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**Thursday, December 10, 2009**



THE HONOURABLE NOËL A. KINSELLA  
SPEAKER

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## THE SENATE

Thursday, December 10, 2009

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

Prayers.

### SENATORS' STATEMENTS

#### TRIBUTES

##### THE HONOURABLE LORNA MILNE

**The Hon. the Speaker:** Honourable senators, I received a notice earlier today from the Leader of the Opposition who requested, pursuant to rule 22(10), that the time provided for the consideration of Senators' Statements be extended today for the purpose of paying tribute to the Honourable Senator Milne, who will retire from the Senate on December 13, 2009.

I remind senators that, pursuant to our rules, each senator will be allowed three minutes and they may speak only once. However, it is agreed that we continue our tributes to Senator Milne under Senators' Statements and that Senator Milne hold her comments until the end of Senators' Statements. We will, therefore, have 30 minutes not including the time allotted to Senator Milne's response.

Is there agreement, honourable senators?

**Hon. Senators:** Agreed.

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, we are saying goodbye these days to far too many excellent colleagues. Today, I rise to pay tribute to Senator Lorna Milne who retires from the Senate this weekend. Senator Milne has been a member of this chamber for over 14 years. She was summoned to the Senate on September 21, 1995, on the advice of Prime Minister Chrétien. She brought to this chamber a wealth of experience gained in the service of community organizations such as the Canadian Cancer Society; the Heart and Stroke Foundation; the Association for the Mentally Retarded; Rapport House, a hostel for youth with drug problems; the University of Guelph; the University Women's Club; and the YW/YMCA.

In her time here, she has served on many of our standing committees — the Energy Committee, Agriculture Committee, Foreign Affairs Committee, Social Affairs Committee, Transport Committee, Fisheries Committee, Finance Committee, and the list goes on. However, the two committees with which she has been most closely associated are the Rules Committee and, of course, the Legal and Constitutional Affairs Committee, both of which she chaired, steering their proceedings during a number of high-profile studies.

I think of the Youth Criminal Justice Act, which last month was highlighted in an international study, as an example to be emulated and of so many other important pieces of legislation

that were studied and, at times, amended by the Legal and Constitutional Affairs Committee under her leadership. It is a record of which she can be proud.

In addition to her excellent committee work, Senator Milne took on a number of other causes, which she championed in the Senate and quietly behind the scenes. I will highlight two today. First, she waged and ultimately won a seven-year battle to preserve historic census records. Our history is so important to who we are and what we hope to become in the future. Senator Milne's contribution helped to ensure that Canadians today and long into the future can access those historical records.

The second cause I want to point to today was her determined work to legalize, and then support, the industrial hemp industry in this country. She spoke in this chamber only a few weeks ago about the challenges she faced and how far the industry has come since hemp growing was legalized. I know many farmers, researchers and others are grateful for what she accomplished.

Senator Milne has also been active with a number of important parliamentary associations. Most recently, she served as vice-president of the Canada-Europe Parliamentary Association and led the parliamentary delegation at the Parliamentary Assembly of the Council of Europe in Strasbourg.

I cannot conclude these remarks without thanking her for her work as deputy chair of our own Senate Liberal caucus and as deputy chair of the national Liberal caucus.

Lorna, we will miss you very much. I know you will be happy having more time with Ross, your children and many grandchildren, but we will miss your steady, dogged determination in raising issues with the government, and I will miss you personally as a friend and colleague. Our best wishes go with you as you embark on the next stage of your life.

**Hon. Joan Fraser:** Senator Lorna Milne is, among many other things, a historian, and a historian is, among other things, a collector and custodian of memories. Memories are the imprints of our deeds, large and small, on those we meet. They are as varied as the lives we lead, and as Senator Milne heads into her next chapter, I have been thinking about the memories she has already created. A few people who I know already remember her, to start, as Senator Cowan suggested, there are the hemp farmers and producers who owe their very livelihoods to her. Genealogists across the country know Lorna Milne and praise her as a woman beyond price because of the work she undertook with Statistics Canada. She is a genealogist herself. You might ask her one day why the middle name of one of her sons is Wesley.

Statistics Canada, I fear, will remember her for similar reasons but with less warmth. The former chief statistician learned the hard way that you do not pick a fight with Lorna Milne lightly.

In Europe, animal rights activists will remember Lorna Milne who held the dike against the flood for years in defence of Canada's seal hunters. They too may not remember her with warmth but we remember her with warmth for that fight.

• (1340)

In Saudi Arabia, courtiers will remember her because she was, as I understand it, the first woman to greet His Majesty the King of Saudi Arabia without a head covering. I believe she even shook his hand, which was also revolutionary and made the front pages of the newspaper, so there are probably Saudi Arabian women who remember her with gratitude as well.

Some members of the Ontario New Democratic Party probably remember her with a bit of chagrin because little Lorna Dennison was raised within the bosom of the NDP. Her father, William Dennison, mayor of Toronto at one time, was also, as was her mother I believe, a pillar of the NDP. Lorna was raised knowing how to run political campaigns, until one day along came Ross Milne who swept her off her feet and into the Liberal Party.

**An Hon. Senator:** Good job, Ross.

**Senator Fraser:** She became a Liberal, and it would be an understatement — as I am sure Senator LeBreton will agree — to say she is a passionate Liberal, but we on the Liberal side have benefited from her ever since.

In the Senate, we will remember her as chair and member of committees, and we will remember her because she is indefatigable, loyal and a woman of absolute integrity.

We will remember that she is a good friend. She is a truly good friend of warm and generous heart, a source of support when needed, a source of sustaining libations sometimes, and I shall remember her, above all, for her laughter. If there is a bad day, Lorna can find the source of laughter in it. I shall remember, first of all, the peals of laughter bouncing off the ceilings in the East Block.

Lorna, wherever you go, may peals of laughter bounce off the ceiling.

**Hon. Sharon Carstairs:** Honourable colleagues, it is always difficult to rise in this place and say goodbye to a good friend, but the time has come when we must say farewell to the Honourable Senator Lorna Milne.

Thinking back on all of her accomplishments, there is one story of Lorna Milne that took place outside this place that I will always relate fondly to her. In her day, the majority of female students who went to the University of Guelph entered the Macdonald Institute but not Lorna. Lorna took a degree in agriculture.

The Macdonald Institute was a special place, and it is true that the students there took strong academic courses, but they also took courses like sewing and cooking. Lorna had learned to sew because her stature, her height in particular, made it difficult for her to find clothes that would fit so her mother taught her how to sew. A sewing competition was announced at the University of Guelph. It was assumed that only the students at the Macdonald Institute would enter, but lo and behold, who entered but Lorna Milne; and of course, to no one's surprise, Lorna Milne won.

The Dean of the Macdonald Institute was not impressed with this situation. She could not deny Lorna's proficiency but wanted to know why Lorna would enter, and how she could be so skilled at this particular occupation. Lorna's response was, "Well, I can read." The dean was less than amused.

To me, this story absolutely epitomizes Lorna Milne. In the words of Nellie McClung, to which I think Lorna exemplifies, "Just get the job done and let them roar." Lorna has been getting the job done all her life with great results. A devoted mother and wife, a politician, a community activist and a friend, Lorna Milne gives her all to each and every endeavour she pursues, and has been enormously successful in every one of those roles.

As her friend, I have benefited from that friendship and look forward to it continuing after she leaves; because friendship to Lorna Milne is golden and Lorna's friendship, in my view, is not only gold, it is studded with diamonds.

Thank you Lorna for all that you are.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, on behalf of our side, I too want to join in wishing Senator Milne a happy retirement. Others have talked about her determination, her many accomplishments in the Senate and her active participation in everything that goes on in the Senate and I can vouch for those qualities from our side definitely. As well, I can vouch for her determination as some years ago, we were on different sides of the statistics issue, to which Senator Fraser referred. I can attest to the fact that she has dogged determination because I was on the receiving end of it. I believe I lost my position on that one, so honourable senators can see how well she accomplishes her tasks.

I can confirm to her family that when Lorna was in Ottawa, she was definitely here in the Senate, from gavel to gavel, and so she was where she was supposed to be. She was right here with us and I can vouch for that. Her family can all be proud of the work Senator Milne has done on behalf of presenting her ideas, which sometimes I did not agree with. However, she was forceful in presenting her ideas and in what she believed.

For our side, we wish you well and happy retirement. I am sure you are not ready for complete retirement yet, so good luck in whatever you do.

**Hon. Vivienne Poy:** Lorna, I will always remember your welcoming smile when I was first appointed to the Senate in 1998. We were sitting on the other side of the chamber then and we were both sitting near the entrance. I must have looked tired one day when you said that I should go out with you for a cup of tea. Until then, I did not even know that we could have tea in the reading room.

Coming from a non-political background as I did, I watched Lorna and learned that patience, passion and persistence are the most important qualities of a successful senator.

As mentioned earlier, Lorna enjoys genealogical research and was the honorary patron of the Ontario Genealogical Society. In 1998, she began her mission to have post-1901 census data released so it would be available for genealogical research across Canada. I still remember not only her speeches, but also the tons of petitions she presented in the Senate.

Seven years later, in 2005, she celebrated as Bill S-18 finally allowed for the release of family records. As she details in her book, *Deeply Rooted: The Story of One Senator's Battle to Preserve the Historic Census Results*, Lorna overcame the

entrenched bureaucratic resistance and persuaded the minister to make it a government bill. Finally, genealogists received the access they needed. Bill S-18 allows disclosure of census records from 1911 to 2001 after 92 years, and asks respondents' consent for the release of future census records.

This spring I was honoured to be asked to take over as honorary patron of the Ontario Genealogical Society from my esteemed colleague.

Lorna, we have always sat close to each other until recently. We can always depend on you to share a joke, and once in while, we also see pictures of your and Ross's lovely grandchildren.

I learned that the entire Milne family will take the train from Ottawa at the end of the week so the grandchildren will experience their first train trip. That is what I would call a thoughtful grandmother.

Lorna, I look forward to working with you on future projects. While you will no longer be a colleague, you will always be a friend. Many of us will miss you in this chamber, especially during Question Period.

• (1350)

**Hon. Serge Joyal:** Honourable senators, on the occasion of Senator Lorna Milne's retirement, it is with gratitude that I speak about the many contributions she made during her 14 years with the Standing Senate Committee on Legal and Constitutional Affairs. She worked on that committee almost without interruption, acting as chair during a large part of her service.

The Standing Senate Committee on Legal and Constitutional Affairs generally attracts the interest of senators with a legal background, given the nature of its mandate — the study of legal and constitutional issues — and the fact that up to 80 per cent of the legislation introduced by the government is reviewed by that committee.

However, the committee is not composed exclusively of lawyers or members of the legal community. For senators like Senator Milne who have maintained a committed interest in the various and complex issues studied and debated in this committee, it meant developing the necessary capacity to understand the legal jargon and decipher the specialized concept of law that characterizes studies of legal and constitutional bills.

For instance, an understanding of the ramifications of the Canadian Charter of Rights and Freedoms, the Canadian Constitution, both from 1867, as interpreted by the courts in numerous decisions, and the Constitution Act of 1982, the principles and abundant case law that constitute common law and even, to a point, the principles of the Civil Code of Quebec and, of course, the immense quantity of the whole body of statute law.

In that task Senator Milne revealed herself to be an assiduous mind, developing a remarkable skill to adapt to any challenge and to contribute in a manner wholly appreciated by the majority of the committee members. During the long hours of committee sittings — hours which increased every year — Senator Milne remained a dedicated advocate, voicing the concerns of those

who often bear the brunt of the administration of justice, the conditions of the inmate population of Aboriginal origin, the plight of those who have to resort to Legal Aid to have their claims heard and the particular conditions of women tackling the legal system, whether as victims, those charged with an offence or as inmates.

She brought a human voice that must always be heard for the role of justice to remain true to its challenge.

Quite appropriately, Senator Milne has expressed the need for senators to serve a longer term, both to develop the necessary understanding of the procedures and of the arcane laws of Parliament, and to be able to exercise appropriate judgment and articulate personal advice and consent far beyond simply reordering notes prepared by departments or government agencies.

By being faithful to the Legal Committee's work Lorna Milne has spoken for the institutional memory that provides the quality and perspective needed for the workings of the Senate. It is with warm, heartfelt gratitude that I express to Senator Milne my sincere wishes and thanks on her well-deserved retirement.

**Hon. Catherine S. Callbeck:** Honourable senators, I can honestly say that my friend and colleague, Senator Lorna Milne, is one of the hardest working senators I know. Wife, mother, author, community activist, educator, businesswoman, genealogist, political organizer — her interests are varied and her passion for her work is remarkable.

As for politics, it could not help but be in her blood. She is the daughter of the former Toronto mayor, William Dennison, and I am told she was actually born during one of her father's election campaigns. It is no wonder she has been involved in politics.

Lorna Milne has accomplished much in her 14 years in the Senate. Other senators have spoken to her great accomplishments. Most notably is her fight to ensure access to census records for research which resulted in the passage of Bill S-18, after seven long years of campaigning. The bill was passed in June 2005 after having been introduced three times. The success of that bill was certainly much appreciated in my home province of Prince Edward Island. We have a great number of genealogists on the Island, and access to those census records is very important to them.

As we all know, Senator Milne has been active in Question Period, rarely missing an opportunity to question the government about those issues that mean so much to her.

I have no doubt, Lorna, that you will continue to work on those issues that mean so much to you in the years ahead. Certainly we will miss you in the Senate. It has been a pleasure to serve with you. I wish you and Ross and your family members in the gallery all the best in the future.

**Hon. Mobina S. B. Jaffer:** Honourable senators, I rise today to join my colleagues in tribute to a devoted and hard-working public servant, a woman of remarkable accomplishment and a good friend, the Honourable Lorna Milne, on her last sitting day in this chamber.

When Lorna Milne took a healthy interest in agricultural studies and the sciences early in her life, she grew to understand the complex elements involved in the ground beneath her. When she was one of only four women to graduate from the Ontario Agricultural College, she grew to understand the challenges women face around the world and carry with them as they walk the ground beneath their feet. When she came to the Senate, she grew to further understand the challenges Canadians face.

All those who have spoken before me have said what I would have liked to say about Lorna. I join them in our tribute to her.

Today I would like to address Senator Milne's granddaughters, Maddie, Seline and Deniz, and grandson Lachlan. Your grandmother was appointed to the Senate for all she had done in her service to Canadians. She arrived at the Senate and has worked hard to change the lives of Canadians. Your grandmother will continue to serve and change lives of Canadians.

As your grandmother leaves this chamber and will now have more time for you, I ask you to learn as much as you can from her so you can follow in her example to serve and change the lives of Canadians. I say this to you as I have known your grandmother Lorna for a very long time. I have learned from her how to better serve Canada. I have learned from her how to change lives of Canadians. Most of all, I have learned from your grandmother that she is not a fair-weather friend. She is your friend when things are going well for you, and she is your friend when they are not going so well for you. Your grandmother is a great Canadian. I thank you for sharing her with us.

Lorna, for all you have done and will continue to do, I say thank you. I wish you the very best in the next chapter of your life. You will be greatly missed in this chamber by the Leader of the Government in the Senate for the questions you asked of her. You will be greatly missed by all of us. You always reminded us to do the right thing. Most of all, my friend, I will miss you.

**Hon. David P. Smith:** I am rising to pay tribute to Senator Lorna Milne, for whom we all have great respect. She will be genuinely missed.

Although she was born in Toronto and, as you have heard, her father was mayor, she is not totally a city person. Her dad came from the Ottawa Valley, and she is also a valley person — they would call her a valley girl. Rankin, Eganville, Cobden, Mink Lake, Lake Dore, Westmeath, Snake River, Micksburg, Douglas, even Pembroke, she knows them all. I will never forget one day she came up to me and told me that she knew where my great-grandfather, Robert Smith, is buried. "I have seen his grave. Did you know his nickname was Injunction Bob?" He had quite a reputation for litigation.

My dad, Campbell Bannerman Smith, was born in Douglas and raised in Eganville, went to high school in Renfrew and then went off to the First World War. Although I was born in Toronto, too, all of my life I have gone back to those places. Those roots are important.

• (1400)

So Senator Milne is not only a Toronto city person. She has a balance. When she has shown interest, expertise and knowledge in rural and agricultural matters, including hemp, it has been genuine. That is to say that there are other Torontonians who are knowledgeable in these areas, but there are not too many.

I referred earlier to Lorna's father, William Dennison. He was a valley boy and a gentleman. I did not know him well, but I knew him to be honest, respected and straight up.

Honourable senators, you have already heard that Lorna was not raised a Liberal. I do not think of her dad so much as an NDPer, but as a CCFer. Political parties and churches have one thing in common: they both have to accept converts.

Ross, I thank you for your missionary work in bringing Lorna into the fold, to which she has made a great contribution.

Lorna, you have been a great supporter of the democratic process, as well as a good small "I" liberal and large "L" Liberal. Most small "I" liberals are also large "L" Liberals. We will continue to work on the few who are not.

Lorna, I and your other Senate colleagues will miss you. You are my favourite valley girl and a good friend. I hope that we continue to see you from time to time. Many thanks for your years of service.

**Hon. Elizabeth Hubley:** Honourable senators, when I arrived here in 2001, Lorna Milne was already an accomplished senator with over five years' experience. I immediately identified her as a good example and as a friendly colleague who could be relied upon for advice and insight.

Senator Milne is a go-getter. She wasted no time, after being summoned here in September 1995, in becoming chair of the important Legal and Constitutional Affairs Committee a mere two years later. She served with distinction in that role for five years, leading the committee through a number of thorny legislative issues.

After her stint with Legal and Constitutional Affairs, she went on to lead our Rules Committee through the difficult and groundbreaking work of developing a code of conduct for the Senate. In her role as chair, Senator Milne took challenges head-on, yet she always managed to maintain her good cheer and sense of humour.

Senator Milne's service on other committees and her accomplishments in diverse areas such as the census and the cultivation of hemp have already been mentioned by others who have spoken before me. It is no wonder, then, that when I was a newcomer to this place, Senator Milne was not only a wonderful role model, but would also come to be a good friend and mentor.

Honourable senators, some of you may know that Senator Milne and her husband Ross share a love of the Model A Ford. In October of last year, they participated in a Maritime tour with a number of other Model A enthusiasts. I was fortunate enough to spend some time with them when their tour came to Prince Edward Island. We had a wonderful time and I was delighted to welcome them to my home province. I will always have fond memories of that visit.

Honourable senators, I have learned a great deal from the example set by Senator Milne in her tireless service to this place, and I am very sorry to see her leave it. However, I take comfort in the certainty that whatever follows life after the Senate, she will thrive as she has done so here for the past 14 years.

I extend to Lorna, her husband Ross and her family my very best wishes.

[*Translation*]

**Hon. Céline Hervieux-Payette:** Honourable senators, I would like to address my remarks to my good friend, my colleague and I was going to say my twin sister, because we were both appointed to the Senate in 1995. That was a time when the then Prime Minister was restoring the balance of power, and especially the balance of minds and ideas, by repeatedly appointing women in order to reach a proportion far more worthy of our gender's representation in Canada.

I would like to introduce the new senators to the woman with a big heart. You heard earlier about all the charitable organizations she has been involved in. Some were left out: she volunteered with the Brampton and District University Women's Club and worked with mental health and heritage protection groups in her community. When you look at her curriculum vitae, you can see that she looked after her family, her extended family and her community, always in not-for-profit occupations.

I also want to talk about the woman of principle, who was a member of the Canada-Europe Parliamentary Association, who championed causes unreservedly and who would have liked to resolve the famous seal hunt issue with all of us. I certainly do not blame her that we were unable to resolve that issue. She did everything she could with the means at her disposal. When she stands up for a cause, she does so with good, solid arguments. We wound up in a rather unprincipled image war.

Another side of Senator Milne that I want to talk about is the committed woman. As Senator Joyal said, on the Senate Committee on Legal and Constitutional Affairs, we benefited from her talents, her judgment and her ability to get to the bottom of things. She worked in the best interest of all Canadians, especially children.

I would like to pay tribute to the team player, who co-chaired the election campaign in Ontario in 1997, the year a system of female co-chairs was first introduced across Canada. She did an exemplary job, in addition to helping to recruit female candidates. I know something about this, and I can tell you that it is harder than recruiting men. If all women were to come here, they would see how we can help our country and contribute to its advancement, but they would also see that the system is perhaps not made for family life. I can tell her that she played an outstanding role on the Liberal team.

I would like to warn my colleagues against rejoicing that she is leaving, since she will be available full time during the next election campaign. I warn you that Lorna will dedicate all her energy to the campaign and will not have to split her time between her duties in the Senate and the campaign. I am sure that in a few weeks, her husband Ross will give her permission to work on the campaign.

I would like to thank the grandmother emeritus, who is a wonderful cook. I often heard about her summer activities, which often involved doing a lot of cooking, and preparing preserves in the fall. Obviously, we do not give up our womanly characteristics and talents when we come here. She had an education in

agriculture and was a talented horticulturalist. Why not dedicate her time to the environment surrounding her country property? She spent many hours creating beautiful flower beds to beautify this environment for herself and her family.

I would like to say goodbye, and to pass along a message from the people of Quebec, that they love the people of Toronto. Do not believe anything less; I will always cherish our friendship, and I will be forever grateful to a woman I admire. All Quebecers admire the work she has done. Good luck and have fun in the coming years.

[*English*]

**Hon. Grant Mitchell:** Honourable senators, this will be the first tribute that I will give in the Senate. Being a relatively new senator, I have always felt that senators who are, unfortunately, departing probably had longer-standing friends and associates here who could better describe and capture the essence of her experience than I. However, I begin today with Senator Milne because I feel that I have had a special relationship with her. That feeling began to dawn on me as I tried to keep up with her in Question Period.

• (1410)

I found myself observing Senator Milne's determination, her work, her professionalism, and her desire to do something right for the country and to do something right generally in a way that has been impressed upon me very much. In fact, we have worked a great deal on committee together. We happen to be on committees that deal with subject matters that we share passionately, particularly on the environment.

I rise today not to repeat what has been said before, because I could not do so better. I just want to leave Senator Milne with a couple impressions that I have. There are two characteristics that she has impressed upon me very much. She is fiercely Liberal and completely fearless. Coming from Alberta, I mean those as fundamentally significant compliments from the bottom of my heart, because, if you are a Liberal in Alberta, you had better be fierce and you had better be fearless. I have seen that in her. When I watch and listen to Senator Milne, I feel that she is capturing for me those values that define Liberalism. I have always felt very much at home in her presence because of that.

I will also take away from my experience with her this enduring image of her standing not behind her desk, but stepping beside it, with putting whatever it is into her posture, as she leans forward to pose her questions so that everyone knows exactly where she stands in a forceful and powerful way.

Senator Milne, I thank you for being my mentor. I reflect on a particular instance. A number of months ago, when I was having trouble getting through a presentation of a motion or two, you gave me that "What are you doing; pay attention" look. You came over and actually told me how to do it. Now that I do it right, I think I am more successful, but a lot more nervous. I will always remember you for that very reason as well.

I wish all the best to you and your family, some of whom are from Alberta. It has been a great pleasure to have had the chance to work with you.



**Hon. Elaine McCoy:** Honourable senators, I am pleased to join in the tributes to Senator Lorna Milne.

It strikes me that you, Lorna, live your life by “The Women’s Creed.” That is not a generally or widely known creed, because we do not speak it out loud often. However, because this is a special chamber and we have special friends here, I thought that I would at least share it. “The Women’s Creed” reads as follows:

Live your life in such a way that, when your feet hit the floor in the morning, Satan shudders and says, “Oh, no. She’s awake!”

I honour you as one of our elders in “The Women’s Creed.” I think there are some senators sitting on this side of the house who, like Satan, might equally say “Oh, no. She’s awake!”

We have borrowed you, as I said to someone in your family last week. They are able to keep you, and we have only been able to borrow you for a few years.

Lorna, there are four words that come to my mind when I think of you — and I will continue to think of them in the years to come: knowledgeable, indefatigable, kind and nation-builder. Let me tell you what those mean to me.

First, regarding “knowledgeable,” I, too, have a passion for environmental issues and so I started following them at the committee here. One of the first people I noticed was Senator Lorna Milne. She knows her issues cold. I was impressed at that degree of knowledge and stick-to-it-iveness, as well, on issues across a broad spectrum of the environmental field. For that, I honour her. We will miss that kind of expertise in this institution.

Second, regarding “indefatigable,” I was sitting on that side and Lorna was over there when she got up in 2005 and said:

Please, please, please pass this bill. It is the third time it has been introduced. I have been working on it for seven years.

I listened and I heard the words “census” and “archives.” I thought, “Good grief.” But she never gave up. I thought, there is a lesson: never give up. Just keep pushing forward. We are a legislative body here. We have persuasive power and one just has to never give up. I honour her for that.

Third is the word “kind” and she has been very kind to me. One day I was sitting at the Environment Committee, by chance beside her. They were all talking about some procedural issue. I said, “I do not have the faintest idea what is going on.” She leaned over and put her hand around my shoulders and said, “It is okay. It is because you are not in a caucus, you know.” I said, “Oh, really?” From then on, Lorna was always very kind to share with me some of the information about how to get forward and how to keep going in this awesome institution.

Finally, there is “nation-builder.” Lorna was one who came with us on an oil sands tour. When I heard that she was coming, my stomach quailed. This is a woman who knows her environmental issues. She is from Ontario. I thought “Oh my God, Greenpeace will be easier than Lorna Milne.” However,

Lorna was polite, as she always is; and incisive in her questions, as she always is. At the wrap-up dinner that was attended by about 20 business leaders from Edmonton, Alberta, she stood up and she said to those assembled: “Alberta, I honour you. You have not got everything right, but you are trying very hard. We, from the rest of Canada, thank you for being such a steward of such a remarkable resource.” That is the epitome of a nation-builder.

I will always remember that gracious comment from you, Senator Milne. May your efforts continue to build this nation, as they have for these many years. Thank you for the privilege of knowing you.

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

**The Hon. the Speaker:** Honourable senators, although we have exceeded the amount of time that the house provided for tributes, we now call upon the Honourable Senator Milne.

**Hon. Lorna Milne:** Honourable senators, after receiving such extravagant praise, I hardly know where to start. In fact, I will have to severely edit these remarks that I have already written, because I do not want to repeat what has been said on some of my issues.

I will start with my heartfelt thanks to all the visible and invisible people who make our lives in this privileged place run so smoothly: from the pages to the Speaker and his office staff; from the table officers and the committee clerks to the transcribers and the interpreters; from the bull crew, the Library of Parliament staff and the researchers to the printers, the cleaners, and Senate security.

I will never forget one of the first times I came up the stairs into this chamber. I was bringing a friend here to sit up in the gallery. The friend turned to me in absolute astonishment and said, “That man saluted you!” It is such a privilege to be treated the way Senate security treat us all.

The list goes on and on of the people who work behind the scenes and who are never seen, but particularly I want to thank my own office staff. I have been lucky enough over the years to hire wonderful people. I remember Rosanna Bradley, who started her life on the Hill working for my husband Ross in the other place and ended up working for me here in the Senate. I remember Vince MacNeil, Jeff Paul, and Jon Bishop. I now have Sara May and Diana Ris working for me. Diana has gone far beyond that extra mile these past few stressful months when I tried to clean out my office and made impossible and sometimes rather bad tempered demands of her. I thank you so much, Diana.

• (1420)

I remember good friends from here who are now retired — in fact, someone who retired before I got here. Lorna Marsden was out of here before I arrived. People still call me Senator Marsden, and I am always complimented.

Of course, that is not when they are calling me Ione Christensen, my twin. I will never forget the day that Ione and I showed up here wearing identical outfits purchased from the Tall Girl Shop. I remember Derek Lewis, my first friend in this place; Lorne Bonnell; Peter Bosa; Landon Pearson — it is so good

to have a friend to share a giggle with — John Bryden; Joan Cook, from whom I learned more than I probably should know about Newfoundland and Labrador politics; Sharon Carstairs, such a good friend, whom I knew long before we both arrived here from our days in the political trenches; Serge Joyal; Willie Moore. This is another list that goes on and on, but I cannot forget the very close and perhaps surprising friendship that I share with Joan Fraser. We come from such completely different backgrounds that I think we remain both astounded, but it is a continuing joy, that we have had such a warm meeting of minds. I thank you, Joan.

My friends, I will miss you all, including the people across the aisle, whom I have enjoyed skewering on every possible occasion lately. I notice the “skewerree” is not here today.

**Senator Mercer:** She is listening.

**Senator Milne:** Over the years, I am fairly proud of some of the things I have been able to accomplish here. Senator Cowan and others have spoken of them, so I will not carry on. They include my battle to make hemp a legal crop, and that fledgling industry is now beginning to thrive on its own. That is a good, positive mark.

I will never forget my seven-year struggle with the census results. As Senator Comeau has mentioned, we were certainly on opposite sides on that one. I still cannot believe that it took seven whole years to change the decision of one bureaucrat. My hackles still rise when I think about it.

**Senator Banks:** Watch out for rising hackles.

**Senator Milne:** Careful, Senator Banks. There were my years as President of the Canada-Europe Parliamentary Association, and I have led so many official delegations over in Europe and to the capitals of some of the countries in Europe. It has been an enormous privilege to be able to do that and it has been a great learning experience. One of my great regrets now is that I have been watching Canada's influence over there plummet over the last two or three years. Europe is our second largest trading partner and, my friends, they notice when we downgrade them and it rapidly becomes mutual.

One of my greatest joys has been to serve as the vice-chair of the national Liberal caucus for the past several years. It has been fascinating to watch the weekly action in that unique forum from such a privileged spot up on the platform.

Those few accomplishments remind me that, before I leave, I want to preach a bit of sedition to our new senators sitting opposite. When I first arrived here, Liberals formed the government but were in the minority in the Senate. I was never directed to pass legislation without taking a good hard look at it and amending it when it seemed necessary. In fact, most, if not all, of the amendments in committee here were made at that time by Liberals and were accepted by the government. That is our job here, to improve legislation and to make it do what the government of the day intends it to do, not to accept it blindly. The perfect piece of legislation has yet to be written. Amending and improving legislation is one of the main things the Senate was set up to do, and I remind you all that we have a constitutional

duty to look at legislation through the eyes of the Constitution, through the eyes of the Charter of Rights and Freedoms, and the viewpoints of our own regions, and we must protect the rights of Canada's many minorities. The Senate was never intended to be a rubber-stamp body for the other place.

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

**Senator Milne:** We are here to provide some balance to the political antics over there. That is our role and that is our purpose. A backbench senator can influence the course of history, but not by being a rubber-stamp.

To sum up — and you will all be glad to know that I am summing up — it has been an extremely satisfying and enormous privilege to be here for these past 14 years in this crimson chamber, right at the beating heart of our great country. Decisions are made here that have affected and will affect the daily lives of all Canadians, and it has been such an overwhelming gift to have been in some small way able to influence those decisions for the better.

I leave here with a few pangs, little twinges of regret, but I am ready to move on. There are new projects ahead, new projects to finish, miles to go, bridges to cross and hills to climb ahead.

Last, I want to thank my wonderful family, all of whom have been so supportive over these 14 years, particularly my very patient husband, Ross Milne. Ross is my spouse from the other house, who knows politics like the back of his hand and has constantly come up with the suggestions, the new ideas, the criticism and the support that we all need when we spend so much time away from home. He has always stood beside me; that is not when he is right behind me giving a little push.

I am the forty-second woman in Canadian history to have been appointed to the Senate, but Ross and I are only the second couple in Canadian history to have one serve in the other place and one serve here. Of course, now there is a third couple, Senator Finley.

If I may usurp your privilege, Your Honour, Ross and I have been blessed with a truly marvellous family: bright, healthy, beautiful, not to mention tall. May I ask them just to stand up?

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

#### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I would like to draw your attention to the presence in the gallery of His Excellency Osama Bin Ahmad Al Sanousi, the newly appointed ambassador of the Kingdom of Saudi Arabia to Canada.

Your Excellency is warmly welcomed to the Senate of Canada.

I might point out, honourable senators, that His Excellency is accompanied by a very distinguished member of Her Majesty's Privy Council and former Senate colleague, the Honourable Marcel Prud'homme.

## ROUTINE PROCEEDINGS

• (1430)

### HUMAN RIGHTS

#### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—STUDY ON NATIONAL AND INTERNATIONAL HUMAN RIGHTS OBLIGATIONS—FIFTH REPORT OF COMMITTEE PRESENTED

**Hon. A. Raynell Andreychuk**, Chair of the Standing Senate Committee on Human Rights, presented the following report:

Thursday, December 10, 2009

The Standing Senate Committee on Human Rights has the honour to present its

#### FIFTH REPORT

Your committee, which was authorized by the Senate on Wednesday March 4, 2009 to examine and report on issues relating to human rights and, *inter alia*, to review the machinery of government dealing with Canada's international and national human rights obligations, respectfully requests funds for the fiscal year ending March 31, 2010, and requests, for the purpose of such study, that it be empowered:

- (a) to engage the services of such counsel, technical, clerical and other personnel as may be necessary; and
- (b) to travel outside Canada.

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,

RAYNELL ANDREYCHUK  
*Chair*

(For text of budget, see today's Journals of the Senate, Appendix A, p. 1612.)

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

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

### TAX CONVENTIONS IMPLEMENTATION BILL, 2009

#### FIFTH REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE PRESENTED

**Hon. Michael A. Meighen**, Chair of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, December 10, 2009

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

#### FIFTH REPORT

Your committee, to which was referred Bill S-8, An Act to implement conventions and protocols concluded between Canada and Columbia, Greece and Turkey for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, has, in obedience to the order of reference of Wednesday, December 9 2009, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

MICHAEL A. MEIGHEN  
*Chair*

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

**Senator Meighen:** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(b), I move that the bill be placed on the Orders of the Day for third reading later this day.

**The Hon. the Speaker:** Honourable senators, Senator Meighen has asked the concurrence of the house that third reading proceed later this day.

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Could I ask what the urgency is in having third reading today rather than at the next sitting of the Senate?

**Senator Meighen:** There is no particular urgency; it is, rather, to expedite business, since we are approaching our break. This is a non-controversial bill that has been thoroughly discussed. I thought it would be helpful to the chamber to deal with it today, but if not, I am satisfied to have third reading at the next sitting of the Senate.

**The Hon. the Speaker:** I take it there is not unanimous consent to deal with the bill at third reading later this day.

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

**STUDY ON ISSUES RELATING TO FEDERAL  
GOVERNMENT'S CURRENT AND EVOLVING POLICY  
FOR MANAGING FISHERIES AND OCEANS**

SEVENTH REPORT OF FISHERIES AND OCEANS  
COMMITTEE TABLED

**Hon. Bill Rompkey:** Honourable senators, I have the honour to table, in both official languages, the seventh report of the Standing Senate Committee on Fisheries and Oceans, entitled: *Controlling Canada's Arctic Waters: Role of the Canadian Coast Guard*.

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

[*Translation*]

**AGRICULTURE AND FORESTRY**

BUDGET—STUDY AND REPORT ON CURRENT STATE  
AND FUTURE OF FOREST SECTOR—  
SEVENTH REPORT OF COMMITTEE PRESENTED

**Hon. Percy Mockler,** Chair of the Standing Senate Committee on Agriculture and Forestry, presented the following report:

Thursday, December 10, 2009

The Standing Senate Committee on Agriculture and Forestry has the honour to present its

**SEVENTH REPORT**

Your committee, which was authorized by the Senate on Tuesday, March 31, 2009 to examine and report on the current state and future of Canada's forest sector respectfully requests supplementary funds for the fiscal year ending March 31, 2010.

The original and a supplementary budget application submitted to the Standing Committee on Internal Economy, Budgets and Administration and the reports thereon of that Committee were printed in the Journals of the Senate on May 7, 2009 and on October 1, 2009. On May 12, 2009, the Senate approved the release of \$17,460 to the Committee and on October 6, 2009, the Senate approved the supplementary budget of \$250,400.

Pursuant to Chapter 3:06, section 2(1)(c) of the Senate Administrative Rules, the current supplementary 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,

**PERCY MOCKLER**  
*Chair*

(For text of budget, see today's Journals of the Senate, Appendix B, p. 1620.)

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

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

**INTERNAL ECONOMY, BUDGETS  
AND ADMINISTRATION**

TENTH REPORT OF COMMITTEE TABLED

**Hon. George J. Furey:** Honourable senators, I have the honour to present, in both official languages, the tenth report of the Standing Committee on Internal Economy, Budgets and Administration.

[*English*]

**ENERGY, THE ENVIRONMENT  
AND NATURAL RESOURCES**

BUDGET—STUDY ON CURRENT STATE AND FUTURE  
OF ENERGY SECTOR—FOURTEENTH REPORT  
OF ENERGY, THE ENVIRONMENT AND NATURAL  
RESOURCES COMMITTEE PRESENTED

**Hon. W. David Angus,** Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Thursday, December 10, 2009

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

**FOURTEENTH REPORT**

Your committee, which was authorized by the Senate on Tuesday, June 4, 2009 to examine and report on the current state and future of Canada's energy sector (including alternative energy) respectfully requests supplementary funds for the fiscal year ending March 31, 2010.

The original budget application submitted to the Standing Committee on Internal Economy, budgets and Administration and the report thereon of that committee were printed in the Journals of the Senate on November 26, 2009. On December 2, 2009, the Senate approved the release of \$152,475 to the committee.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the supplementary 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,

**W. DAVID ANGUS**  
*Chair*

(For text of budget, see today's Journals of the Senate, Appendix C, p. 1628.)

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

**Senator Angus:** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(g), I move that the report be considered now.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** May I ask a question of Senator Angus, similar to what Senator Tardif asked a while ago, regarding why we should adopt the report this afternoon?

**Senator Angus:** This was a supplementary request to the budget of the committee, which was duly approved and explained at an earlier session. The clerk later went to the steering committee and stated, with considerable humility, that she had omitted a section of the budget with respect to funds that we needed for translation and related expenses, for hearings we are holding early in the new year in British Columbia. I have been asked by the government to go to Copenhagen and I will be leaving later today. Therefore, there is some urgency. My deputy chair will also be absent.

**The Hon. the Speaker:** Is it agreed, honourable senators, that I put the motion at this time?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** It is moved by the Honourable Senator Angus, seconded by the Honourable Senator Wallin, that this report be adopted.

Are honourable senators ready for the question?

On debate. Leave was not granted.

**Hon. Sharon Carstairs:** No, leave has not been granted. Frankly, I have no difficulty dealing with this report today, but I would like to at least see a copy of the report before I deal with it. The motion has to be later this day, not now.

**The Hon. the Speaker:** Is leave granted, honourable senators, that this matter be considered later this day?

**Hon. Senators:** Agreed.

(On motion of Senator Angus, report placed on the Orders of the Day for consideration later this day.)

• (1440)

## CURRENT STATE AND FUTURE OF FOREST SECTOR

### EIGHTH REPORT OF AGRICULTURE AND FORESTRY COMMITTEE TABLED

**Hon. Percy Mockler:** Honourable senators, I have the honour to table, in both official languages, the eighth report, an interim report, of the Standing Senate Committee on Agriculture and Forestry entitled: *The Canadian Forest Sector: Past, Present, Future*.

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

## INTER-PARLIAMENTARY UNION

### PARLIAMENTARY MEETING ON THE COMMISSION ON THE STATUS OF WOMEN, MARCH 4, 2009— REPORT TABLED

**Hon. Donald H. Oliver:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Inter-Parliamentary Union to the Parliamentary Meeting on the Occasion of the Fifty-third Session of the Commission on the Status of Women, The Role of Parliaments in Promoting Equal Sharing of Responsibilities between Women and Men, held in New York, New York, United States of America, on March 4, 2009.

## QUESTION PERIOD

### NATIONAL DEFENCE

#### TRANSFERRED DETAINEES

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

A month ago, on November 19, her colleague, the Honourable Peter MacKay, the Minister of Defence, attempted to discredit the testimony of senior diplomat Richard Colvin, who testified before a House of Commons committee that he had warned the government in 2006 that Taliban prisoners transferred to Afghan authorities by the Canadian Forces were being tortured.

This is what Minister MacKay said at that time:

Mr. Colvin cannot even say that the source on which he based much of his testimony yesterday actually came from those who were transferred by Canadian Forces. We are being asked to accept testimony from people who throw acid in the faces of schoolchildren and who blow up buses of civilians in their own country. I will not accept that testimony.

That was a month ago. Yesterday, Canada heard testimony from the Chief of the Defence Staff, General Walter Natynczyk, that in June 2006, Canadian troops witnessed the beating of a detainee they had just transferred to Afghan authorities.

When Mr. Colvin made his original statement last month, the government's typical knee jerk reaction was to smear Mr. Colvin's reputation by associating him with "people who throw acid in the faces of schoolchildren."

Will the government now do the decent thing and formally apologize to Mr. Colvin for this drive-by smear in view of yesterday's shocking testimony of the Chief of the Defence Staff?

**Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)):** Honourable senators, the Chief of the Defence Staff yesterday took the appropriate action and corrected the record. All of our military that are working hard in Afghanistan and here have done the right thing. Our diplomats are doing the right thing. This matter was dealt with appropriately.

As has been said many times, when our military and diplomatic officials have been presented with credible, substantiated evidence, we have taken action. Our men and women are working well in Afghanistan.

We took action on this matter two and a half years ago. We put in place many new procedures to correct the inadequate arrangements that were made by the previous government.

The military are performing their job; the diplomats are performing their job. This matter is a two-and-a-half-year-old story and I have nothing more to add.

**Senator Cowan:** I remind the minister that we are not questioning whether the military are performing their job — the men and women who serve this country. There is no question that they are performing their job, and there is no question that the diplomats who serve the Canadian people abroad are performing their job. The real question is whether the Government of Canada is performing its job.

This story is attracting international attention that does not reflect well on this country, honourable leader. In this morning's edition of *The New York Times* — honourable members opposite may find it amusing, but it is not amusing to Canadians and it is not amusing to people around the world who are watching Canada — an article said:

The acknowledgment by the chief of the defense staff, Gen. Walter J. Natynczyk, was a major embarrassment for the Conservative government, undermining an unusually vigorous campaign by the government against politicians, diplomats and human rights advocates who have contended that Afghan prisoners are in jeopardy after being transferred to their government.

Honourable leader, the contradicting testimonies of this past month have not only embarrassed the government at home, but have tarnished Canada's image on the world stage. Canada's international reputation, already suffering because of this government's inaction on climate change, is reaching a low never before imagined.

Our troops, who as I said before are working hard and giving their lives — you can smirk at this, honourable leader, but it is not a laughing matter — in Afghanistan and doing their absolute utmost to uphold Canadian principles and values and international human rights law are being let down by this government.

Today we celebrate International Human Rights Day. Why is this government tarnishing Canada's long-standing reputation as a world leader in defence of human rights? When will this government start behaving honourably and come clean about its knowledge and lack of timely action on this matter?

**Senator LeBreton:** For the record, I was not smirking. I was raising my eyebrows at the member opposite.

I will report again: We acted over two and a half years ago to enhance the inadequate transfer arrangement put in place by the previous Liberal government. We have invested to improve the Afghan prison and justice system. In March, Canada provided an extra \$21 million to help strengthen the rule of law in Afghanistan, to help pay the salaries of police and correctional workers and fund the Human Rights Support Unit, as an example.

The honourable senator talks about the testimony. We have had testimony from diplomats, corrections officials and military officials, all putting on the record their view of the situation in Afghanistan. Mr. Colvin had different testimony.

The honourable senator chooses only to zero in on Mr. Colvin's testimony and ignore all the other testimony, including public servants from the Correctional Service of Canada. That is the honourable senator's right, but I daresay that focusing on only one part of the testimony before the committee contributes to the misinformation that has been spread around.

The Chief of the Defence Staff yesterday took the appropriate action in correcting a statement he made the previous day. David Mulrone, the former foreign and defence policy adviser in charge of the Afghanistan file, has also taken the proper action. This government moved a motion on the mission in Afghanistan in the House of Commons.

• (1450)

I remind the honourable senator opposite that when the Conservatives came into government, the situation with our troops in Afghanistan was dire. They did not have proper uniforms or proper equipment, and there were faulty transfer arrangements, all of which this government fixed.

**Senator Cowan:** I have a supplementary question. The minister has reinforced the point that I was making, which is that when the Chief of the Defence Staff found out that he was wrong, he stood in his place and corrected his testimony. Why will the Minister of National Defence not have the same courage and discipline? Why does he insist on standing by the character assassination and drive-by smears of a month ago?

**Senator LeBreton:** Honourable senators, everyone knows that those in the field have done the right thing in this regard. The Chief of the Defence Staff corrected erroneous information that he provided the previous day, which was the proper thing to do. The government has always acted on credible stories out of Afghanistan. That is why the government fixed the situation by putting in place proper procedures for the handling of Afghan prisoners. The government provided money and public servants from Corrections Canada and arrangements were made so that officials could go at any time to check on Afghan prisoners. That is something that was not in place under the previous government.

**Hon. Jane Cordy:** Honourable senators, I have had the privilege of travelling to most of the military bases across the country and around the world, where outstanding men and women serve in the Canadian military. That is not in question.

Is the Leader of the Government in the Senate suggesting that Mr. Colvin has no credibility and that he did not tell the truth when he appeared before the House of Commons' committee on Afghanistan?

**Senator LeBreton:** The honourable senator had better listen more carefully when I speak. I said that Mr. Colvin appeared before the committee and gave his testimony, which was his right. I think those were the words I used. However, military officials, officials from Corrections Canada, Mr. David Mulroney and many diplomats gave contrary testimony before the committee. Why does she not think that their testimony is as credible as Mr. Colvin's?

**Senator Tkachuk:** Exactly.

**Senator Cordy:** Does the government believe the testimony of General Natynczyk yesterday?

**Senator LeBreton:** Of course. I said that the Chief of the Defence Staff took the appropriate action and corrected the record with regard to an incident to which he referred the previous day. There seems to be no relation between what the Chief of the Defence Staff said yesterday and Mr. Colvin's testimony. He was simply correcting the record.

Many people, including the former Chief of the Defence Staff, military officials, Corrections Canada officials, diplomats, and Mr. David Mulroney testified before the same house committee. I would like everyone to treat their testimony with the same diligence as they have the testimony of Mr. Colvin.

[Translation]

#### BUDGET REDUCTIONS

**Hon. Roméo Antonius Dallaire:** Honourable senators, I am in no way questioning the debates that have taken place regarding prisoners and the ministerial responsibilities that exist and will continue to exist. In the past, this responsibility manifested itself unequivocally, but it would appear today that it is in jeopardy in the context of the government's major responsibilities.

However, still on the topic of defence, three weeks ago, I asked a question regarding the budget and budget cuts within the Department of National Defence, at a time when our troops are deployed in an operational theatre.

I was told at the time not to expect a response, since I was only hearing rumours.

While it is true there have been no cuts in the overall five-year defence budget, there has nevertheless been a transfer of hundreds of millions of dollars from this year's budget to the budget of four or five years ago.

I would like to know if the department has done an impact analysis of this year's budget cuts, which could be extended to future years, in relation to their operational capabilities to carry out the mission in Afghanistan.

[English]

**Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)):** I thank the honourable senator for confirming what I said in answer to him previously: There were no cuts to the Department of National Defence. I do not know on what the honourable senator is basing his information, so I am happy to take his question as notice.

**Senator Dallaire:** The honourable leader is correct in saying there were no cuts in the five-year budget. However, the government cut the guts out of this year's budget in order to move it to the right.

My supplementary question for the leader is this: What impact does she think these cuts are having on the operational effectiveness of the Canadian Forces? Does she know what impact the cuts have had on training, recruitment and preparation of the forces to continue to function at current levels until the summer of 2011?

**Senator LeBreton:** About this time last year, Senator Dallaire, I was very pleased that our government expended a considerable amount of money on Chinook and Griffon helicopters, and unmanned reconnaissance aircraft.

I still do not understand the premise of the honourable senator's question. The government has not made cuts to the budget of the Department of National Defence. Rather, National Defence has been the biggest benefactor of this government. Our soldiers have proper uniforms and equipment, and they are properly supported. When the Chief of the Defence Staff testified before the Senate committee, he indicated that he was very happy with the budget of the Department of National Defence.

**Senator Dallaire:** I have a supplementary question. I am glad that the Chinooks were acquired. When I was Director of Land Requirements in 1987 under then Minister of National Defence, the Honourable Perrin Beatty, we got rid of them for some reason. We now have them back and I am glad that the government rectified that problem, particularly for troops in operational theatres.

However, I would tell the leader that there has been a significant impact on the ability of the Canadian Forces to train and retain troops with operational experience because of significant cuts to operations in the operational and maintenance areas of the budget. Militia units cannot even train with the troops who have just returned from Afghanistan and want to continue to serve. However, because there is no salary for them, they are going to work at McDonald's instead of serving. We are losing that operational capability.

• (1500)

Is there a study on the impact of the budget cuts this year on the Armed Forces, or is the government simply starting its winding down of operational capabilities as we leap to the year 2011?

**Senator LeBreton:** First, I do not know what Senator Dallaire is basing his questions on. There is not a person in this country, whether friend or foe of the government, who does not acknowledge the contribution this government has made in support of our military.

**Senator Tkachuk:** They should have been so lucky under the Liberals.

**Senator LeBreton:** Exactly. What about the decade of darkness when the military was cut? The Airborne was shut down. We could go on and on about lack of ministerial accountability.

In any event, as I said the other day when the honourable senator asked a similar question, I will take it as notice to determine, first, what the honourable senator is talking about and, second, if there has been a study on whatever it is the honourable senator is talking about.

## FOREIGN AFFAIRS

### MALALAI JOYA—RIGHTS OF FEMALE PARLIAMENTARIANS IN AFGHANISTAN

**Hon. Sharon Carstairs:** Honourable senators, my question is to the Leader of the Government in the Senate. In late November, I received a delayed answer concerning the rights of women and female parliamentarians in Afghanistan, which I had asked on October 27.

However, my question was very specific to Malalai Joya, a parliamentarian who was banned from sitting in the Afghan Parliament in May 2007, and who is still banned from sitting in the Afghan Parliament. That particular banning has been condemned by 150 countries of the Inter-Parliamentary Union, including our Canadian delegation.

The delayed answer made absolutely no reference to Madam Joya. My question is: Has the Canadian government made any intervention on behalf of Madam Joya in Afghanistan?

**Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)):** I thank the senator for the question. It is an interesting question and I thought we had provided a full answer. Obviously, in Senator Carstairs' view, we have not. I would be happy to take her question as notice and ask again.

**Senator Carstairs:** Honourable senators, it is not a matter of whether the question has or has not been answered. The question I asked was of Madam Joya. The delayed answer I received had nothing whatever to do with Madam Joya. It is quite simple; it is black and white.

The second part of my question had to do with the voices of women parliamentarians who, when they ask questions in the Afghan Parliament, are drowned out by the banging on desks of the male parliamentarians. I asked if the Government of Canada had intervened on behalf of these women parliamentarians, who symbolize the future of Afghan women.

Has the government made any intervention on behalf of these Afghan women parliamentarians?

**Senator LeBreton:** Honourable senators, our military, diplomats, NGOs and all people working in Afghanistan are there for the right reasons, which is to improve the lives of all Afghans, most particularly women and children. I do not have the answer with regard to Madam Joya.

As I said a moment ago, since Senator Carstairs is not satisfied with the answer provided before, I would be happy to resubmit it.

**Hon. Mobina S. B. Jaffer:** I have a supplementary question for the Leader of the Government in the Senate when inquiring about Madam Joya. She was here last week and spoke to many Canadians. She was travelling across the country, setting out what had happened to her and how she cannot return to Afghanistan.

In the honourable senator's inquiry, can she ask what efforts we are making to help her return to Afghanistan?

**Senator LeBreton:** I would be happy to do so.

## PUBLIC SAFETY

### PREVENTION OF HUMAN TRAFFICKING

**Hon. Lillian Eva Dyck:** Honourable senators, my question is for the Leader of the Government in the Senate. Canada is a signatory to Article 9 of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children. Therefore, Canada ought to be active in efforts to prevent trafficking and, in so doing, leading civil society to play an active role in preventing the occurrence of trafficking.

The clandestine nature of human trafficking makes it very difficult to track once in progress. Enacting human trafficking legislation alone without other government measures will not make a significant impact on the level of trafficking, in particular taking measures to attack the root causes that lead to people being trafficked. Without undertaking preventive measures, we will likely not see a decrease in human trafficking, a crime which is an abomination to the very notion of human rights.

Would the Leader of the Government in the Senate tell the chamber what steps the government is taking in adopting article 9 of the protocol, specifically with respect to the prevention of human trafficking?

**Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)):** Honourable senators, I think we all agree that human trafficking is an abominable situation. We have a bill in the Senate introduced by Senator Phalen and carried on by Senator Carstairs. We have another private member's bill being sponsored by member of Parliament Joy Smith. It is in the chamber right now. This bill is extremely important.

With the Olympics coming, the issue of human trafficking and trying to get some control over it is paramount. It is a serious problem that requires great effort on behalf of all parliamentarians and law officials, particularly. I know that Minister Van Loan of Public Safety Canada has been working with many agencies and countries on this serious matter. I would urge the passage of Joy Smith's bill so we could get it into law and it would go some considerable way in dealing with the human trafficking issue.

**Senator Dyck:** With all due respect to the leader, I do not think she understood my question. It was not with regard to prosecution but with regard to preventive measures.

For example, has the government provided additional resources to the RCMP, targeted specifically to prevent any increased human trafficking and to prevent any increased demand for paid sexual services during the Vancouver Games? What actual, concrete actions has the government taken to prevent increased human trafficking during the Olympic Games?



**Senator LeBreton:** I thank the honourable senator for her question. I do believe I answered her question when I said that Minister Van Loan, the Minister of Public Safety, is working with many agencies, not only in Canada, but internationally, to address this serious issue.

I specifically mentioned the Vancouver Olympics. The work of the RCMP and the resources the RCMP use might not be something I can easily put my hands on. However, I am happy to take the question as notice as to what policy positions I can table in this place with regard to this serious issue.

Again, there are some measures we can take now, and anything we can do in this area would be certainly welcome.

**Senator Di Nino:** Pass the bill.

**Senator Dyck:** Prosecution alone, I will repeat, is not sufficient to eliminate human trafficking. There needs to be a multi-pronged approach.

For example, has the government increased resources to organizations like Crime Stoppers or Stop Sex with Kids in order to prevent increased victimization of women and children during the Olympic Games?

**Senator LeBreton:** With regard to Crime Stoppers and similar organizations, I do not have a definitive answer. Common sense would tell us that all police forces and all provincial, municipal and federal agencies would be doing everything possible to deal with this serious crime.

**Senator Dyck:** Is there a policy or strategy the government has developed that relies upon more than common sense to specifically address this problem?

**Senator LeBreton:** Senator Dyck, I answered that question.

**Senator Tkachuk:** Listen to the answer.

• (1510)

**Senator LeBreton:** I thought, perhaps, the actual activities of the RCMP may be hard to acquire. I would be happy to take the question as notice to see if there is any written policy statement I can table in the Senate to answer the honourable senator's question.

[Translation]

## LABOUR

### MUSEUMS LABOUR DISPUTE

**Hon. Francis Fox:** Honourable senators, following the lead of Senator Carstairs, Senator Hervieux-Payette and, more recently, Senator Lapointe, my question is for the Leader of the Government in the Senate and concerns the strike that has now gone on for 81 days at the Canadian Museum of Civilization and the Canadian War Museum.

As the leader knows, the holidays are quickly approaching. Parliament will soon adjourn and the sword of Damocles will no longer be encouraging the parties to settle the dispute. The main victims will be the museum employees and the Canadian public, which is entitled to enjoy all the services provided by these museums.

Museums management is still refusing to go to arbitration, although the union and the Minister of Labour, Rona Ambrose, are ready to proceed.

Given the current impasse and the fact that the parties are no longer at the bargaining table, will the Minister of Labour follow the recommendation of the Canadian Labour Congress, which has suggested bringing the parties together in order to settle the dispute?

[English]

**Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)):** Honourable senators, I agree. No one likes to see workers spending their weeks on the picket line especially at this time of year.

However, this is a legal strike and the majority of the workers voted in favour of strike action. Minister Ambrose is working hard to urge both sides to return to the bargaining table. As the honourable senator knows, under section 79 of the Canada Labour Code, the minister cannot appoint an arbitrator unless both sides agree to that arbitrator.

[Translation]

**Senator Fox:** Honourable senators, the fact remains that two ministers are involved in this labour dispute: the Minister of Canadian Heritage, Mr. James Moore, and the Minister of Labour, Ms. Rona Ambrose. Could they not coordinate their efforts and make an attempt to bring the parties back to the bargaining table before the holidays rather than allowing this labour dispute to continue and fester in the coming weeks?

[English]

**Senator LeBreton:** Minister Moore and Minister Ambrose have worked cooperatively and collaboratively on this issue. However, I will be happy to urge them again, as Senator Fox suggests, to try to get this resolved, though, as I pointed out, the Canada Labour Code prevents an arbitrator from being named unless both sides agree.

[Translation]

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I have the honour to present delayed answers to two oral questions. The first was raised by Senator Mercer on September 15, 2009, concerning the Atlantic Canada Opportunities Agency, federal funding to the silviculture sector and the second by Senator Milne on November 24, 2009, concerning Foreign Affairs, the commercial seal hunt.

## ETHICS COMMISSIONER

### BUSINESS AFFAIRS OF HONOURABLE PETER MACKAY

*(Response to question raised by Hon. Terry M. Mercer on September 15, 2009)*

As has already been stated by the Honourable Minister of National Defence and Minister of the Atlantic Gateway, as soon as it came to his attention that his name was still outlined as a director and officer of two forestry companies owned by his father, Elmer MacKay, he immediately took action to resign from the boards of both companies on September 2, 2009.

While Minister MacKay has not participated in any decisions related to the family-owned businesses, he did acknowledge that his name was still listed as a director and officer and immediately took action to contact the conflict of interest commissioner and to correct this oversight. Furthermore, Minister MacKay paid the fine levied by the commissioner related to this matter.

With respect to the Honourable Senator's questions on how recently announced federal funding through ACOA and ECBC will help further develop the forestry and silviculture sectors in Nova Scotia, we would like to clarify how this funding will be administered and delivered.

Through the Community Adjustment Fund or CAF, the Government of Canada is providing the Province of Nova Scotia with \$7 million over the next two years to increase silviculture activity in the province's woodlands. As announced on August 27th of this year, the Province of Nova Scotia is matching this funding for a total of \$14 million in immediate assistance to the province's woodlot owners.

The Nova Scotia Department of Natural Resources is responsible for administering this existing program, which includes the receipt of applications from eligible companies and the evaluation of these individual project applications.

It is important to note that the Province of Nova Scotia has continuously delivered similar programming to its woodlot owners for a number of years, and therefore possesses the infrastructure and expertise to undertake this important initiative and to closely monitor its results. This new funding augments the province's long-standing program of silviculture treatment and forestry improvements in Nova Scotia's woodland.

This joint federal / provincial silviculture initiative is based on a carefully designed plan that ensures both economic and environmental sustainability which will also create and maintain thousands of jobs throughout the province over the next two years.

Through this initiative, the Government of Canada is helping to ensure a sustained, quality wood supply critical to the long-term health of the forestry sector throughout Nova Scotia.

It should also be noted that the Government of Canada is similarly investing \$7 million in a federal / provincial silviculture initiative in New Brunswick as part of that Province's overall Community Adjustment Fund allocation.

Both of these significant and timely investments are having an immediate impact for the 2009 growing season in forestry-dependent communities throughout both New Brunswick and Nova Scotia.

Once again, this is clear evidence that while the forestry industry in Atlantic Canada is facing significant challenges due to weakened markets as a result of the downturn in the global economy, the Government of Canada has stepped up to the plate with investments that will have both short and long-term impacts on the sustainability of our forests and will benefit both the workers and communities that depend on this industry.

These two important investments are additional proof of how the Government of Canada, through ACOA and ECBC, provides support to further strengthen Atlantic Canada's economy.

## FOREIGN AFFAIRS

### COMMERCIAL SEAL HUNT

*(Response to question raised by Hon. Lorna Milne on November 24, 2009)*

On November 9, 2009, at the request of Ms. Rebecca Aldworth, Director, Humane Society International/Canada, officials of the Department of Foreign Affairs and International Trade Canada met with her to exchange views on the Canadian seal hunt.

The Government of Canada's position on the seal hunt is clear. In response to the Humane Society's well established position that the Canadian seal hunt must cease, Ms. Aldworth was informed that the Canadian seal hunt adheres to rigorous international standards; that the seal hunt is a humane and sustainable hunt; that the methods used in hunting seals compare favourably to those used to kill any other wild or domestic animal and that independent veterinarians have upheld the legitimacy and humaneness of Canada's rigorous animal welfare rules.

Our government is acting to protect the Canadian families and communities that will be hurt by the European Union's regulation to ban trade in seal products. On July 27, 2009, Trade Minister Day stated, along with the Minister of Fisheries and Oceans, that Canada would launch a World Trade Organization challenge should a EU seal products trade ban not include an acceptable derogation for humane hunts. On November 2, the Government of Canada announced that it has requested WTO consultations with the European Union. Rather than unilateral, discriminatory and trade-restrictive domestic legislation, Canada supports the concept of developing international standards for sealing through dialogue between sealing nations and appropriate experts.

[English]

## ORDERS OF THE DAY

### ECONOMIC RECOVERY BILL (STIMULUS)

#### THIRD READING

**Hon. Irving Gerstein** moved third reading of Bill C-51, An Act to implement certain provisions of the budget tabled in Parliament on January 27, 2009 and to implement other measures.

He said: Honourable senators, today I rise to speak to Bill C-51, the Economic Recovery Bill.

Bill C-51 is a major step forward in our Conservative government's plan to tackle the most severe global economic recession since World War II. While this recession began outside our borders and while we have weathered it better than most, Canada has not been immune to its fallout. Canadian jobs have been lost and Canadian businesses have closed.

However, our government's strong and swift measures to protect Canada's economy and put it on the road to recovery, combined with our solid economic fundamentals, suggest that Canada will exit this recession in better shape than most other industrialized countries.

We have some considerable advantages. The World Economic Forum ranks Canada's banking system as the healthiest in the world. Our housing market has remained relatively strong and stable; and we have a low debt-to-GDP ratio that has enabled us to implement massive fiscal stimulus measures.

Simple comparisons between our economy and that of our neighbour and greatest economic partner — the United States — can help us put our situation in perspective. For the first time in nearly 25 years, Canada's unemployment rate is nearly two per cent lower than that of the United States. Statistics Canada reported only last week that nearly 80,000 new jobs were created in the month of November alone. In contrast, the U.S. economy lost 11,000 jobs that same month — the twenty-third straight month of job losses south of the border.

It is certainly not my intention to gloat over the misfortunes of our friends and neighbours — far from it. I fervently wish the U.S. economy would reverse its decline and return to health and growth. However, it is important to recognize facts, and it is a fact that Canada is an enviable economic position relative to its international peers, including the United States.

Warren Jestin, Scotiabank's Chief Economist has noted:

Canada's domestic economic fundamentals are stronger than those in the U.S. and most other developed nations. Our banking system is widely regarded as the strongest in the world. Our labour market has shown greater resilience, with job losses running about half the rate of decline evident south of the border.

Don Drummond, Senior Vice President and Chief Economist for TD Bank says:

There is rarely a day that I don't get a call or a request from some place in the world wanting to know how we did it. There's no doubt that notice has been taken around the globe. Certainly, it has increased Canada's prestige. . . .

Mr. Drummond is correct; countries around the world are taking notice of Canada's strong economic record. U.S. President Barack Obama has declared:

. . . in the midst of this enormous economic crisis, I think Canada has shown itself to be a pretty good manager of the financial system. . . . And I think that's important for us to take note of. . . .

The OECD recently validated that sentiment by projecting that Canada will lead the recovery with a GDP growth rate among the strongest in the G7 in 2010 and 2011. Canadians can be proud of how well our country has fared during this economic recession.

While talk is increasingly shifting from global recession to global recovery, we must be careful not to celebrate prematurely. The first green shoots of recovery are only beginning to poke through the melting snow of a bitter economic winter, and they are still very fragile. We must nurture them. Our work is not yet done.

We cannot afford to get sloppy just when victory seems likely. That is a lesson we should all take from the recent Grey Cup game, as our honourable colleagues from Saskatchewan will be quick to tell you.

The G20 leaders stated in their communiqué following the recent Pittsburgh Summit:

A sense of normalcy should not lead to complacency. The process of repair remains incomplete. . . . We cannot rest until the global economy is restored to full health.

For the Government of Canada, that means we must continue to implement our action plan. This is precisely what the OECD recommended we do in its recent fall economic outlook, which declared:

The focus should . . . remain on rolling out spending that has already been committed as fast as possible to support the recovery.

That is exactly the purpose of the Economic Recovery Act before us today.

• (1520)

This act is an important component of *Canada's Economic Action Plan*, legislating not only key provisions of Budget 2009 but other important initiatives as well. The measures that will be implemented by this legislation include the First Time Home Buyers' Tax Credit, the Home Renovation Tax Credit, an increase in the Working Income Tax Benefit, relaxed tariffs on temporarily imported shipping containers, adjustments to ensure the Canada Pension Plan remains fair and effective as unanimously agreed by provincial and federal governments, the

extension of tax deferrals to help Canadian farmers impacted by extreme weather conditions, measures to strengthen Canada's commitment to debt relief, a new requirement for all federal departments and Crown corporations to prepare and publish quarterly financial reports to increase transparency and accountability, an increase in CBC's borrowing authority to give our public broadcaster greater budgetary flexibility, and the resolution of the decades-long Crown share issue. This last measure prompted Nova Scotia premier Darrell Dexter to say in a news release:

I congratulate the federal government for moving forward to seal the deal. This is good for Nova Scotia, and good for Canada.

Let me briefly highlight a few of these measures and explain why it is essential that we pass them quickly.

To begin, we have the Home Renovation Tax Credit, HRTC, a successful job-creating component of our Economic Action Plan and one that has been praised across Canada. Its impact is undeniably significant. According to Statistics Canada, even as the overall economy contracted, the volume of home renovation investment increased 2.2 per cent in the second quarter of 2009 alone, which is 9 per cent on an annualized basis.

In the media and in the finance committees of both houses of Parliament, we have heard abundant praise for HRTC. The HRTC has benefited many Canadians, including contractors, retailers, lumberyards and homeowners. The tax credit has created jobs and injected life into local economies from British Columbia to Newfoundland and Labrador.

Every day in the media, one can find a story about how its impact is being felt. An editorial in *The Globe and Mail* called it "one of the more successful of the government's stimulus measures, helping create demand for services and supplies."

A recent story in the *Ottawa Citizen* described one Ottawa renovator as "busier than a one-armed wallpaper hanger as the end of the federal renovation tax credits hovers in sight."

However, I really want to share what I think is a great story from the *Winnipeg Free Press* that truly shows how much of an impact this tax credit has had—how it has helped Canadian businesses and saved jobs:

Recession-weary manufacturers in Manitoba have been getting a shot in the arm from . . . the federal home renovation tax credit program, which is bolstering sales and saving jobs. The chief executive of Acrylon Plastics . . . said the home renovation tax credit (HRTC) program has sent window-frame sales into record-setting territory for the Winnipeg company. "The renovation side (of the housing market) just really took off in April and May and it hasn't slowed down at all," said company president and CEO Craig McIntosh. . . . "It was a record November for us." Before last spring, Acrylon been girding for the worst: Window-frame sales were running 45 per cent behind last year's pace through the first three months of this year as the global recession and the Canadian housing slump took their toll. . . . Then came along the HRTC program, which . . . was the perfect tonic. . . . "We were getting ready for it to be a very slow summer," Macintosh said. "Then all of a sudden we were saying, 'What recession?'"

What a great story for that business and for the people it employs, but there are literally thousands of companies with similar experiences. On behalf of all the Canadian homeowners who have undertaken renovation projects this year, and all the workers and entrepreneurs whose jobs have been saved as a result, it is crucial that we pass this legislation now and deliver the HRTC before income tax season is upon us.

The same applies to the enhanced Working Income Tax Benefit. The WITB, which was introduced by this government in Budget 2007, grants refundable tax credits to low-income Canadians entering the workforce. Prior to this measure being implemented, it was often the case that Canadians entering the workforce were unduly impacted by reduced social assistance benefits and increased taxes, offsetting some or all of their employment income. This situation has often been referred to as the "welfare wall."

The Working Income Tax Benefit helps makes work profitable for low-income Canadians, giving them an incentive to enter the workforce. When these low-income Canadian workers file their taxes in the new year, they can claim this refundable tax credit and receive cash back.

The measures contained in Bill C-51, the bill before us, Canada's economic recovery act, will effectively double the support provided through WITB. That means \$580 million more in the pockets of low-income Canadians working during these challenging economic times.

The Organisation for Economic Co-operation and Development has given this initiative high praise, noting "recent moves to increase the generosity of Canada's Working Income Tax Benefit are welcome, particularly given that the benefit is strongly targeted to the lowest-income households."

Honourable senators, we can give low-income working Canadians some much-needed financial certainty as they head into the holidays by quickly implementing this important legislation.

Powered by our strong economic fundamentals and Canada's Economic Action Plan, we can exit this recession stronger than ever. As the International Monetary Fund recently pronounced:

Canada's economic outlook is improving. . . . The improving economic outlook reflects both the global recovery and a high expansionary policy stance. . . . Canada's large fiscal stimulus package and unprecedented monetary easing are supporting domestic demand. . . . Canada's resilience bears testimony to its strong and credible policy frameworks that responded proactively to the global crisis.

This is high praise indeed, honourable senators, for the measures taken by this Conservative government, but we must continue to implement *Canada's Economic Action Plan* over its full two-year timeframe to ensure our internationally recognized "strong and credible policy" remains such. By passing Canada's Economic Recovery Act, we can do just that.

**Hon. Pierrette Ringuette:** Honourable senators, I appreciate my colleague's speech. However, I want to add clarification to a few issues.

Honourable senators who were here last spring will recall my numerous questions with regard to when the Home Renovation Tax Program would be in effect. Repeatedly, I received the answer from the Leader of the Government in the Senate that it was in effect. It was not. This bill puts in effect the Home Renovation Tax Credit.

Although this bill had not been passed in Parliament, we saw all the expenses incurred by the government for this non-existent program in advertising through radio, home pamphlets, television and so forth. The numerous witnesses that came to our committee from different departments responsible for this program could never answer the questions that we asked. As of today, we still have no answer with regard to the advertising costs of this program incurred prior to Senate and House of Commons approval.

I would also say that the quoted \$3 billion cost to the current government in regard to this stimulus program is not reality. If we look at \$3 billion, one must assume that Canadians across the country would have had to buy \$20 billion worth of goods and services allowed in this program. At the 5 per cent GST tax rate, GST will bring in an additional \$1 billion in federal sales tax to the federal government.

• (1530)

We have also learned that taxable income from services rendered in order to install or renovate — whatever one chooses to use this program for — would be approximately another \$2 billion. The net cost of this program is actually zero dollars, so I hope that honourable senators are not deceived by the government saying this is a stimulus cost of \$3 billion.

That being said, I think this is an excellent program that should be extended beyond February. When one looks at the consumer cash flow, once consumers have filed their tax returns and requested the tax credit — and we all know that the bulk of income tax refunds occur in the month of May and June — I would hope that this program would be extended for at least another 10 months so that some of that cash flow can be reinvested in home renovations throughout 2010.

Colleagues, those are my comments in regard to Bill C-51, particularly on this program. I will spare honourable senators further comments on the Bankruptcy and Insolvency Act.

**Hon. Joseph A. Day:** Honourable senators, I would like to first thank the Deputy Chair of the National Finance Committee, Senator Gerstein, for ably outlining what is in this particular bill, and I would like to thank another member of the National Finance Steering Committee, Senator Ringuette, for focusing on the Home Renovation Tax Credit. I do not need to talk about that further, other than to say I agree wholeheartedly with Senator Ringuette. This is a program we should seriously consider extending, especially since the economy is still fragile and it is important to pass this legislation, as has been said on several occasions by the Deputy Chair.

When I spoke at second reading of this bill, I asked rhetorically why the Home Renovation Tax Credit, which is straightforward and was clearly known in the budget almost a year ago, was not in

the first budget implementation bill. We do not know the reason for that, other than they just did not get around to putting it in.

I point out and remind honourable senators that the work must be done, the product must be received, and the service must be rendered before the end of January 2010. If there is a contract for future work, it is not covered by this current legislation. We may want to think about the possibility of extending that legislation and that credit, which seems to have had a direct effect on the economy.

Some witnesses believed that the increase in work activity was having a very positive effect. In fact, they felt there are not enough qualified tradespeople, which brought us into another issue: The program is putting a demand on a sector where there are not enough qualified tradespeople to do the job, and ensuring proper training for tradespeople may be another area to look into.

Part 1 of this particular bill deals with the first-time homeowners, and that has been referred to. The Working Income Tax Benefit is another welcome relief for a very narrow but deserving sector of society.

I wish to refer to Part 2, honourable senators. I asked how all these different items appear in what is called a budget implementation bill, and questioned the wording "budget implementation plus amendments to certain other statutes." The second part of this is dealt with in Part 2.

We were told by the witnesses that the Department of Justice collects all these little items that various departments wish to have corrected or added. When the Department of Justice gets enough of these, they look for an opportunity to squeeze them in. What better opportunity than to try to tack all of these other little items into a bill where they have been holding a real ace, something that no one in either chamber would ever oppose, and that is the Home Renovation Tax Credit?

Honourable senators, why should we not encourage a once- or twice-a-year omnibus bill for all those little items to be dealt with separately, as opposed to being under the pressure of another piece of legislation like this tax credit legislation? It would make our job much cleaner and would allow us to do the job much more thoroughly if we were not under the pressure of having some other piece of legislation that must be passed within a deadline. It must be passed before we leave for Christmas break, because it has a tax implication that is coming into force in the next tax year.

Honourable senators, let me talk about some of these items under the omnibus aspect of this bill. One of them is the multilateral debt relief, and honourable senators will recall we talked about that clause.

There is the Nova Scotia offshore petroleum issue. It is good to have that settled so that from here on out it will be dealt with by regulation and that we will not see that here unless we sit on the Scrutiny of Regulations Joint Committee. The amount of \$174 million goes to Nova Scotia for two particular years, based on a formula worked out for a reimbursement for a portion of profit made in the offshore that the federal government made in its excise tax on that petroleum and gas that was taken from the offshore.

The Bretton Woods and Related Government Agreements Act, honourable senators, is another agreement aspect in here. We asked questions about that so we understood it better.

The Broadcasting Act is another provision in here. We were concerned when we saw that the federal government did not give any stimulus relief to the CBC/Radio-Canada by reason of the downturn in the economy, even though their revenue from advertising was way down and they were trying not to sell off assets, trying not to lay off people, but trying to meet a balanced budget. More power to them. However, instead of giving them some injection of funds at this extraordinary time, such as was done for many other industries, the government decided, in its wisdom, to allow them to increase their borrowing limit. They moved it up from \$25 million to \$220 million. That is how they are helping that organization to meet its requirements for a balanced budget.

We learned, honourable senators, that is really a guarantee. The corporation sold an asset and has taken back a mortgage and now is selling the mortgage in order to bring in some money immediately. In order to get as good a return as possible, CBC/Radio-Canada is guaranteeing that the mortgage payments will be made and, by guaranteeing, that takes up a big chunk of this \$220-million addition that has been put in there.

• (1540)

Therefore it is not as serious as we thought. They are not going out and incurring an obligation that will require them to pay interest, but it is still the sale of an asset and it is still an example of the federal government not helping CBC during this economic downturn.

Honourable senators, the Budget Implementation Act 2009 had a bit of a wording problem, and we are being asked to retroactively permit the government to provide grants and contributions in an area that was not covered under the initial wording, and that is what that was about. We learned this information during a number of hearings that we had on this particular matter.

The Canada Pension Plan is attempting to stay balanced and there are some significant changes. One of the most important is that after 2012, for those 60 years of age who want to start drawing their Canada Pension Plan, they will not have to go through this artificial one-month period when they are not working and they have to be able to say they are not working. That will be cancelled. Anyone who reaches the age of 60 years can start to draw Canada Pension at 60 years of age, whether working or not. If you are working then you have to continue to pay into it but you can draw out at the same time.

There is the option after 65 to draw and continue to pay in, so each month you will up the amount you can draw because your pension will slowly increase, based on that additional amount paid in. Those two provisions will not come into effect for another two years or so. In case honourable senators are contemplating jumping onto that program right away, I point that out to them.

There is, if you draw at 60 to 65, a reduction in the total value of your pension on a monthly basis. If you elect to pay in after 65 to age 70 there is an increase, which can amount from

35 per cent to 40 per cent increase in your pension at 70. You can see the built-in incentive is to not draw and continue to pay in so you can build up a higher pension at age 70.

That is all covered in this particular bill. It would have been nice if we could have done a full and complete study on the Canada Pension Plan by itself, rather than it being tucked in with the first time homeowner provision and the tax credit for improvements to property.

Honourable senators, the custom tariff item is another perfect example of something that did not have to be tucked in here, that could easily have been put in an omnibus bill that deals with many small things. It changes the exemption with respect to companies that use containers. They previously could keep the container here for a short period of time. That has been increased to one year. It is an easy matter to deal with and I suppose in most instances no one would even focus on it but your committee did to find out what it was all about.

The final point is the Financial Administration Act amendments requiring quarterly reports for the first three quarters. The fourth quarter is already reported as an annual report, so for the first three quarters of the fiscal year government departments, agencies and Crown corporations will be required, within 60 days of the end of the quarter, to provide a report.

This was the basis of a private member's bill by Senator Segal. We felt that it made good sense and the government is now implementing it. Regrettably, there is one exception, and the one exception is that Treasury Board can let any agency off the hook, can say to any agency, Crown corporation or government department that they do not have to follow the law. We asked why there is that exception and the answer was it may be that it is a Crown corporation or agency dealing with national secrets or sensitive information and we do not want that in a report. I asked why that is not explained as the exception as opposed to a blanket exception.

That is an example, honourable senators, of the way legislation is being drafted. It is much broader than the intended use. When asked what the purpose is they give you a very narrow explanation. That was the burning complaint that some of us had with respect to another bill that is being dealt with, Bill C-6 where again we see the same type of approach.

The Triple P Canada Inc. was incorporated some years ago by legislation that was passed. It is a public-private partnership organization whose basic mandate is to encourage more public-private partnerships. Now they want their employees on the pension plan of the government.

The committee recommended amendments to the Bankruptcy and Insolvency Act, but the ruling of the Speaker removed them, and we are dealing with this bill now without amendment. The bill is clearly a matter of importance to the government in that it deals with budget implementation. It is the second budget implementation. The second part of that, I respectfully submit, should not have been in this particular piece of legislation, but should have been dealt with separately. I am hopeful the more we say that, ultimately, finally, sometime that advise will be followed.

**The Hon. the Speaker *pro tempore*:** Senator Day's time is up. Is the honourable senator asking for more time?

**Senator Day:** If I could, honourable senators.

**The Hon. the Speaker *pro tempore*:** Five minutes. Senator Ringuette has a question to Senator Day.

**Senator Ringuette:** I understood the report in regard to CBC requesting authority for an additional loan of \$220 million in that the loan was to sell a mortgage they had on a piece of property they sold a few years ago to acquire liquidity. That is on the one hand.

On the other hand, the federal government, at the present time, has bought \$92 billion of mortgages and car leases from private businesses. Does the honourable senator not think that is a major indication to CBC, a Crown corporation, of the lack of support of the current government?

**Senator Day:** I thank the honourable senator for her question. I alluded to my disappointment in that regard. It is clear that CBC/Radio-Canada has had a major downturn in revenue from advertising. That is well known. They were trying to balance their budget. They were trying not to sell off assets and not to lay off too many people.

• (1550)

If we look upon CBC as a national treasure — which I believe it is — and an important national institution that needs help, I think it appropriate not to require them to sell off more assets, because it will catch up to them. They sold off this asset this year. We indicated to the president of CBC that CBC was selling off their assets this year, everything they can get their hands on to sell, and what about next year? He said he is hopeful that revenues will go up and that the government will recognize the need for help to maintain this particular institution.

**Hon. Grant Mitchell:** Honourable senators, I want to make a couple of points. Senator Gerstein caught my attention. I appreciated his comments except that I think he is overly exuberant about the government's role in achieving the kind of economic recovery that he alludes to.

Yes, there has been recovery, and that is great for Canadians who are now finding jobs, businesses that are becoming re-established and investment that is now moving ahead where previously it had been thwarted.

I point out that this government would not have had a stimulus package at all had it not been forced to provide one by the opposition about this time last year. The government came out with their fall update, which did not acknowledge the nature of the problem and did not include any stimulus. I know the honourable senator does not like to hear it, but it is absolutely true.

There is a reason. I am not saying the government did it without reason. The government has an ideology that underlines for them that government should never become involved in anything, almost, except those things they think it should become involved in, whatever those might be.

In any event, had it been — did you say the railroad?

**Senator Tkachuk:** The national railroad and CBC.

**Senator Mitchell:** The difference was that the railroad was built by a Progressive Conservative, a real Conservative.

That brings me to another point. I did not want to go into this subject but, if I have to, the honourable senators opposite are not Conservatives. They are neo-conservatives. The fundamental difference is that Conservatives care about fiscal responsibility. They try not to have deficits, although there is an exception to the rule, that being Mulroney.

Neo-conservatives do not care about deficits. It is all about lowering taxes no matter what. First, the government was not going to stimulate the economy and, secondly, the government has created a \$58 billion deficit. Let us not get carried away over there. Let us say only that the government is hanging on to some kind of credibility, maybe, but it has not earned it. The government was driven to create a stimulus package against their ideological best intentions.

The other question is why anybody believes for a minute that Conservatives can run economies? All the evidence is to the contrary. Let us look at the biggest financial meltdown — did I say that thing about throwing them some red meat when they rattle the cage?

**The Hon. the Speaker *pro tempore*:** Order.

Senator Mitchell, are you finished?

**Senator Mitchell:** I am trying to further the debate on this bill and help educate half the members of this Senate and remind them of their past.

I asked myself this rhetorical question: Why does anybody think that Conservatives can run an economy or manage a government in a fiscally responsible manner? All the evidence is to the contrary. Let us look at the biggest financial meltdown in the history of the world. I am not exaggerating. Who presided over that meltdown? A neo-conservative government in the United States headed up by former President George Bush, where his vice-president said Reagan proved that deficits do not matter: It is all about cutting taxes. However, the economy all fell apart. The biggest financial meltdown in the history of the world happened on a conservative's watch. Why did that meltdown happen?

Then in Canada, we have a \$42 billion deficit — that is significant — from Mr. Mulroney. I know Conservatives are trying to distance themselves from him, but of course they would.

We can go anytime. Let us talk about Mr. Trudeau versus Mr. Mulroney. Honourable senators, do you know that about 80 per cent of the debt created in 1970s and 1980s in this country was created by Conservatives? Yes, Trudeau ran up some debt, but he ran up about 20 per cent of the deficit Mr. Mulroney left us with. That means a \$42 billion deficit by Mr. Mulroney. I know you are edgy about that, Senator Finley, but that is your past and heritage.

If the honourable senator goes back to our 13 years, I will go back to his party's 1980s. Soon we will look back to this era and the honourable senator will say \$58 billion in deficit, and we will be able to say that was a real accomplishment. That is how to manage, guys; way to be.

Let me go the next step.

The Conservatives left us with a \$42 billion deficit when we took over. We left the Conservatives with a \$12 billion surplus.

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

**Senator Mitchell:** Excellent; then finally — why does the honourable senator not get up and speak in the Senate for once? Will His Honour give him the floor afterwards? Maybe Senator Finley should speak here. Why does he not get up and speak?

**The Hon. the Speaker pro tempore:** Order, please.

**Senator Mitchell:** A \$12 billion surplus, the best economy in the G8, and now one of the worst economies in the G8. What is the deficit? It is \$58 billion, and it will probably become bigger.

In any event, asked and answered. That is the question. There is no evidence the Conservatives can manage economies. They are not doing well with this one.

The other thing is that here we face a future that will be driven by clean, economic technologies that will drive the economy, the economies of the future, the twenty-first century. We have a government that is dragged, kicking and screaming, to Copenhagen, that has done nothing on green technology and clean — I will sit down if the honourable senator wants to talk. I would love to hear him speak in here. I do not think I have ever heard the honourable senator speak in the Senate. Go ahead, talk. That is how the Senate works.

[*Translation*]

**The Hon. the Speaker pro tempore:** Order, please! Senator Mitchell has the floor. He still has time to finish his speech.

[*English*]

When Senator Mitchell has finished, I will recognize any other senators who wish to speak.

**Senator Mitchell:** I want to see the honourable senator ask a question in committee too.

We have this stimulus package and billions of dollars we could put into a range of green technologies and enterprises. This money would not only create jobs now but jobs that will be sustained for the future, but this government goes back to the past. That is all part of what this budget process is. It is part of the past. It is contingent upon a government that has not, in the least, wanted to create a stimulus package and now wants to take credit for whatever it might produce.

I want to make those comments to clarify the debate and demonstrate that there is another side and underline that this Conservative government has more work to do to gain credibility of any kind at all on managing the economy and showing fiscal responsibility because they are not doing it.

[ Senator Mitchell ]

**The Hon. the Speaker pro tempore:** Is there continuing debate. Are senators ready for the question?

**Some Hon. Senators:** Question.

• (1600)

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

**Some Hon. Senators:** Agreed.

**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 SUSPENDED

**Hon. Yonah Martin** moved third reading of Bill C-6, An Act respecting the safety of consumer products.

She said: Honourable senators, it is my pleasure to rise in this chamber in defence of good legislation for which the time has come. In Bill C-6, we have important legislation that aims to modernize Canada's consumer product safety laws.

I wish to again acknowledge the thorough and thoughtful work of the Honourable Senator Day and all members of the committee.

Bill C-6 seeks to match the realities of today's global marketplace, just as it does the standards set by our major trading partners. Canadians deserve to be afforded the same protection provided to residents of the United States and the European Union. As senators, we are appointed to pursue and uphold the public good. I believe this legislation will give the government the tools it needs to do just that.

In my remarks today, I wish to demonstrate to this chamber the merits of Bill C-6 and why I believe it should be passed in its current form. First, I do not think anyone questions the need for Canada's product safety regime to change. Our current consumer products safety law, the Hazardous Products Act, was enacted in 1969. Since then, our economic realities have changed substantially. Globalization means that products sold in Canada now originate from all over the world. Rapidly evolving technologies are introducing new materials and substances into the marketplace at a pace neither foreseen nor imagined 40 years ago.

In the economy of today, businesses have greater opportunity and consumers have greater choice. Government, meanwhile, maintains its role in the oversight of product safety. Canadians look to Health Canada for expert guidance on product safety. In a global economy marked by ever-quickenning product



development and an ever-expanding array of products on Canadian store shelves distributed from more and more producers operating all over the world, Health Canada's experts need to be as well informed as possible to make sound scientific decisions. So, too, they need to be as well equipped as possible by law to ensure their expertise can be put into action as quickly as possible to best protect Canadians.

In pursuit of this objective, Bill C-6 proposes a number of things, but let me focus on two of the most important.

First, on information, Bill C-6 proposes mandatory reporting of incidents with consumer products from industry to Health Canada to ensure Canada's product safety experts get the information they need to make sound decisions. Today, in some cases, unfortunately, our experts are hearing about product dangers from their foreign counterparts rather than industry representatives here at home.

Second, on acting as quickly as possible, Bill C-6 proposes that inspectors gain the authority to require suppliers to carry out recalls and other corrective measures when needed. Today, once again, unfortunately, determining that a product poses an imminent danger is half the battle, because in order for that product to be pulled off the shelf, Health Canada needs to negotiate with the producer in question and gain voluntary compliance to do so, regardless of their track record.

Honourable senators, it is fair to acknowledge that these provisions call upon industry in Canada to change some of the ways it operates. The question is: Does it ask too much of them? If one were to say that the legislation proposed an approach that was out of step with our major trading partners and that could, for instance, strain multinationals straddling a steep regulatory divide, perhaps one would have a point. However, with Bill C-6 this is simply not the case. Both the reporting and recall provisions already apply in both the United States and the European Union.

Honourable senators, perhaps one could be persuaded that Bill C-6 puts an unfair burden on industry if the inspection and recall powers it seeks were unique to one specific sector and nowhere else. However, the authorities being proposed are not unprecedented within Canada whatsoever. In fact, they follow precedents set in other federal health and safety legislation such as the Canadian Environmental Protection Act, the Pest Control Products Act, the Canada Labour Code and the Health of Animals Act. As a result, it is fair to say that what the proposed Canada consumer product safety act seeks is both consistent with comparable legislation at home and with the product safety approaches implemented by our partners abroad. This legislation does not hinder industry. Rather, it aligns with our major trading partners, providing industry with greater certainty and, most important, Canadian families with greater protection.

Let us make no mistake; this is what this legislation is all about. I can safely say that all consumers want to have confidence in what they buy, all the more so for parents buying cribs and toys for their children. In order for that to be the case, Canadians have to know that our inspectors have the information and power they need to act quickly and effectively to prevent tragedies instead of only reacting in their aftermath.

In its original form, Bill C-6 includes the tools that product safety experts need to make families safer and consumers more confident. Given that the bar is set higher for our trading partners, Canada risks becoming a dumping ground for substandard products. I plead with my fellow senators to stem this tide in our pursuit of safeguarding the public good because, in the end, that is our bottom line. This is why I urge all honourable senators to vote in support of Bill C-6 in its current form.

**Hon. Joseph A. Day:** Honourable senators, my comments on this matter will not be long as you have already heard from me at length. Because this legislation has elicited a number of rather sharp remarks along the way and has been somewhat difficult, it is important that we congratulate the chair, Senator Eggleton; the deputy chair, Senator Keon; and all members of the Standing Senate Committee on Social Affairs, Science and Technology for handling this legislation in such an able manner.

As well, I would like to thank and congratulate Senator Martin, the sponsor of this bill, the first bill she has sponsored in this chamber. We both learned a lot working together, she as the sponsor and me as the critic.

Honourable senators, reference to U.S. legislation has been made throughout. I have not had time to research the U.S. legislation fully, but I have researched it to the extent that I can tell you that there are many problems with the resulting act that was passed less than two years ago. There are many complaints from industry and individuals about how the system is working. I suggest that holding up the U.S. legislation as a model for us passing our legislation is, perhaps, a bit in the wrong direction. In my view, if this legislation passes without amendment, as is being urged by Senator Martin, there are sections of this legislation that will not stand up to scrutiny or to court challenge. Unfortunately, that will happen many years from now.

• (1610)

In the amendments that we rejected yesterday, by a vote of 42 to 44, there were certain technical amendments that were clearly necessary, as advised by drafting and legal counsel. I regret very much that the minister did not see fit to at least adopt those technical amendments because, without them, the sections do not make sense and do not apply. One of them was an amendment made at a House of Commons committee which did not reflect the process and the procedure in this chamber. We have let that go and I think that is unfortunate.

Honourable senators, these points of our record will be reviewed by lawyers making submissions, and I think it is important that we lay out for them the weakness in this particular legislation. I found the misrepresentations that were made by the minister in relation to the amendments to be very disappointing. I have mentioned that before. We should try not to involve fear-mongering. We should not try to characterize legislation as being an absolute must because of cribs, babies, toys, and so on. This legislation applies to everything that one can imagine, for example, hockey sticks, toasters — everything one can imagine. To try to make one's point by talking about babies and cribs is to move this legislation in a direction where we made some serious mistakes with respect to the anti-terrorism legislation that was passed so quickly after 9/11. Honourable senators, we have to try to avoid that. I tried to get the minister to engage in a reasonable dialogue on the amendments, but I was unsuccessful in achieving that dialogue.

Honourable senators, two points were made: one is mandatory reporting. I absolutely agree that mandatory reporting is necessary. There was no amendment that would change that mandatory reporting. To suggest that the amendment would require us still to get information from the United States with respect to Canadian products is absolutely and categorically false.

With respect to recall, the only change with respect to recall in the amendments was to try to reflect what the government representative said was the process that they would be following and that they do follow. The only other change was that if there is a mandatory recall, it would be done by the minister, as opposed to an inspector, because it is such a serious and fundamental step. As I pointed out before, that is exactly what the Minister of Agriculture does. The power for recall for the Department of Agriculture rests with the minister. We wanted to reflect that same power in this particular legislation. Unfortunately, honourable senators, that was rejected yesterday.

I have made my points with respect to those amendments. I do not intend to reintroduce those amendments here today, but I stand by my view, on the advice of many, that this legislation is an unnecessary overreach and will cause problems in the future.

**Hon. George J. Furey:** Honourable senators, I would like to make a few comments regarding this troublesome legislation, Bill C-6, which is before the Senate. I begin by thanking Senator Martin for her remarks. While I support the intention and the purpose of this legislation, I strongly encourage senators not to pass it without amendment. There is one particularly disturbing clause in the legislation that needs to be removed.

As Bill C-6 now stands, consumer safety inspectors can enter our homes and seize our property, such as computers and documents, without any judicial supervision. These things are not minor annoyances to be overlooked in the passage of the bill. In my view, these must be addressed by the Senate. With these general comments in mind, it is this entry into our homes on which I want to focus senators' attention.

I do not wish to deny the government new consumer product safety legislation. However, I do not want powers of entry into our homes passed through Parliament on flimsy pretexts and without due consideration. Simply put, honourable senators, there is nothing that justifies entry into our private homes as it is written in this bill.

The power to enter the family home is set out in clause 21(2) of the bill, which states:

A justice of the peace may, on *ex parte* application, issue a warrant authorizing, subject to the conditions specified in the warrant, the person who is named in it to enter a dwelling-house if the justice of the peace is satisfied by information on oath that

(a) the dwelling-house is a place described in subsection 20(1);

(b) entry to the dwelling-house is necessary for the purposes referred to in subsection 20(1); . . .

The justice of the peace then determines that entry into a dwelling-house is necessary for one of the purposes set out in clause 20(1), which reads:

Subject to subsection 21(1), an inspector may, for the purpose of verifying compliance or preventing non-compliance with this Act or the regulations, at any reasonable time enter a place, including a conveyance, in which they have reasonable grounds to believe that a consumer product is manufactured, imported, packaged, stored, advertised, sold, labelled, tested or transported, or a document relating to the administration of this Act or the regulations is located.

This is where the justice can evaluate what precisely the purposes are which are referred to in clause 21. It is clear that there are only two purposes which may be shown to be necessary to a justice. First, the inspector may enter for the purposes of verifying compliance with the act. Second, an inspector may enter your home to prevent non-compliance with the act.

It is in these words of clause 20(1) that we find the totally unnecessary and overreaching power of the state to enter our family homes.

I ask honourable senators to focus on the word "stored" set out in this section. The old legislation, the Hazardous Products Act, used the phrase "stored for sale." Removal of the phrase "for sale" has dramatic implications. Removal of the phrase "for sale" means that the interpretation of the section now allows for any single consumer product "stored" in a family home for any reason to be sufficient grounds on which a warrant to enter that home may issue. "Stored" now means, simply, to have an innocently purchased product in your home.

Unlike the traditional warrant-issuing power of section 487 of the Criminal Code of Canada, an inspector does not have to show that he or she believes an offence is being committed. Unlike the traditional warrant powers, the inspector does not have to link an offence to the family home. The inspector has to show nothing more than a desire to check compliance or prevent non-compliance with the act. This is not how our law has developed. We would have essentially no freedom and no privacy if that was the state of our law. We would be living in a police state.

The response from the officials to this overreaching warrant power has been, in my humble opinion, inadequate. They say "An inspector has to go to court to get a warrant to get into our homes." That is not how this bill is written.

• (1620)

Once inside the home of an innocent buyer of a single consumer product, the inspector has the power to seize and detain for any time that may be necessary an article to which Bill C-6 applies. I would remind senators that this seizure power applies to any consumer article in our homes, with the exception of natural food and health products.

Once the inspector is inside our home, the inspector may open any receptacle and examine and copy any document found in that place.

Once the inspector is in your home, the inspector can order you, the homeowner, to move a particular consumer product to which Bill C-6 applies, at your expense.

As senators are no doubt aware, entry powers already exist in the Criminal Code of Canada. Peace officers may seize and detain articles. However, the fundamental difference — and it is the key issue of my entire concern — is that peace officers cannot obtain a warrant to enter our homes without having reasonable and probable grounds to believe that an offence has been committed and that the home is in some way linked to that offence. They cannot seize articles from your home without reasonable and probable grounds to believe that the articles are related to the offence. Peace officers cannot simply enter your home to check compliance with the Criminal Code. Peace officers cannot enter your home and seize your property simply to check compliance with the Criminal Code of Canada.

The Supreme Court of Canada, in the celebrated *Hunter et al. v. Southam Inc.* case in 1984, has established that merely checking compliance is not a sufficient ground upon which to issue a search warrant and seize personal property. Yet, we see that the entire Bill C-6 regime revolves around entering family homes to check compliance or prevent non-compliance.

In my view, honourable senators, we must remove the specific power of entry into our homes set out in clause 21 of this bill. For home entry, inspectors will then be required to apply for a warrant to a justice of the peace under section 487 of the Criminal Code of Canada. This is the proper way in which inspectors in Canada should be trying to enter our homes.

The Assistant Deputy Minister of Health for Consumer Affairs testified at committee that the purpose of the new legislation was to protect the public by preventing dangers to human health and safety posed by consumer products. Honourable senators, this is a very lofty and legitimate reason for any legislation.

The department testified that we already have hazardous products legislation that prohibits the advertising and sale of hazardous products, which is meant to include consumer products.

Again, I repeat, I am not denying the usefulness of Bill C-6 legislation. However, when Bill C-6 contains a serious erosion of long-held privacy interests in our family homes and when Bill C-6 authorizes easy entry into the family home simply because a product may be labeled incorrectly, such reasoning is not sufficient to destroy the long-held protection of the privacy of our family homes.

All federal officials who deal with regulatory legislation know that they are in possession of a universal warrant power to enter family homes. This is contained in section 487 of the Criminal Code of Canada. I strongly urge senators to remove the dwelling house entry provision in Bill C-6. This will leave inspectors under this act with section 487 of the Criminal Code of Canada for home entry, and that is how it should be.

This Bill C-6 legislation eliminates the constitutional requirement of a warrant to enter every family home in Canada. That is the requirement that the inspector believe, on reasonable and probable grounds, that an offence is being committed in the family home or that evidence of the offence is somehow stored or associated with the family home. Bill C-6 eliminates the need for the inspector to show that any offence is suspected. Bill C-6 grants entry authority on the simple grounds of determining compliance or preventing non-compliance. There is absolutely no nexus to an offence or crime in this act with entry powers into our homes.

None of the existing requirements for home entry in section 487 of the Criminal Code exist in Bill C-6. The consumer safety inspector need only wish to check compliance or prevent non-compliance. This, honourable senators, is ridiculous, to allow an inspector to invade our homes where there is not even a suspicion of an offence. This is not protecting the Canadian public. This is not the Canadian way.

Honourable senators, officials have responded to this concern by saying that an inspector must —

(Debate suspended.)

#### VISITOR TO THE SENATE

**The Hon. the Speaker:** I wish to apologize to the honourable senator.

I would like to call the attention of honourable senators to the presence below the bar of Barbara Ann Scott and the Olympic flame.

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

**The Hon. the Speaker:** Thank you, honourable senators.

#### CANADA CONSUMER PRODUCT SAFETY BILL

##### THIRD READING—DEBATE SUSPENDED

On the Order:

Resuming debate on the motion of the Honourable Senator Martin, for the third reading of Bill C-6, An Act respecting the safety of consumer products.

**Hon. George J. Furey:** Thank you, Your Honour. That was a welcome relief.

Honourable senators, officials have responded to this particular concern, by saying that the inspector must go to court to get a warrant before entering a family home. This is not so. That is not how this legislation is written. There is no such court requirement anywhere in this bill. Instead, an inspector need only ask a justice of the peace for a warrant. This is not a court, and Canadians enjoy none of the traditional protections that are associated with the power to issue warrants. Senators will know that, in most parts of Canada, justices of the peace are not judges. They are not lawyers. In fact, they do not need to have any legal training whatsoever.

I have referred senators to the fact that section 487 of the Criminal Code of Canada exists to assist all federal officials in all federal departments to carry out their duties under their respective statutes. Section 487 is used in criminal investigations, but it is not restricted to criminal investigations. It applies to the Criminal Code and to any other act of Parliament.

As such, if we were to amend Bill C-6 to remove this dwelling house provision, consumer safety inspectors could use section 487 of the Criminal Code for their entry into a family home — something which I contend and which I would like to impress upon you is the proper way of doing things in Canada.

Officials at committee stated that a court would only provide the warrant if they provide evidence for reason to be concerned. First, we know that in Bill C-6 there is no provision for going to court. Second, we know the justice has no real role to play. The inspector merely shows that he wants to verify compliance or prevent non-compliance. The justice of the peace will not require evidence of an offence. The justice of the peace will not require that the homeowner is manufacturing. The justice of the peace will not require evidence that the homeowner is storing for sale, as he had to do in the past. Section 20 of the bill extends the reach of the act to the unknowing final consumer of a single consumer product. This could be something as simple as a purchase from eBay or Wal-Mart.

I urge honourable senators not to be lulled into a sense of complacency. This is an egregious invasion of the privacy of the family home as we know it in Canada.

The new warrant powers of Bill C-6 remove the phrase “stored for sale,” which clearly applies to sellers, and replaces it with the word “stored.” The warrant target is now changed to consumer products rather than hazardous products. This puts all our family homes within the scope of this section of Bill C-6, whereas none of our family homes were within the scope of the Hazardous Products Act unless we were manufacturing or storing for sale in our homes.

• (1630)

This new warrant power extends beyond manufacturers and suppliers. Colleagues, there is only one party beyond manufacturers and suppliers, and that is the ordinary, everyday Canadian consumer whose family home and privacy are now at issue.

The department has made much use of the fact that there is a warrant power similar to clause 22 of the bill, contained in various other federal statutes. This is true. However, each of the said federal statutes is a specifically constructed law aimed at a particular, restricted and well-defined group of participants and activities in a controlled industry.

Bill C-6 is not equivalent to giving power to nuclear inspectors to enter the home of a nuclear licensee under the Nuclear Safety and Control Act. I find it problematic that the Department of Justice would see fit to use such an analogy with other types of legislation in order to try to justify entry into our homes under consumer products legislation.

[ Senator Furey ]

The power to enter into a dwelling house exists in the Fertilizers Act, the Marine Transportation Act, the Health of Animals Act, the Migratory Birds Act, the Fisheries Act and the Shipping Act. However, all of these acts tend to have several important restrictions on the general power of inspectors.

First, these acts tend to target an industrial participant who would have good reason to know the rules and regulations and implicitly possesses a lower expectation of privacy if, for example, they are wrongfully involved in storing harmful fertilizers, nuclear materials or illegally harvested fish in their homes.

Second, these acts with dwelling-house entry power implicitly or explicitly limit the scope of invasion by the inspector. Illegally caught fish cannot be stored on your home computer; fertilizer cannot be stored on your home computer. However, the receipt you received via email when you purchased something on eBay can enter into the scope of what an inspector requires to verify compliance or prevent non-compliance with the act. Remember, colleagues, this is an act in part about labelling and it reaches the individual purchaser of a single product.

There is another important distinction between Bill C-6 and other home-entry legislation.

May I have five minutes?

**The Hon. the Speaker:** Honourable senators, as chair, I interrupted the honourable senator to receive the distinguished visitor who is below the bar. I would recommend that we afford Senator Furey a few more minutes because we did interrupt his time. Could we agree that he have five minutes?

**Hon. Senators:** Agreed.

**Senator Furey:** Thank you, Your Honour.

There is another important distinction between Bill C-6 and other legislation with home-entry provisions. In other legislation, there is a degree of inherent wrongdoing associated with the reason for going into homes. In all of these instances, the dwellinghouse entries are tied to wrongdoing or offences. In the case of Bill C-6, there are no offences or wrongdoing of any kind associated with the power to come into your home.

As stated earlier, section 20 of the bill extends to the ordinary consumer buying ordinary products. Regardless of the particular product in question, when an inspector arrives at your door, the legislation gives that inspector a further overreaching justification for obtaining a warrant to enter every home where a consumer product exists. That is the “document” power.

To enter our homes, the inspector does not even need to seek verification of compliance with the act. The inspector can get a warrant to come into our homes merely by referring to the fact that there may be a document related to the administration of the act in our homes.

What this means is that any place where you may keep consumer product documents — from your personal files, to your computer, to your purse, to your wallet, to your tax file — all these places become a search and seizure target under this bill.

While the extraordinary home-entry powers given to inspectors in this bill are frightening, equally frightening is that the object of the act is so tied up in the everyday, innocent activity of ordinary Canadians. Not everyone in the country is a criminal or a nuclear licensee, but everyone in the country is a consumer.

Before concluding my remarks on the home-entry warrant provision of Bill C-6, I want to refer senators to the strongest evidence against this excessive entry power. The Supreme Court of Canada addressed itself to the warrant requirements that federal regulatory agencies must follow in the famous 1984 case of *Hunter et al. v. Southam Inc.* The Combines Investigation Act used to have a warrant provision that was similar to Bill C-6 in that it required a low threshold for an investigator to obtain a warrant.

Justice Dickson described the equivalent section of the Combines Investigation Act as follows:

Section 10 is terse in the extreme on the subject of criteria for issuing an authorization for entry, search and seizure.

He goes on to say:

This is a very low standard which would validate intrusion on the basis of suspicion, and authorize fishing expeditions of considerable latitude. It would tip the balance strongly in favour of the state and limit the right of the individual to resist to only the most egregious intrusions. I do not believe that this is a proper standard for securing the right to be free from unreasonable search and seizure.

In other words, colleagues, such a low standard for search and seizure in our homes violates section 8 of the *Canadian Charter of Rights and Freedoms* and is unconstitutional.

The Supreme Court of Canada makes it clear that there should be some link to an offence and that there be reasonable and probable grounds to link that offence with the family home in terms of evidence likely to be found there. The Supreme Court of Canada struck down precisely this Bill C-6 type of legislative overreaching by the state in the *Hunter* case. This is the seminal case on regulatory search and seizure, and, as parliamentarians, we must be guided by it.

In conclusion, I want to leave senators with the comment that Bill C-6 should not be treated as merely one more in a long line of innocuous federal statutes that carry little or no real concern for ordinary citizens.

Honourable senators, I ask you to take the security and sanctity of the family home under careful consideration before you pass Bill C-6. It should not pass as it stands. The dwelling-house provision should be removed. Its removal would force inspectors to apply to a Justice of the Peace under section 487 of the Criminal Code when seeking to enter a family home. Canadians should enjoy at least the constitutionally minimal protection provided by the Criminal Code warrant provision when they sit in their family homes.

As senators, we have an obligation to jealously guard against unwarranted search and seizure for all Canadians and to ensure that their homes remain as they should be — the ultimate oasis of privacy, a privacy that has been repeatedly protected by the Supreme Court of Canada.

#### MOTION IN AMENDMENT

**Hon. George J. Furey:** for those reasons, honourable senators, I move:

That Bill C-6 be not now read a third time but that it be amended:

(a) in clause 2, on page 2, by replacing line 29 with the following:

“importation, packaging, storing for sale, advertising,”;

(b) in clause 20,

(i) on page 10, by replacing line 38 with the following:

“imported, packaged, stored for sale, advertised, sold,”; and

(ii) on page 11, by replacing line 41 with the following:

“packages, stores for sale, advertises, sells, labels, tests”;

(c) in clause 21,

(i) on page 12,

(A) by deleting lines 16 to 35, and

(B) by replacing lines 36 and 37 with the following:

“**21.** (1): If the inspector obtains a warrant authorizing entry into a place mentioned in subsection 20(1), the inspector may not use force in executing the warrant”, and

(ii) on page 13, by replacing lines 1 to 3 with the following:

“(2): If an inspector believes that it would not be practical to appear personally to make an application for a warrant referred to in subsection (1),a”;

(d) in clause 31 on page 15, by replacing line 22 with the following:

“packaging, storing for sale, advertising, selling, label-”; and

(e) in clause 36 on page 18,

(i) by replacing line 18 with the following:

“tion, packaging, storing for sale, sale, advertising,”; and

(ii) by replacing line 23 with the following:

“tion, packaging, storing for sale, sale, advertising.”.

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

• (1640)

**The Hon. the Speaker:** On debate, Senator Martin.

**Hon. Yonah Martin:** I thank the honourable senator for his impassioned statement and interpretation of this act. As the sponsor of the Bill C-6 and as one of the committee members who listened to all the witnesses that were called, I want to give a clear explanation based on what I heard.

The honourable senator's interpretation of what he is describing is most extreme, and it was not one that was shared around the table. There were concerns and Senator Day, as critic, raised various concerns. However, I want to assure all honourable senators, upon hearing Senator Furey, that Bill C-6 is specifically to protect the consumers.

When the honourable senator speaks about the private dwelling place, there are private homes that are also places of business. If he had perhaps read all the transcripts from the committee, we had witnesses from the Department of Justice, together with the Privacy Commissioner and various witnesses from different industries and organizations who reinforced, again and again, their confidence in the process that has been followed to date.

This bill specifically focuses on the holes that currently exist in our system, which are that it does not require mandatory reporting. That system creates all kinds of holes. In order for Health Canada to act efficiently and effectively, they must have information, as other jurisdictions require.

As well, in terms of requiring mandatory recalls, we do not have those powers at this time. Because of our global marketplace and because our competitors have these provisions already, we need to modernize this act.

When we talked about the private dwelling place and the power of the inspectors, we questioned all our witnesses around that provision. Our Privacy Commissioner assured us she had no concerns whatsoever.

As well, in terms of the work of the inspectors and the minister being fully accountable, she was confident that inspectors would be appointed that were specialists who had expertise in their fields and who would be able to address the problem. It is not about going into homes to incriminate innocent consumers. If the dwelling place is a place of business, it is about the ability to enter it, if there is just cause.

The honourable senator says that these powers are overextended and the inspectors will be barging in, but there is a process. Health Canada officials are not abandoning whatever processes they have. There has been a clear history of cooperation, collaboration and communication; but this bill ensures that we modernize things to make sure that the tools that are missing right now are in place so we can best protect Canadian consumers.

I appreciate what the honourable senator has shared today; however, I can almost say the fear mongering he presented, which we have been accused of is —

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

**An Hon. Senator:** Fear mongering?

**Senator Martin:** I want to remind all senators that this bill is part of our Canadian system. The reason we propose this bill is to ensure we give the inspectors from Health Canada the tools they need, as well as to protect the consumers.

The tools we need in this modern globalized age are not present in our current system. It is outdated; it is 40 years old. We have heard from countless witnesses, as well as consumer organizations that are calling on us to support this bill.

Christmas is just around the corner. We need a tighter, stronger modernized system.

**An Hon. Senator:** I think I heard a question in there somewhere, Your Honour.

**The Hon. the Speaker:** We were on debate. Does the honourable senator have a question or comment on the speech of Senator Martin? I said on debate.

**Senator Furey:** Irrespective of what the Department of Justice or Department of Health says — and I said from the beginning that I appreciate they want new legislation and I want them to have it — is it fear mongering to worry about innocent Canadians sitting in their homes and having them crashed by inspectors who want to check labelling? That is how this act is written when it comes to private homes.

The honourable senator talked about the Privacy Commissioner. The Privacy Commissioner is concerned about the dissemination of personal information about individuals. The Privacy Commissioner would, I suspect — and I read the testimony — turn her attention to sections 14, 15 and 16.

The privacy that I am talking about is the privacy set out by Justice Dickson in the *Hunter et al. v. Southam Inc.* case, which says that Canadians have a right to sit in the privacy of their home and be free from unreasonable search and seizure. That is the privacy I am talking about.

The Privacy Commissioner can say all she wants to about being happy with the fact that personal information about individuals will not be distributed. That is not the privacy I am talking about here. I am talking about the privacy of sitting in the sanctity of one's home with one's family.

The honourable senator also talked about the fact that this view may sound a little extreme. I read the transcripts. I honestly think that some senators were lulled into a sense of complacency because officials came before them and said, Do not worry, relax; no court will ever give a warrant under those conditions.

However, we know now that there is no provision in the act whatsoever for a court to become involved. It is between an inspector and a justice of the peace.

I agree completely with the lofty principles behind this bill in terms of protecting people, but there is absolutely no need to invade our homes to provide that protection.

When the honourable senator talks about the fact that people carry on businesses in homes, the Hazardous Products Act looked after that situation with the phrase, “manufactured or stored for sale” — a place where they are manufacturing or storing for sale. The amendment I proposed put the phrase back in, “storing for sale.”

They cannot use their home as a shield to conduct illegal activity. That is why we should include in the bill, “stored for sale.” If they are storing for sale and someone wants to come in, they have every right to obtain a warrant and come in. If they are manufacturing in their home, they have every right to get a warrant and come in. However, you might be a consumer buying ordinary everyday products and placing them in your home. It is no good to say, as some witnesses have said, that that will never happen; that a warrant will never be issued.

• (1650)

If a judge is looking at legislation that takes a clause from another piece of legislation, such as “stored for sale” and drops “for sale,” a judge will not say, “Oh, Parliament did not know what they were doing. That was a typo.” Judges will assume that we knew what we were doing and they will assume that all the consequences that flow from that will flow. That is my concern and worry.

**The Hon. the Speaker:** Honourable senators, continuing debate on the amendment proposed by Senator Furey, seconded by Senator Moore. Senator Martin has entered that debate. Senator Furey rose during questions and comments on the debate presented by Senator Martin. There are about five minutes left in Senator Martin’s question. Are there further questions and comments on Senator Martin’s intervention? If not, then we will continue the debate.

**Hon. George Baker:** Honourable senators, I am tempted to rise today after listening to that most eloquent speech by Senator Furey. I was also impressed by Senator Keon’s comments yesterday on Bill C-6.

Senator Furey has a great history in criminal case law and civil law. He has represented the accused in criminal law and the respondent in civil matters. He has represented hospitals in legal suits, and labour boards as a respondent. He has represented appellants before our courts of appeal. He has a great history in administrative and criminal law. Bill C-6 before the house is just that.

Senator Martin has done a magnificent job in her role on Bill C-6, as has Senator Keon. Honourable senators have heard two points of view on third reading of the bill — that of Senator Furey and that of Senator Keon.

I do not like to attack anything that Senator Keon says.

I recall about one year ago in the summer, a radio station had run a survey to ask who the most popular person in Ottawa was. They listed five politicians, including the three major political leaders, and two politicians from Ottawa and five citizens of Ottawa who had contributed to the community over the years. The survey ran for one week. When the results were announced,

beating out the Prime Minister, the leaders of the Liberal Party and the NDP, the two members from Ottawa and everybody else was Senator Keon.

The result was announced during the noon hour. A representative of one of the party leaders said something remarkable during an interview that day. He said that the survey was unfair and that a comparison could not be made between Dr. Keon, as he called him, and politicians because Dr. Keon was in the business of saving people and making them healthy, and politicians were not. It is too bad the interviewer did not ask him just what business the politicians were in.

Senator Keon’s address on this bill might be referred to as the “Keonian maxim.” His message was that although the bill is not perfect, it is about the health of Canadians, so honourable senators should get on with it. That about sums it up, and I see Senator Keon nodding his head in agreement.

I do not normally read all the emails received on proposed legislation — and senators receive more emails than members of the House of Commons receive — but I read many of them on this bill.

I noticed a great many emails from the manufacturers talked about the business of entry to their homes. All the other provisions of the bill seemed to take second place to that one, which is what Senator Furey is talking about.

I do have to correct him on one thing. Section 487 of the Criminal Code says “a justice,” not “a justice of the peace.” A justice is defined under section 2 of the Criminal Code as a provincial court judge or a justice of the peace. I see a couple of senators nodding because they know this to be correct. The same thing applies to the Controlled Drugs and Substances Act, which says, “a justice as recognized under section 2 of the act.” Professor Oliver would bear that out to be correct.

Normally under section 487 of the Criminal Code, a judge would issue a warrant because when someone sees something, they give a return to the judge and it is held. The judge then makes a determination and agrees that the item will be held for 30 days, expecting them to return at the end of the 30 days and tell him why they need to continue holding it for investigative purposes. If they are not going to lay a charge, then they have to present another application and give good reason for holding it. That is one check and balance.

Senator Martin is correct about the justice of the peace. In the Health of Animals Act in Western Canada, which the Minister of Health spoke to, there is a provision that authorizes that power to a justice of the peace. There is no doubt about that. Counterbalancing that is a provision in the Fisheries Act that says that the normal common law defences of due diligence and reasonable belief will be maintained.

Honourable senators, 15 years after Newfoundland joined Canada, I was the law clerk in the provincial legislature of Newfoundland. We were still in the process of assimilating laws from the other provinces. We would stack them into piles labeled civil, administrative, regulatory and criminal. We had no

jurisdiction in criminal law, but those were the penal sections of the Wildlife Act, for example. We gave powers for a wildlife officer, a fisheries officer or somebody examining cattle to encroach on somebody's property. We did so because cattle and fish are stupid. They do not respect property lines.

• (1700)

A stream or a river that goes from the ocean to the interior passes through several properties, but there is no stop sign at the property line. If there was, the fish would not respect it. Therefore, we gave the power to those people to enter people's private property for investigative purposes.

I read this part of the transcript to the officials, and they said: Well, it is under the Health of Animals Act; it is under the Fisheries Act and it is under the Wildlife Act. Yes, it is there because of what is done under those acts.

I do not want to go on about this issue, honourable senators. I only wanted to point out two things. As Senator Furey said, he has no beef with everything else, although there are a lot of problems there, as Senator Keon said. However, he has taken up this issue and said, "A man's home is his castle." It sure is. One thing that has survived since 1604 says:

The house of every one is to him as his castle and fortress, as well for his defence against injury and violence as for his repose.

That is from *Semayne's Case*, 1604, England, the King's Bench. It is from *R. v. Bate*, 2002, Carswell, Manitoba, 355, at paragraph 42. We provide that reference for the people undertaking the translation.

Further down, there is the quote from Justice Sopinka. I do not know how many honourable senators knew Justice Sopinka. He was a great man. Chief Justice Lamer was, as well.

This quote is from Justice Sopinka, from *Evans*. This, honourable senators, is under the applied licence to approach someone's door to knock on their door. We allow the postman and someone selling things to knock on someone's door. There is an implied licence to knock on a door. Who cannot knock on a door? A police officer cannot knock on someone's door, if the officer's intent is to investigate a criminal charge against that person. However, everyone else can.

There is this licence. At paragraph 16 of *Evans*, Justice Sopinka said:

Clearly, occupiers of a dwelling cannot be presumed to invite the police (or anyone else) to approach their home for the purpose of substantiating a criminal charge against them. Any "waiver" of privacy rights that can be implied through the "invitation to knock" simply fails to extend that far. As a result, where the agents of the state approach a dwelling with the intention of gathering evidence against the occupant, the police have exceeded any authority that is implied by the invitation to knock.

[ Senator Baker ]

It is a violation of section 8 of the Charter.

That is on their approach. Do not forget, this bill actually says one has no privacy rights. The bill says this:

An inspector who is carrying out their functions or any person accompanying them may enter on or pass through or over private property,

Senator Furey, however, concentrated not only on the power of an inspector to knock on one's door — the implied consent to knock. He was talking about going inside the house. I will give you the most quoted section in every single court in this land, including the Supreme Court of Canada. Our first quote on knocking came from a British court. The quote used regarding an inspector or a police officer entering someone's home is from the U.S. court. It is paragraph 13 of *R. v. Barnhill*, 2006, Carswell, BC, 106, Supreme Court. At paragraph 13, it says:

The Fourth Amendment was intended to protect our reasonable expectations of privacy from unjustified governmental intrusion.

In my view, there is no expectation of privacy more reasonable and more demanding of constitutional protection than our right to expect that we will be left alone in the privacy of our homes during the night. The idea of the police unnecessarily forcing their way into the home in the middle of the night —

This passage is quoted by our Supreme Court of Canada.

**Senator Cowan:** They do not like the Supreme Court of Canada over there.

**Senator Baker:** To continue:

- frequently, in narcotics cases, without knocking and announcing their purpose — rousing the residents out of their beds, and forcing them to stand by in indignity in their night clothes while the police rummage through their belongings does indeed smack of a "police state" lacking in the respect for . . . the right of privacy dictated by the U.S. Constitution."

That right is enshrined in Canadian law.

What does this bill do? The bill allows a person to go to a justice of the peace on the grounds — and it is spelled out in the bill — "for the purpose of verifying compliance." When do they have to execute the warrant? It says anytime and for any length of time.

I see my time is up, but I believe, honourable senators, that Senator Furey has given a most magnificent speech. I also congratulate Senator Keon, as well as the representatives of the Conservative Party for the presentation of a difficult position on this bill.

**Hon. Wilbert J. Keon:** Honourable senators, like Senator Baker, I will be brief. This issue fundamentally boils down to an argument between doctors and lawyers, and we have many brilliant lawyers in this chamber but, unfortunately, only one doctor.



The Canadian Medical Association came to me along the way and met with me, as did the Canadian Cancer Society and so forth. I told them that the major criticism of this bill is that maybe it impinges on human rights. I asked them if they were completely sure of their position.

They said. Yes, we are completely sure of our position.

Last year, 18,000 kids were taken to emergency rooms because they were poisoned by toxic products. The Canadian Cancer Society does not know how many cases of cancer have been caused by ingestion of products that have come, largely, from China.

The CMA and the Canadian Cancer Society feel that, if there is indeed a risk to human rights, as Senator Baker and Senator Furey have said, the risk is probably not large compared to the risk to health. They are deeply concerned about us going back to where ancient Rome was with too many lawyers. They are also concerned about the inherent delay of all this fuss that will occur before an inspector can go in and pick off a toxic product. Who knows how long some of the delays will be, particularly in remote areas? I have my personal lawyer here beside me.

• (1710)

I listened to all of the evidence. Senator Eggleton was good enough to allow me to bring back the Health Canada witnesses twice. They were there three times, including their initial presentation. I had them read into the record this whole business.

I spoke at length with medical authorities who are very concerned about the health hazard of consumer products in this country. This bill only scratches the surface. We need more legislation to follow. This is only the beginning.

I am convinced that not many people will be significantly damaged by having their human rights threatened. I do not know how many, but I do not think it would be many. Paradoxically, is one too many? What about the 18,000 children who were poisoned last year? Is that one too many?

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

**Senator Stollery:** What about my rights?

**Senator Keon:** I do not think Senator Stollery will be poisoned by a toxic product.

**Senator Stollery:** It is my right to privacy in my own home that I am talking about.

**Senator Keon:** I think the honourable senator's right to privacy will be well protected.

With the expert legal system we have in this country —

**Senator Mitchell:** That is not what your leader says.

**Senator Keon:** — I think we can be reasonably sure that anyone will not be damaged too severely. No piece of legislation that goes through this chamber is perfect. There is an urgent need, though, for this piece of legislation. It should not be delayed and, perhaps, killed. I think it should be passed, and it should be passed in its original form.

**The Hon. the Speaker:** Questions and comments?

**Hon. Céline Hervieux-Payette:** Honourable senators, I have two brief questions and a story about a situation that occurred in Quebec.

We had some problems with cheese in Quebec. We had inspectors walk in and destroy millions of dollars worth of products without proper analysis. It was fast and we now have a number of bankrupt farmers who have lost everything.

This is simply to say that when we talk about the balanced approach, we can have a situation like that. That action was taken in order to prevent a very severe health problem.

I do not know why the honourable senator talks about the time frame unless Quebec is exceptional — and yes, we are — but it takes two hours to get a warrant. We have a 24-hour service per day where you can go to a judge to obtain a warrant. I assume we have the same system in the rest of Canada.

I do not see any reason why we should not have to explain to someone not involved in the case to obtain this permission. This bill establishes a precedent that has not even been seen by criminals. We are not only talking about a health problem, but people who commit crimes. You must have a warrant in that case.

In this case, we are talking about honest people who might have done something wrong, but who have not necessarily committed a crime willfully. We should require a higher level of permission for the inspector than for the police.

Is the honourable senator aware that there are emergency procedures to obtain a warrant within hours? Therefore how can we justify a procedure where people can knock on the door and say, "I want to inspect your house to see if you bought something today?"

This bill addresses products for sale. If one is not in the sales business, I do not see why the inspector should enter and never have to explain to anyone. Once inspectors are given permission to enter a house, they can search the entire house. This is something that we see in political systems other than democracies. We do not do this in democracies.

If the system is fast enough, would the honourable senator agree that we should have the same requirement for evidence before someone enters the home?

**Senator Keon:** I am not satisfied that the system would be fast enough. Maybe in Montreal it would be fast enough, but there are certainly other places in Quebec where it would not be.

Again, I think there will be an inherent delay. I have heard that from everyone. I admit that doctors and scientists do not know much about the law, but they are reasonable people and they feel there will be an inherent delay. The system will be complicated. It will jeopardize the inspection process and remove the element of surprise that inspectors need.

I have no intention of getting into a legal debate with people of the calibre of Senator Furey and Senator Baker.

**Senator Demers:** Let the senator talk and make your comments after!

**Senator Keon:** It is quite all right. I do not mind. Many people have been interrupted while talking in this chamber.

**Senator Stollery:** If the honourable senator cannot take it, he should not be here.

**Senator Keon:** It is fine with me.

I truly believe that we should not dilute the power of inspectors any further. I do not think anyone will be harmed appreciably by what inspectors do. If this legislation is delayed or dies, a lot of people will be harmed before we get another bill.

**Senator Furey:** Honourable senators, I will begin by saying to Senator Keon that there is absolutely no one in this chamber, I dare say, in this country that wants to see children hurt as a result of any product.

The problem I see in this bill is, first and foremost, that the Hazardous Products Act gives the minister immediate power to stop the sale and import of any good that is considered dangerous. That is immediate; it is already in the Hazardous Products Act. If we know children are in danger, various pieces of legislation will allow us to barge into homes, take those children, look after them, nurture them and remove them from danger. That is not an issue.

With the amendment to the act I am proposing, there is also the ability for an inspector still to go into a home if there are products that he or she wishes to check. I am saying that there should be some reason — something more substantial than checking the labelling of a product — before they invade the privacy of our homes. I do not think that impacts negatively on the health of our children. It is a completely different issue.

We can go into homes; I am not saying do not go into homes. I am not saying that people should be allowed to use their homes as shields for manufacturing, storing for sale or anything like that.

I am saying that this is a fundamental principle of privacy, dignity and the sanctity of our homes protected by section 8 of the Charter. We should not allow it to be eroded. We should not confuse that with what the honourable senator is saying, which is trying to ensure that we protect the health of young children and all Canadians.

• (1720)

Both objectives can be accomplished. That is why I said at the beginning that I agree with the pith and substance of this particular legislation and the purposes and reasons for its existence that have been repeated by Senator Martin and others. I just say, “Stop. Do not take away this last bastion of our freedom in our homes for such frivolous reasons.”

**Hon. Sharon Carstairs:** Honourable senators, I will be extremely brief.

Senator Keon said that not many people will be significantly damaged. Honourable senators, one person is too many. That is the principle of our legal system. Individual rights are the principle of our entire democracy, our Charter and our Criminal Code. We must be there, willing to protect.

I would ask honourable senators to get out the bill. I did, and I went through each and every page for which Senator Furey has recommended an amendment. He changes virtually nothing. The first one still says manufacturing, importation, packaging, storing, advertising, selling, labeling, testing or transportation of a consumer product. It is all left intact. He has added two words. He has added, after “storing,” “for sale”. Every other thing is protected.

This is a very minor amendment, honourable senators, but an extraordinarily important one, because each individual Canadian has a right to privacy. They have a right to the protection of their own home. They have a right to live in peace.

**Hon. Tommy Banks:** Honourable senators, as Senators Furey, Baker and Carstairs have said, no one here does not want to pass legislation that is more effective in protecting the health and safety of Canadians. No one here wants to forestall that, but we do want to do it right. It is our job to do it right. The amendment that has been proposed by Senator Furey does not in any way detract from the capacity of agents of the Crown to properly do their job.

In the committee, as Senator Furey has said, we heard officials say, when asked about some of the things that some of us think are overreaching in this bill, “Well, we would not do it in that circumstance. We would not use it that way. You do not have to worry about that because that would never happen.” I have no doubt that those people were speaking the truth. They are honourable people, and I am sure they are right.

They are talking about policy, honourable senators. In this place, however, we do not pass policy. We are not here to debate policy. We are here about to pass a law, and the law, in whatever form we now pass it or amend it, will apply not just to this government, and not just to this minister, and not just to those officials who came before us and said that they would never do that. It will apply to the next government, the next minister, the next public officials, and the ones after that, until and unless the law is changed. Therefore, we must take great care. It is our job, honourable senators, to take great care in passing a law. We are not passing policy; we are passing a law. Law is what we are about here, however ill-advised we are, in my case, to deal with questions of law.

How do we do that in this place? We are supposed to do it objectively. This place is famously supposed to be less partisan than the other place. I can only speak from my own personal experience here in the short time that I have been here, honourable senators. I took care to find out that in the years between 2001 and 2006 — that is to say, in the Thirty-seventh, Thirty-eighth and Thirty-ninth Parliaments — during most of which time we had a large, parliament-after-parliament majority in the House of Commons and an overwhelming majority in this place on the part of the Liberal Party, this place passed 196 amendments to Liberal government bills. Almost all of them were approved when they went back to the House of Commons.

That did not make us popular with our leaders. It did not make us popular with the government. It did not make us popular with the Crown. It did not make us popular with the public servants

who had espoused those pieces of legislation that we amended. However, we did our job. We made the legislation not perfect, but in every case, as was agreed to by the House of Commons, we made it better. In every case but two of those 196, the House of Commons said, "Yes, you made it better; we approve those amendments."

If we do not do that job, honourable senators, the job we are paid to do here with this particular bill, there is a great likelihood — I happen to think it is a moral cinch — that some of the intrusive powers that are contained in this act will end up in court, and the court will strike them down because they will be ultra vires. Then people will start screaming about judge-made law. Well, it will be judge-made law, and it will be judge-made law because we would have failed to do our job, which is to hold legislation that is proposed here to the standards of the Charter of Rights and Freedoms and to protect the interests of Canadians. We would have failed in doing that.

By the way, I have to comment editorially that there is a switch here in the conventional wisdom. We are counterintuitive. Most Canadians think that the big, bad Liberals are in favour of big government being intrusive and getting in the way of people's individual rights and putting their nose into business where it ought not be, and that the Conservatives are protecting the bastions of home, business and rights. Here we have the exact opposite.

The minister sent a letter, which we all received. With all due respect to the minister, honourable senators, I have to tell you that I discount that letter. My information is that the minister did not appear before the House of Commons committee when this legislation was being considered. I can tell you for sure that the minister did not appear before the Senate committee when this legislation was being considered, despite having been asked very nicely twice, and despite the best efforts of Senator Martin, who undertook to the committee that she would try to convince the minister to appear. The minister did not appear. I am remembering Senator LeBreton's words, which have rung in my ear since I got here: "No minister, no bill." On this side, we are reasonable people, and we are not saying in this case, "No minister, no bill." We are saying, however, "Let us make the bill right."

Honourable senators, I will be proposing two amendments in addition to the one that has been proposed by Senator Furey.

• (1730)

I commend your attention to the bill. Please look at clause 15 on page 9 because that is what I seek to amend. Clause 15 on page 9 is followed closely by clause 16 on page 9. Clause 16 says that the government may disclose confidential business information to foreign governments or to foreign persons without notice, without informing anyone; however, the government can only do so if it obtains from that foreign government or person a written agreement that the private business information will be kept confidential and will only be used for the purposes of protecting human health and safety. That is good.

Clause 15 says that the government can disclose private personal information without telling that person to any foreign government or person without any such guarantee at all.

I do not think that the protections that this — one hopes — act of Parliament provides to big corporations ought to be any greater with respect to protecting their private information than is applicable to individual Canadians.

#### MOTION IN AMENDMENT

**Hon. Tommy Banks:** Therefore, honourable senators, I move in my first amendment:

That Bill C-6 be not now read a third time but that it be amended in clause 15, on page 9,

by replacing lines 12 and 13 with the following:

15.(1) The Minister may disclose personal information related to a consumer product to a person or government that; and

(b) by replacing lines 17 to 19 with the following:

"relates if

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

(b) 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.

That language, honourable senators, is imported directly from clause 16.

(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.

My second amendment, honourable senators, relates to clause 56. Senator Baker has referred to this.

**The Hon. the Speaker:** Our procedure permits Senator Banks to make amendments, and he just said a second amendment. There must be unanimous consent to that. However, if the honourable senator's amendment went on to say "and amend" it would be deemed as one amendment, though it may have three parts to it.

**Senator Banks:** I would like them to be separate, Your Honour, so can we deal with the first one?

**The Hon. the Speaker:** The honourable senator can make an amendment.

## MOTION IN AMENDMENT

**Hon. Tommy Banks:** Therefore, honourable senators, I move:

That Bill C-6 be not now read a third time but that it be amended in clause 56 on page 31, by replacing line 5 with the following:

“violation has a defence by reason”.

Honourable senators, that refers to the provision that Senator Baker referred to which has been around not merely for 40 years but since 1604 — 402 years.

This act does not say that you have been convicted of anything or found to have committed a violation. It says a person named in a notice of violation has no defence by reason of due diligence or by reason of having believed that they were acting with the colour of right.

**Senator Moore:** Unbelievable.

**Senator Banks:** It is undoing 400 years of common law. The effect of my amendment removes the word “no” and replaces it with the word “a” so it no longer say has “no defence by reason of due diligence” but now says “has a defence by reason of due diligence,” et cetera.

Since the provision provides that this applies to a person who has been named in a notice of violation, not found guilty of anything, not found to have contravened anything, not found to have violated anything, this is the least we can do to protect the interests of individual Canadians, and I urge your positive consideration of those amendments, honourable senators.

**The Hon. the Speaker:** It has been moved by the Honourable Senator Banks, seconded by the Honourable Senator Day, that Bill C-6 be not now read a third time but that it be amended in clause 15 on page 9 and amended in clause 56 on page 31.

I am following the bill as well, and Senator Banks is not making an amendment to page 12, clause 21; that is, the consent.

Honourable senators, we have the motion from Senator Banks seconded by Senator Day. I advise the house that it has been the practice of the house on a bill when we have a number of different amendments that we stack the amendments so that honourable senators can enter the debate on either the principal question, if they have not already spoken to the principal question, or on the first amendment, as is the case right now, and now we have a second amendment.

Is it the agreement of the house that we stack the amendments?

**Hon. Sharon Carstairs:** As a matter of procedure, just so it is clear for the great number of new senators, when it comes to voting, we will be voting for them individually and not as a group.

**The Hon. the Speaker:** That being agreed, honourable senators, we will now continue the debate.

**Hon. Elaine McCoy:** I am rising to speak to Bill C-6. Before I address the substance of the comments that have been made, would honourable senators indulge me in a little exercise? It might help us get through this debate which is intense and meaningful to the future of our country. Just take out a pencil and just sign your name as you are so well used to doing on a piece of paper in front of you. Sign your name; that comes easily to all of us. Keep signing your name and imagine for a moment that you have an itchy nose. Indulge me here. Now rub your nose at the same time. One can do it at the same time. I have seen one or two honourable senators doing so. That demonstrates that sometimes we need to sign our names and sometimes we need to rub our nose because it is itchy. We can do both, and we can honour the needs and the purpose behind each one of those actions.

• (1740)

That is what I believe we are trying to introduce in this chamber with certain amendments to this bill. We want to honour the purpose of maintaining consumer product safety and we also want to honour how that purpose is actually implemented. It is possible to have both at the same time.

I am sympathetic to Senator Keon’s comments. One that I liked best is that doctors and scientists know nothing about the law. I am a lawyer so you can appreciate that I like that comment very much. However, I am also appreciative of the passion and conviction the senator holds.

I can hear people talking on the front benches of the Conservatives so I will just wait until I have their attention.

I can appreciate the passion and conviction of which some senators speak about preventing cases of harm because of defective consumer products. I also appreciate it when Senator Martin speaks over and over again about the need for a modern law so Canada does not become a dumping ground for defective consumer products.

I believe we can do that with this legislation, and I also believe that this legislation does not need to break a tradition that we have had in this country, which is to protect the civil liberties of people while we are enforcing the law. We can in fact prevent home invasions without just cause.

When Senator Baker read out the opinion of the Supreme Court of Canada that talked about why we have these protections in our law, it was essentially to show that we not end up in a police state, and that is done without having to delay the corrective action. I was appalled to see some of our new senators actually laughing as if this were a joke. However, I am reminded of a joke, and the joke is:

Someone is sitting in a bar having a drink and snapping his fingers. Finally everyone got a bit tired of this. Another person finally asked about it and he said, “Well, I’m keeping the elephants away.” The response to that was, “Oh, come on now, don’t be silly; there are no elephants here.” He said, “Yeah, it’s working.”

That is somewhat the situation in Canada — it is working. It is working because we have laws written in a way that preserve due process — which is what we lawyers like to call it — so that we

can enjoy the protections that have been put in place, like consumer product safety, and we can enjoy the fact that we do not have jackboots at our doors at midnight.

Honourable senators, I am sympathetic to everyone in this chamber. I would like to encourage all senators to open up the possibility to honour all of the good intentions being put forward and expressed here.

There are many other pieces in this legislation. In fact, I came prepared to make some amendments today as well. However, I will not do that because it is imperfect legislation and we will not be able to correct it all.

I do not think the patience for all these amendments is very long here, and I think the most fundamental problem with this legislation is the one that Senator Furey has mentioned. The amendments put forward by Senator Banks are important as well, and I think there are a lot more. I do not wish to dilute the intention on what I think are the most important amendments of all. We can always come back later if we have to — and I suspect we will because there will be court challenges on this legislation — and help perfect it at that time.

In the meantime, these are important enough, not only to modernize our Canadian legislation but also not to throw out the baby with the bathwater. We do not want an elephant in the room just because we did not write the law correctly. I urge you all to consider keeping those two possibilities open and having them both at the same time.

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

[*Translation*]

**Hon. Jean Lapointe:** Honourable senators, let me say right away that I will be very brief, unlike some people who say that at the beginning, but after 45 minutes end up asking for an extension.

I misunderstood something yesterday. I thought it was Dr. Keon who had sponsored this bill, and given how much I admire him, I went to see him and told him I would be supporting him. That is what I did. Then my guardian angel — I call Senator Hervieux-Payette that, because she knows I am not a lawyer or a doctor; I am but an artist, so I do my best to understand — explained to me that it was a government bill. So I quickly went back to Senator Keon to tell him in all honesty that I was sorry, that I thought it was his bill, but since it is a government bill, I would have to vote against it tomorrow.

That being said, I listened to everything today, although I did leave for a while to go to my office, because I had a great deal of email I needed to respond to. I listened to everything. There is one word we have not heard at all, either yesterday or today, and that word is informer. The question of having the police come without a warrant, without any prior warning; the guy who has a little Volkswagen, but whose neighbour four doors down has a Mercedes, and calls the police to say that he thinks his neighbour has pot in the house. The police will go in at four o'clock in the morning, catch them in their pyjamas, as they will be at that time, and search the house based on an informer's word.

I went to Czechoslovakia not long after the invasion of Prague, during the Prague Spring, and I saw what informing really is. I do not think we are a nation of informers, but may we never have the opportunity to become such a nation. We are in Canada, not Czechoslovakia, or Russia or Germany during the war years when so many Jewish people, and others, were informed upon.

Honourable senators, that is all I had to say. I said I would be brief and I spoke for about one minute longer than I thought I would.

**Hon. Roméo Antonius Dallaire:** Honourable senators, I would like to add a few remarks to the debate on the first amendment proposed by Senator Furey and on the nature of the debate that ensued about the health of Canadians and protecting the health of Canadians, and about human rights and protecting human rights.

Honourable senators, I am neither a doctor nor a lawyer. I am a soldier. However, I have dealt with and have tremendous respect for individuals practicing both professions. And I can see that there is a dilemma within a similar debate between the two professions, and that the dilemma is a moral one, perhaps even an ethical one about the progress of a bill that could endanger children and that could also endanger human rights.

It is true that in a normal situation, as Senator Martin essentially argued and you supported, people with responsibilities, professional codes of ethics, knowledge, experience and skills, are bound to make logical decisions and to behave normally according to the standards established by our country through tradition, law or the benevolence of the people.

• (1750)

But it is in extraordinary situations that we must be careful. When a crisis arises decisions must be made quickly and even responsible people are forced to make decisions that push the limits of what is permissible. In these types of situations we must ensure that these limits do not exceed the fundamental standards and laws of the country.

I will give you an example which, although it may not be a legal example, was brought before the International Criminal Tribunal for Rwanda. You are going to tell me that this is an extreme case but that is because I want to show you how an ordinary thing can be used in extreme situations.

In a country that lived under the yoke of colonialism even after becoming independent, identification cards were issued to its citizens. I am personally against this idea because I believe it is dangerous. However, I have nothing against carrying a health card, a driver's licence or a gun permit.

That country discovered that the identification card was a good method for managing standards. The card contained an innocuous piece of information to help identify individuals: their ethnicity.

The identification card could have listed the religion or any other type of information but the authorities decided to include ethnicity. By reading the card, you could determine the ethnicity of a person. It was useful for daily procedures.

But extreme situations can arise. There was the extreme case of Japanese citizens during World War II. One day they were considered reasonable and responsible citizens. The next, they were enemy conspirators and stripped of their rights. A similar stigma was attached to the Germans in other circumstances.

I will come back to my example of ethnicity and identification cards. There was friction in the country, a crisis developed and the identification card was used to resolve the crisis. The crisis was a political crisis. The solution to the political crisis was to identify people of a certain ethnicity as easily as possible, because it was believed that they had created the crisis and action had to be taken to stop or arrest these people.

In the most extreme cases, not only did the authorities decide to arrest them, they decided to eliminate them. The identity card, a simple legal document identifying the bearer's ethnicity, became the main weapon of destruction of more than 700,000 human beings. It was the main weapon used to identify and eliminate these people. It also forced some four million individuals to become refugees and displaced persons who later caused the deaths of tens of thousands of other individuals. Yet it was simple, it was not complicated, it was normal, it seemed quite logical, it protected people and it represented progress for the country.

I am not going to debate the legal aspect of Bill C-6, except to say that in normal situations, we should not be afraid of extreme scenarios, but that extreme scenarios can sometimes happen.

I will give you another example. Why are police officers in Canada armed? We do not want to wage war, we do not want to use weapons overseas, we try to avoid war scenarios, we want peace. We have an army that is involved in a war, even though many people are uncomfortable with the fact that Canada has an army. They accept the fact that we have armed people to keep the peace, to keep things normal and, in cases of abuse, to protect innocent people and perhaps even arrest the individual causing problems.

I just want to bring us back to something normal, as Bill C-6 addresses. People are not stupid. They have experience and skills, and they have business cards. They are good people who do not want to abuse their power. I fully agree with that.

As a future grandfather, I would not want to buy a toy that might make my grandchild sick or even kill him. I hope the existing system and authorities are able to get dangerous toys off the shelves before I can buy them. I believe that the fundamental amendment proposed by Senator Furey does not jeopardize our right to health and safety. There is nonetheless a risk when it comes to human rights. In my opinion, no one has the right to infringe on human rights even if, in a normal scenario, that would not be a valid argument.

In cases where governments are pushed to the limit, however, in extraordinary circumstances, we have to ensure that they do not slip into the post-September 11 situation where human rights are not respected and torture is permitted, where individuals' civil rights are violated under the Patriot Act and where conventions are disregarded out of fear of the enemy.

[ Senator Dallaire ]

• (1800)

The only way to conquer fear and stop the enemy is to play with fundamental rights. That can lead to an impasse that could jeopardize everything we believe in — the benchmarks I had when I was in the field, the rule of law, human rights, equality among human beings, respect for human beings. These benchmarks were instilled in me here, and they helped me fulfil my duties. To ensure that these benchmarks are maintained, we have legislation. As legislators, our primary responsibility is to ensure that this legislation corresponds to the rule of law, and that people are protected to the full extent of our intellectual, physical and human capacities.

(Debate suspended.)

[*English*]

## BUSINESS OF THE SENATE

**The Hon. the Speaker:** Honourable senators, it being 6 o'clock, I must leave the chair to return at 8 p.m.

(The sitting of the Senate was suspended.)

• (2000)

[*Translation*]

(The sitting was resumed.)

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of His Excellency Wilhelmus Julius Petrus Geerts, Ambassador of the Netherlands to Canada, who is accompanied by his wife, Mrs. Dorothea Johanna Maria Kuijper.

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

## APPROPRIATION BILL NO. 4, 2009-10

### FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-64, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2010.

(Bill read first time.)

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

**Senator Comeau:** At the next sitting of the Senate.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Hon. Senators:** No.

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

[English]

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of a number of distinguished justices: the Honourable Madam Justice Margaret Larlee, Court of Appeal of New Brunswick; the Honourable Madam Justice Kathleen Quigg, Court of Appeal of New Brunswick; the Honourable Madam Justice Elizabeth Jollimore, Supreme Court of Nova Scotia; and the Honourable Madam Justice Deirdre Potheary, Provincial Court of British Columbia.

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

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

### FAIRNESS FOR THE SELF-EMPLOYED BILL

#### BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-56, An Act to amend the Employment Insurance Act and to make consequential amendments to other Acts.

(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.)

### CANADA CONSUMER PRODUCT SAFETY BILL

#### THIRD READING—MOTION IN AMENDMENT— POINT OF ORDER—SPEAKER'S RULING RESERVED

On the Order:

Resuming debate on the motion of the Honourable Senator Martin, seconded by the Honourable Senator Lang, for the third reading of Bill C-6, An Act respecting the safety of consumer products;

And on the motion in amendment of the Honourable Senator Furey, seconded by the Honourable Senator Moore, that Bill C-6 be not now read a third time but that it be amended:

(a) in clause 2, on page 2, by replacing line 29 with the following:

“importation, packaging, storing for sale, advertising,”;

(b) in clause 20,

(i) on page 10, by replacing line 38 with the following:

“imported, packaged, stored for sale, advertised, sold,” and

(ii) on page 11, by replacing line 41 with the following:

“packages, stores for sale, advertises, sells, labels, tests”;

(c) in clause 21,

(i) on page 12,

(A) by deleting lines 16 to 35, and

(B) by replacing lines 36 and 37 with the following:

“**21.** (1) If the inspector obtains a warrant authorizing entry into a place mentioned in subsection 20(1), the inspector may not use force in executing the warrant”, and

(ii) on page 13, by replacing lines 1 to 3 with the following:

“(2) If an inspector believes that it would not be practical to appear personally to make an application for a warrant referred to in subsection (1), a”;

(d) in clause 31, on page 15, by replacing line 22 with the following:

“packaging, storing for sale, advertising, selling, label-”; and

(e) in clause 36, on page 18,

(i) by replacing line 18 with the following:

“tion, packaging, storing for sale, sale, advertising,” and

(ii) by replacing line 23 with the following:

“tion, packaging, storing for sale, sale, advertising,”;

And on the motion in amendment of the Honourable Senator Banks, seconded by the Honourable Senator Day, that Bill C-6 be not now read a third time but that it be amended:

(a) in clause 15, on page 9,

(i) by replacing lines 12 and 13 with the following:

“**15.** (1) The Minister may disclose personal information related to a consumer product to a person or a government that”, and

(ii) by replacing lines 17 to 19 with the following:

“relates if

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

(b) 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.

(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.”; and

(b) in clause 56, on page 31, by replacing line 5 with the following:

“violation has a defence by reason”.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** I move the adjournment of the debate.

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

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

**The Hon. the Speaker:** All those in favour of the motion will signify by saying “yea.”

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** All those opposed to the motion will signify by saying “nay.”

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the “yeas” have it.

*And two honourable senators having risen:*

**The Hon. the Speaker:** Is there advice from the whips?

**Senator Stratton:** A one-hour bell.

**The Hon. the Speaker:** The vote will take place at five minutes after 9.

Call in the senators.

• (2100)

Motion negated on the following division:

#### YEAS THE HONOURABLE SENATORS

Andreychuk	Manning
Brazeau	Martin
Carignan	Meighen
Champagne	Mockler
Comeau	Nancy Ruth
Demers	Nolin
Di Nino	Ogilvie
Duffy	Oliver
Eaton	Patterson
Finley	Plett
Fortin-Duplessis	Raine
Frum	Rivard
Gerstein	Segal
Greene	Seidman
Housakos	Stewart Olsen
Keon	Stratton
Lang	Tkachuk
LeBreton	Wallace
MacDonald	Wallin—38

#### NAYS THE HONOURABLE SENATORS

Baker	Kenny
Banks	Lapointe
Callbeck	Losier-Cool
Campbell	Lovelace Nicholas
Carstairs	Mahovlich
Cools	Massicotte
Cordy	Mercer
Cowan	Milne
Dallaire	Mitchell
Dawson	Moore
Day	Munson
Downe	Pépin
Dyck	Peterson
Eggleton	Poulin
Fairbairn	Ringuette
Fox	Robichaud
Fraser	Rompkey
Furey	Smith
Hervieux-Payette	Stollery
Hubley	Tardif
Jaffer	Watt
Joyal	Zimmer—44

#### ABSTENTIONS THE HONOURABLE SENATORS

Rivest—1

• (2110)

[Translation]

**Hon. Roméo Antoinius Dallaire:** Honourable senators, I have returned — as a general once said during the Second World War — and pleased to resume the debate on this fundamental dilemma of human rights and the right to access to health, and respect for health.



I only have a few moments left to say that it is essential not to undermine — through a real and essential need — a fundamental right under the rule of law, in other words, human rights. We can neither manipulate nor amend this concept that is one of the fundamental laws of our country.

Without Senator Furey's amendment, I do not see how we can honestly be in tune with the human rights that are enshrined in our Constitution.

[English]

**The Hon. the Speaker:** Is there continuing debate?

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I was the one who, last time around, adjourned the debate and then, Senator Dallaire was recognized and I was not. I assumed that I was the one to continue speaking.

Be that as it may, honourable senators, I note that there have been a great number of important changes proposed throughout the day to this extremely important bill, the implications of which are far-reaching and serious.

I think the opposition will understand if some of us on this side want to be able to reflect and consider.

I can understand why they placed Senator Mercer dead centre.

**Senator Mercer:** That is so I can get at you, Senator Comeau.

**Senator Cowan:** You have a couple over there. Do not worry about it.

**Senator Comeau:** We try to place them as far away as we can, not dead centre.

There have been some extremely serious amendments proposed to this bill. It is important that our side be able to reflect on and consider the impact of those proposals. I think it would be important as well for the government to look at the impact of what is proposed through these amendments.

It is important for all of us, not only this side but the other side as well, to reflect on some of the implications of the proposed changes. Because of that, we can all do with a good night's sleep. It is past 9:15 now. I see a lot of eyes that are starting to become a bit blurry. I did not attend any of the parties tonight. I only had ginger ale. I think I am fine.

I therefore propose, honourable senators, that we do now adjourn the Senate.

**The Hon. the Speaker:** It is moved by the Honourable Senator Comeau, seconded by the Honourable Senator Stratton, that the Senate do now adjourn. Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** No.

**The Hon. the Speaker:** All those in favour of the motion please say "yea."

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** All those opposed to the motion please say "nay."

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the "yeas" have it.

*And two honourable senators having risen:*

**The Hon. the Speaker:** Call in the senators.

**Hon. Terry Stratton:** We propose a one-hour bell.

**The Hon. the Speaker:** Honourable senators, the vote will take place at quarter after 10.

Do I have permission to leave the chair?

**Hon. Senators:** Agreed.

• (2210)

Motion negated on the following division:

#### YEAS THE HONOURABLE SENATORS

Andreychuk	Manning
Brazeau	Martin
Carignan	Meighen
Champagne	Mockler
Comeau	Nancy Ruth
Demers	Nolin
Di Nino	Ogilvie
Duffy	Oliver
Eaton	Patterson
Finley	Plett
Fortin-Duplessis	Raine
Frum	Rivard
Gerstein	Segal
Greene	Seidman
Housakos	Stewart Olsen
Keon	Stratton
Lang	Tkachuk
LeBreton	Wallace
MacDonald	Wallin—38

#### NAYS THE HONOURABLE SENATORS

Baker	Lapointe
Banks	Losier-Cool
Callbeck	Lovelace Nicholas
Campbell	Mahovich
Carstairs	Massicotte
Cools	McCoy
Cordy	Mercer
Cowan	Milne
Dallaire	Mitchell
Dawson	Moore
Day	Munson
Downe	Pépin
Dyck	Peterson
Eggleton	Poulin
Fairbairn	Ringuette
Fraser	Robichaud

Furey  
Hubley  
Jaffer  
Joyal  
Kenny

Rompkey  
Smith  
Stollery  
Tardif  
Watt—42

ABSTENTIONS  
THE HONOURABLE SENATORS

Rivest—1

• (2220)

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, this is the chamber of sober second thought. I indicated earlier that we should reflect on what we are doing in this chamber. Had you been listening, Dr. Keon should have given you a great many reasons for reflection. He indicated that he had been in contact with consumer groups. What struck me especially was that Dr. Keon indicated that 70,000 doctors had recommended to this chamber that we pass this bill, and one of the reasons for passing this bill was the 18,000 visits to emergency hospitals and centres every year by children because of the dangers that this bill is trying to address.

Who do we listen to? Do we listen to the Canadian Medical Association and its 70,000 doctors, as Dr. Keon has indicated, or do we listen to Terry Mercer, who is able to get his voice probably — Senator Mercer, I apologize —

**Senator Mercer:** Do you want to hear my voice?

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

**The Hon. the Speaker:** Honourable senators, where are we? Can honourable senators help the Speaker?

Senator Day on a point of order?

Senator Banks on a point of order?

**Senator Banks:** Your Honour, we were on debate on the amendments that are before us, and the honourable Deputy Leader of the Government referred to a member here by his name without any appellation of “honourable” or “Senator” in front, and that honourable senator stood and raised a point of order, which has not yet been heard.

**The Hon. the Speaker:** Was Senator Mercer raising a point of order?

**Hon. Terry M. Mercer:** Your Honour, I have an opinion on this bill, as many other people in this chamber do, but Senator Comeau wants to walk around here and poke people in the eye with a sharp stick. We could be here all night, tomorrow, Saturday and next week.

Senator Comeau, similar to the person sitting to his left, shows little respect for the people on this side. The Leader of the Government in the Senate today demonstrated to everyone in this chamber and everyone in the gallery her lack of respect not only for the process but also for the people. It is the first time in memory, and I canvassed my colleagues as we have gone on the breaks, Senator LeBreton, that anybody can remember when the Leader of the Government in the Senate, the leader of the other

party, whether on the government side or the opposition side, did not show up when someone has retired from this chamber.

Senator LeBreton, we noticed it and we will remember it. All those people sitting behind you noticed it. They noticed your lack of respect for individuals, and they will notice the lack of respect you had for them, for us and, in particular, for our good friend Senator Milne.

Your Honour, my point of order is this: If Senator Comeau wants to debate with me, I am happy to debate with him. I am ready for this debate. We need to address this important piece of legislation, and we need to address now the amendments put forward by my good friend from Newfoundland and Labrador. They are important amendments that need to be debated now.

I propose that, whatever the process is, we need to get at and get at it fast.

**The Hon. the Speaker:** Order, please.

I thank honourable senators for helping the Speaker understand what has transpired. As Senator Banks has indicated, our rules provide for a proper address in the house. Senator Comeau alluded to that a few moments ago, so I consider the matter settled.

We are on debate with Senator Comeau.

**Senator Comeau:** To be absolutely certain for anyone who might have missed the fact, my voice was drowned out at that point, but I did apologize to the honourable senator. I believe, if he goes back and checks over my record, whenever I have been in error, and I believe everyone can make mistakes occasionally, including myself, I have always apologized. I have always apologized if I was out of order. I have always done that, and I think both sides will agree.

Getting back to the debate on Bill C-6, I was referring to what Senator Keon has indicated earlier in regard to the Canadian Medical Association, and the extremely important attachment that fathers and mothers have for this bill. We have to understand that there is a certain balance here. There are privacy rights, and it is well and just that we respect privacy rights. On the other hand, we have safety, and safety is also a right of our young Canadians. If we do not care for their safety, they will not grow up to be healthy senior Canadians.

• (2230)

Honourable senators, there is a balance and this bill tries to balance the rights to privacy. I believe Senator Milne will agree that I have a great attachment for privacy as we have had some debates on this subject in the past. I do believe in privacy; however, I also believe in the safety of our children. They are our future, and if we are not prepared to balance in an equitable way those two rights then I think we are a complete failure as a chamber.

Honourable senators, we should continue to reflect, as I indicated earlier, on the serious impact of the amendments that have been proposed today in this chamber, and for that reason I move the adjournment of the debate.

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

**The Hon. the Speaker:** The Honourable Senator Comeau is moving the adjournment of the debate for the time remaining to him, so I will put that question. It is moved by the Honourable Senator Comeau — point of order, Senator Cools.

POINT OF ORDER

**Hon. Anne C. Cools:** Honourable senators, on a point of order, I am just wondering whether this is the first time or the second time Senator Comeau has spoken in this debate.

**Some Hon. Senators:** Second time.

**Senator Cools:** I could be wrong, but I believe that about an hour or so ago Senator Comeau spoke and said largely what he said now, but we are still on the same point. He is not on the main bill because the amendments have not been disposed of. Is it not the same question that Senator Comeau spoke to before? The question has not moved. There has been no vote on the question.

I am wondering how many times Senator Comeau is allowed to speak in the same debate if he has already spoken, and I am not absolutely certain that my memory is correct. However, I seem to recall that Senator Comeau spoke a little while ago and moved an adjournment. He, in point of fact, has already spoken for his one time on the question that is before us. The question before us is not the motion to adjourn. He has just moved that motion, but his speech leading up to the motion to adjourn would be on the question.

It seems to me he has spoken twice on the same question. The rules tell us that a senator may speak once on every question and for not more than 15 minutes. Therefore we have to determine what really happened, so maybe the table could indicate to us whether I am mistaken that he did speak before. I am prepared to be corrected.

Senator Comeau is a very just man. When he uttered that apology to Senator Mercer he was most sincere. I can vouch for that because I have dealt with Senator Comeau many times in the past and he is generous in extending apologies with great sincerity. I mean that with great sincerity.

Honourable senators, we must clarify whether Senator Comeau has spoken twice on the same order. His Honour has ways of communicating with the table but I do not know how we can establish that.

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** I agree with Senator Cools that Senator Comeau has spoken twice. I expect that the table officers would be able to confirm this.

In fact, Your Honour, I had risen to speak at the same time as Senator Comeau, assuming he was going to adjourn the debate. I did not believe he was going to speak once again.

Therefore, I believe that he is out of order and I would now like to speak.

**Hon. Sharon Carstairs:** Honourable senators, we are going through a procedure which is not uncommon, used in times of, say, a certain amount of stress around here, so you go from an adjournment motion, you then try to adjourn the Senate and when that does not work you go to another adjournment motion.

However, what has always been the case in my 15 years here is that the government, and/or the opposition, whoever is trying to go through this adjournment process, always puts up an alternate speaker. In this case they did not put up a different speaker; they put up exactly the same speaker who, in essence, gave exactly the same speech.

That is out of order, honourable senators.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I spoke twice this evening. I tried to take the debate earlier this evening. Senator Dallaire was recognized in my place; therefore I could not have spoken at that time.

What I did when I first spoke was to move the adjournment of the Senate, which is what happened. There was a question of the adjournment of the Senate, at which point we had a vote. We have voted. Because the Senate was not adjourned someone had to speak, and I just spoke on the debate. Those are the two times that I spoke.

**Hon. Tommy Banks:** Honourable senators, I do not know the rules and interpreting them is up to His Honour.

My recollection is that Senator Comeau has moved three motions tonight in the last little while. The first was to adjourn the debate; the second was to adjourn the Senate; and the most recent, the third motion, was to adjourn the debate again.

My recollection is that in the first and third of those two instances Senator Comeau rose, after His Honour said “on debate”, and Senator Comeau, on each of that first occasion and third occasion spoke to the bill. He spoke to the amendments that are before us and therefore spoke on debate on the issue before us. If the rules do not permit senators to speak twice on a particular subject in one session, I will leave that to His Honour to determine. That is my recollection of what happened.

**Hon. Joan Fraser:** My recollection is similar to that of Senator Banks'. I would simply observe that it is within our practice to allow senators to ask for the debate to be adjourned for the balance of their time. However, I did not hear Senator Comeau do that on either intervention. Therefore I think it is true. The first time he did not, so he spoke twice.

**Senator Cools:** Honourable senators, I am prepared to be corrected, as I said before. I am hearing a sense of uneasiness about what is going on, as though somehow or the other certain senators are acting in an improper or an irregular way. I would like to say, honourable senators, that a good filibuster is a work of art and to be admired. It takes skill and ability to do cut and thrust and to get to one's feet fast and with a very quick mind. I greatly respect good filibusters. I have taken part in several and I intend to take part in a few more.

I do also believe that when one is on the side of the principle, one is more likely to be successful because one can be inspired and motivated by principle and a sense of justice and righteousness.

As I said before, I am sympathetic to filibusters, but this one is unusual because it is not motivated by an idea or principle. What we have here is a filibuster on the part of the government which is attempting to delay the debate and to bring on the debate on its own bill and its own initiative. That is most unusual.

We have a government that is now acting like an opposition, using delay tactics, but unfortunately unable to mobilize many forces to conduct a delay, to conduct the filibuster.

• (2240)

Senator Comeau should have 10 or 12 people behind him, jumping up after him, each one moving the adjournment in turn. If honourable senators would like, I will really get involved in it. I am not. I am only observing what is happening.

In any event, the only question that has been before us for the last two hours has been the motion to amend the main question by the amendments. That question has been consistently before us. It has not changed. Whether Senator Comeau moved the motion to adjourn the Senate or the debate, it still does not matter. The question that he was rising to speak to was on those amendments.

His moving a motion to adjourn does not make the motion to adjourn the question that he spoke to. It may make it the question for the next senator to speak to, but not the question he was speaking to.

The question that Senator Comeau spoke to in both of those instances was the motion to amend, one of the motions to amend, Bill C-6. I do not remember which amendment it was. There is nothing wrong with, as I said before, trying to delay, but the same person cannot do the job all by themselves; one needs a variety of voices.

If the government wants to employ this technique, then they should at least do it with a range of voices. They cannot use one voice to move the adjournment of the bill, the adjournment of the debate, the adjournment of the bill and then the adjournment of the debate. The question is sustaining and subsisting all the way through.

The question before us is the amendment. I hope I am making myself clear. I am tired, but I hope it is clear. There is no doubt that if Senator Comeau spoke before, his second speech was out of order. That is nothing to be ashamed of because Senator Comeau is working hard to defend something that is a little hard to defend. I am sympathetic to him in this attempt. I do not think this matter is funny because often, many of us leave a huge burden on the shoulders of those who lead. I have worked over the years to try to alleviate that burden.

All I am trying to say to honourable senators is that this is what has happened. Some honourable senators may be snickering because they think this is unnecessary. The real fact of the matter is, what is happening here is that the government wants to arrest the debate on Bill C-6 for reasons they have not yet revealed. I want to make that point.

[ Senator Cools ]

I am sure that Senator Comeau, as always, operates with good intentions and good motivations. There is no doubt here about his motivation. There is no motivation here to do anything wrong. What is happening before —

**The Hon. the Speaker:** Honourable senators, on the point of order that has been raised, I clearly have to examine the record to understand and give a reasonable and reasoned decision. I thank honourable senators for their contribution. I will do so and report back. I will undertake to report on this point of order at the next sitting of the Senate so there is no delay caused by the chair.

## CONTROLLED DRUGS AND SUBSTANCES ACT

### BILL TO AMEND—THIRD READING— DEBATE ADJOURNED

**Hon. John D. Wallace** moved third reading of Bill C-15, An Act to amend the Controlled Drugs and Substances Act and to make related and consequential amendments to other Acts, as amended.

He said: Honourable senators —

**Senator Mercer:** Question.

**Senator Cools:** Your Honour, the amendment has not been disposed of.

**Some Hon. Senators:** It has.

**Senator Wallace:** Honourable senators, I rise to speak to Bill C-15, an act to amend the Controlled Drugs and Substances Act and to make related and consequential amendments to other acts.

I note that the Standing Senate Committee on Legal and Constitutional Affairs adopted amendments to this bill and that the committee report has been approved by the Senate.

Before speaking to the bill as amended, I will take a few moments to explain the nature of the drug problem that Bill C-15 seeks to address. This bill is aimed at tackling the problem of drug crimes, particularly drug trafficking and drug production, both of which occur in all regions in Canada. The committee heard from several witnesses who confirmed that drug trafficking and drug production is the currency of organized crime, and it is organized crime that this bill targets.

Over the last decade, domestic operations related to the production and distribution of marijuana and synthetic drugs have dramatically increased, resulting in a serious problem in some regions of Canada, often overwhelming the capacity of law enforcement agencies. In committee we heard, for example, from the mayor of Langley, British Columbia, who spoke about the scourge that these production facilities were having on his community. These operations pose serious health and public safety hazards to those in and around them. They produce environmental hazards, pose clean-up problems and endanger the lives and health of Canadians and their communities. These operations are lucrative businesses and attract a variety of organized crime groups. Huge profits are available with little risk to operators, and these profits are used to finance other criminal activities.

Penalties and sentences related to these offences are considered by many to be too lenient, and not commensurate with the level of harm imposed on communities by such criminal activities.

According to Statistics Canada, the rate of marijuana cultivation offences more than doubled, from approximately 3,400 offences in 1994 to 8,000 in 2004. According to a study on marijuana grow operations in British Columbia in 2003, approximately 39 per cent of all reported marijuana cultivation cases were located in British Columbia. Between 1997 and 2000, the total number of these cases increased by over 220 per cent. Although the number of individual operations in British Columbia levelled off between 2000 and 2003, the estimated quantity of marijuana produced increased fourfold from 1997 to a seven-year high in 2003, due to the size and sophistication of individual operations.

Honourable senators, these few observations were made so that there can be an appreciation of the seriousness of the drug crime situation in our nation. The Government of Canada has recognized this situation. It has recognized that serious drug crimes, such as large-scale grow operations, pose a threat to the safety of our streets and communities. Bill C-15, as introduced in the Senate, is part of the government's strategy to address this problem.

However, before I continue, I note that this bill is only one piece or pillar in the government's National Anti-Drug Strategy. Admittedly, this bill deals mostly with enforcement, but it cannot be considered within a vacuum. The government recognizes that any successful drug strategy cannot be simply about enforcement but also about prevention and treatment. The government has taken many of these treatment and education measures through the comprehensive and coordinated National Anti-Drug Strategy.

This bill, as introduced in the Senate, proposes amendments to strengthen the Controlled Drugs and Substances Act provisions regarding penalties for serious drug offences by ensuring that these types of offences are punished by an imposition of mandatory minimum penalties. With this bill, the government demonstrates its commitment to improving the safety and security of Canadian families and communities across Canada.

As has been stated before, the government recognizes and acknowledges that not all drug offenders and drug offences pose the same risk of danger and violence. Bill C-15, as introduced in the Senate, recognizes this and that is why this bill proposes a focused and targeted approach to dealing with serious drug crimes. Accordingly, the new penalties will not apply to the offence of possession, nor will they apply to offences involving all types of drugs. What this bill does is focus on the more serious drug offences involving the more serious drugs.

• (2250)

Overall, the proposals represent a tailored approach to the imposition of mandatory minimum penalties for serious drug offences such as trafficking, importation, exportation and production, involving such drugs as cocaine, heroin, methamphetamine and cannabis. Also, allow me to be quite clear on the record in stating that this bill does not affect the existing permitted legal use of medical marijuana.

Honourable senators, in my view, this bill as introduced in the Senate contained a seamless approach to dealing with serious drug offences. Regrettably, the amendments proposed by the honourable senators of the committee and adopted by this chamber have created, in my estimation, important gaps in this approach to tackling serious drug crime and are not supportable.

As honourable senators know, the bill, as introduced in this chamber, contained provisions for dealing with marijuana production. The bill proposed mandatory penalties based on the number of plants involved. It provided for mandatory six months' imprisonment in cases of production of five to 200 plants, if the plants were cultivated for the purpose of trafficking. I should point out that the minimum number of plants was raised to five plants from one plant as a result of an amendment proposed by the committee and accepted by all honourable members of the House of Commons. It also provides a mandatory one year imprisonment for the production of 201 to 500 plants and a mandatory two years for the production of more than 500 plants.

This was the scheme contained in Bill C-15 that was proposed and adopted by the House of Commons before it was sent here. Persons who cultivated five plants or less would not have been subjected to a minimum penalty, and the minimum penalty would come into play only where the offender cultivated more than five plants and less than 201 plants, and the offender was growing the plants for the purpose of trafficking.

One of the amendments to Bill C-15 changes this approach in a significant way. That amendment removes the minimum penalty for persons producing between five and 200 plants if the production was for the purpose of trafficking. If this bill is adopted with this amendment, it will mean that any person can operate a grow operation of up to 200 plants, plan on trafficking his products, and not be exposed to a minimum penalty of any kind if convicted of producing marijuana. This amendment is almost an invitation to criminals to get involved in the business of producing 200 marijuana plants or less and not fear imprisonment.

In this regard, I received something in writing from Inspector Desmarais, head of the Vancouver police department's anti-gangs and drug section, on December 4, 2009. Honourable senators might find some interest in this regard. Inspector Desmarais said that the removal of minimum sentencing for grow operations in rural areas is not logical. He said further that the removal of minimum sentencing guidelines on rural properties will create a displacement effect from urban and suburban areas, where legal commercial marijuana growers will migrate to rural neighbourhoods, areas where police resources are more scant and the risk of imprisonment is less.

I must admit that I do not understand this preoccupation that some honourable senators have about wanting to spare convicted marijuana growers who intend to traffick their product from serving time in jail. Indeed, as I have informed this chamber before, 200 plants could mean an annual profit in the range of \$350,000 to a marijuana grower.

**Hon. Anne C. Cools:** I rise on a point of order. Honourable senators, I want to make the point that I think Senator Wallace can make his points as effectively without impugning or attributing to any other senator any desire or wish to enhance

crime or to give criminals any opportunities to commit crime. I sincerely believe, honourable senators, that we can make our points just as strenuously, just as effectively, and win as many kudos and votes as possible, but I do not think it is fair debate or it is in order in debate at any time to ever impugn another's motivation. This is an extremely important point.

Senator Wallace simply cannot impugn another bunch of senators as though, somehow or other, senators are supporting crime. I am growing a little tired of this, because I have been getting a battery of letters in the past week or so. One of them even suggested that I must be taking a bribe or something for doing this. On that particular bill, I have not even spoken yet, so no one knows where I stand. Because you want to do a good job, that act in itself is, somehow or other, supporting criminal activity.

I think we are all joined and connected in our sincere wish to see justice and to see crime ended. However, it is a little tiresome to hear again and again that if you question a thing, or if you want to speak, or if you want a proper process or a proper debate, that somehow or other, you are enhancing crime or growers' opportunities, or some other criminal opportunity.

I really think that is not worthy of Senator Wallace. Furthermore, with his experience in life and his training professionally, he should be able to come up with some principles and arguments to put before us as to why we should support the issue, rather than to repeat the same old nonsense that has become hackneyed to pure tedium that to disagree or to think at all is to promote crime. That is out of order.

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

**Senator Wallace:** I wish to thank Senator Cools for that. The only thing I would say is that my role here, as I am sure honourable senators would appreciate, is to give a view of what the consequences of the amendment could be. What I said —

**Senator Cools:** What those consequences —

**Senator Wallace:** Am I speaking or what?

**Some Hon. Senators:** Order!

**Senator Cools:** He is out of order. You are a lawyer; you should know that.

**Senator Wallace:** I appreciated the comments; I do not necessarily agree with them.

Honourable senators, if I could continue —

**Hon. Terry Stratton:** Honourable senators, it is my turn now. We are not shortening the current speaker's time as a result of Senator Cools' intervention, correct? Table officers?

**The Hon. the Speaker:** Honourable senators, Senator Cools rose on a point of order, and I am prepared to deal with that point of order. She makes a good point, and I think we all need to be circumspect in debate. That is my ruling.

We are now back on the debate. As far as the time goes, Senator Wallace has 45 minutes and the table is watching. He has lots of time left.

**Senator Wallace:** I now have 44 minutes. I will backtrack a couple of lines here so that honourable senators can pick up where I left off.

Indeed, as I have informed the chamber before, 200 plants could mean an annual profit in the range of \$350,000 to a marijuana grower. This is \$350,000 that will go to gangsters and organized criminals. The government's position on this issue is clear: Offenders involved in serious drug crimes need to realize that there are serious consequences for their actions, and I believe most Canadians would agree that this approach should apply to offenders involved in growing marijuana for the purpose of trafficking.

• (2300)

In this regard, I would refer honourable senators as well to a statement made by the Liberal member of Parliament from Moncton, New Brunswick on June 2, 2009, at the report stage in the other place.

In referring to Bill C-15, the member said:

The bill is very clear to me. If someone grows 200 plants and that person is caught for trafficking, that is, selling those plants to people like my children, that person is going to do a minimum sentence in this country. That does not seem all that shocking to me.

The bill contains other amendments which, in my view, are equally ill-conceived and need to be mentioned here.

One of these amendments to clause 1 of this bill says that the person would receive the mandatory minimum penalty for trafficking only if a previous designated offence by that person occurred within the 10 previous years and the offender served a period of imprisonment for one year or more for that offence.

This amendment does not even say that the offender was sentenced to one year, but rather says served a term of imprisonment for one year. With respect, this is the wrong way to effectively denounce and attempt to discourage and deter repeat offenders.

A second amendment I was referring to is the amendment to clause 5 of the bill. This amendment would give judges the discretion in imposing a minimum penalty for any serious drug offences covered by this bill when the court is satisfied that the offender is an Aboriginal, that the sentence would be excessively harsh under the circumstances, and that another sanction is reasonable and available.

If adopted, this amendment would mean that an Aboriginal offender who committed a serious drug crime of any kind would not face a certain term of imprisonment.

Honourable senators may recall that clause 5 of the original bill, as tabled in the House of Commons, contained a provision allowing for certain offenders who would otherwise have been caught by the proposed minimum penalties —

**Senator Mercer:** Put your name on the record.

**Senator Wallace:** Honourable senators may recall that clause 5 of the original bill, as tabled in the House of Commons, contained a provision allowing for certain offenders —

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

**The Hon. the Speaker:** Order, please.

The Honourable Senator Wallace.

**Senator Wallace:** For the third time: Honourable senators may recall that clause 5 of the original bill, as tabled in House of Commons, contained a provision allowing for certain offenders, who would otherwise have been caught by the proposed minimum penalties, to be dealt with by drug treatment courts or other drug treatment facilities. In such cases, the court would have had the discretion not to impose the minimum penalty if the offender successfully completed a drug treatment program.

This provision was amended and, as a consequence, was broadened so as to give all courts the discretion to impose a penalty other than the mandatory minimum on a serious drug crime offender who has successfully completed a drug treatment program, regardless of whether the program was monitored by a drug court or an ordinary court. I would like to remind this chamber that the House of Commons adopted this amendment.

Honourable senators, this government recognizes that Aboriginal offenders make up a significant percentage of the inmate population in our jails and penitentiaries, and that Aboriginal offenders are imprisoned in disproportionate numbers. Moreover, the government is cognizant of the Criminal Code provisions permitting courts to pay particular attention to the circumstances of Aboriginal offenders during sentencing.

However, as the Supreme Court of Canada found in *R. v. Gladue* in respect of the Aboriginal offender, this is not to be taken to mean that as a general practice Aboriginal offenders must always be sentenced in a manner that gives the greatest weight to the principles of restorative justice and less weight to the goals of deterrence, denunciation and separation.

It would be unreasonable to assume that Aboriginal people themselves do not believe in the importance of these goals and, even if they do not, that such goals must not predominate in appropriate cases.

Even where an offence is considered serious, the length of term of incarceration must be considered. In some circumstances, the length of the sentence of an Aboriginal offender may be less and, in others, the same as that of any other offender.

In this context generally, the court argued, the more serious and violent the crime, the more likely it will be, as a practical matter, that terms of imprisonment will be the same for similar offences and offenders, whether the offender is Aboriginal or non-Aboriginal.

With this in mind, I wish to remind this chamber that the bill is dealing with serious drug offenders. The bill as introduced in the Senate proposes that minimum penalties be imposed where serious aggravating factors are proven to exist. In my view, and under these circumstances, the Aboriginal and non-Aboriginal offender should be treated in the same manner as far as the imposition of the minimum penalty.

It would still be open to the courts to impose less severe maximum penalties in appropriate cases involving Aboriginal offenders. It would also be open to the courts to refer, in appropriate cases and where possible, Aboriginal offenders to treatment programs and for the court to impose a penalty other than the minimum if the offender successfully completed the treatment program.

Finally, honourable senators, I want to point out that the amendments to this bill were not supported by the vote of the Conservative members at committee or in the vote that took place yesterday in this chamber. I would also be remiss if I did not mention that this bill was supported by Liberal members of the other place.

The government is committed to combating the scourge of drugs in our communities. This bill is part of the government's continued commitment to take steps to protect Canadians and make our streets and communities safer.

Canadians want a justice system that has clear and strong laws that denounce and deter serious crimes, including serious drug crimes. They want laws that impose penalties that adequately reflect the serious nature of these crimes. Bill C-15, as introduced in the Senate, does that and the amendments adopted in committee and approved by the majority in the Senate undermine this bill and, in my respectful opinion, are not supportable.

**Hon. Elaine McCoy:** Honourable senators, I move that the original question be now put in accordance with rule 48(2).

**The Hon. the Speaker:** The previous question is debatable.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** I move the adjournment of the debate.

**The Hon. the Speaker:** Let me put the previous question. It has been moved by the Honourable Senator McCoy, seconded by the Honourable Senator Campbell. We are on debate on a motion for the previous question to be put.

That motion, honourable senators, is debatable. We are on debate and Senator Comeau has been recognized and he has moved the adjournment of the debate.

That is the question that has to be put without debate, and so I put that question.

• (2310)

It was moved by the Honourable Senator Comeau, seconded by the Honourable Senator Tkachuk, that further debate on that question be referred to the next sitting of the Senate.

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

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

**The Hon. the Speaker:** All those in favour of the motion will please say “yea.”

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** All those opposed to the motion will please say “nay.”

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the “yeas” have it.

*And two honourable senators having risen:*

**The Hon. the Speaker:** Call in the senators.

Honourable senators, the rules provide in this circumstance that the one-hour bell that is called for will occur. That vote will take place at seven minutes after midnight. Immediately after that vote, the house will be deemed to have adopted a motion to adjourn the house and that motion is deemed to have been adopted.

For clarification, because we do not do this often, the vote will take place at seven minutes after midnight. After that vote is taken, it is deemed that a motion to adjourn the house has already been adopted. The question is when we come back. That not having been determined, other than what is in the rules, we are back at nine o'clock tomorrow morning.

Does the Speaker have permission to leave the chair?

**Hon. Senators:** Agreed.

• (0015)

Motion agreed to on the following division:

YEAS  
THE HONOURABLE SENATORS

Andreychuk	Martin
Brazeau	Meighen
Carignan	Mockler
Champagne	Murray
Comeau	Nancy Ruth
Demers	Nolin
Di Nino	Ogilvie
Duffy	Oliver
Eaton	Patterson
Finley	Plett
Fortin-Duplessis	Raine
Frum	Rivard
Gerstein	Segal
Greene	Seidman
Housakos	Stewart Olsen
Keon	Stratton
Lang	Tkachuk
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Campbell	Mercer
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Dallaire	Munson
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THE HONOURABLE SENATOR

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(The Senate adjourned until tomorrow at 9 a.m.)



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