask for your support in recognizing December 10 as Human Rights Day.

**Hon. Consiglio Di Nino:** Honourable senators, I want to thank Senator Jaffer for her very good presentation. I can tell honourable senators that, in principle, I support her resolution. I do wish to make some comments and reflect on some of the things she said, and I know that some of my other colleagues have expressed an interest in making comments. Therefore, I would ask for the adjournment for the remainder of my time.

(On motion of Senator Di Nino, debate adjourned.)

[*Translation*]

#### ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Monday, December 13, 2010, at 6 p.m., and that rule 13(1) be suspended in relation thereto.

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

Motion agreed to.

(The Senate adjourned until Monday, December 13, 2010, at 6 p.m.)



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