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THE HONOURABLE DANIEL HAYS
SPEAKER

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THE SENATE

Wednesday, October 26, 2005

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

Prayers.

SENATORS' STATEMENTS

ALBERTA

CONGRATULATIONS TO RECIPIENTS OF CENTENNIAL MEDAL

Hon. Joyce Fairbairn: Honourable senators, last Saturday I had the honour of presenting the Centennial Medal to 23 southern Albertans, recognizing the special contributions of individuals to their fellow citizens and their province. The recipients were: Surya Acharya, research scientist, President of the Southern Alberta Ethnic Association; Ed Bayly, outstanding actor, director, playwright, singer, theatre manager; John Boras, lawyer, civic politician and community activist; Gordon Campbell, educator, leader in public affairs; Van Christou, brilliant photographer, promoter of the University of Lethbridge; Dr. E. Lisabeth Donaldson, professor and producer of a centennial book on educational advancement of Alberta women; Alister Gilchrist, long-time leading piper and loyal member, Royal Canadian Legion, General Stewart Branch No. 4; Frank Gnadtt, 26 years as a music teacher and leader of award-winning Lethbridge Collegiate Institute High School choirs; Dr. Robert Hironaka, renowned animal scientist and promoter of the Japanese-Canadian culture; Dianne King, educational leader and the first woman school board president; Gerri Manyfingers, advocate for social justice on the Blood Reserve and urban centres for abused women in Calgary; Marie Smallface Marule, President of Red Crow College on the Blood Reserve and winner of the 1995 National Aboriginal Achievement Award for Education; Trevor Panczak, award-winning young Magrath country singer and supporter of numerous health and social causes; Joanne Perlich, founder and first President of the Lethbridge Handicapped Riding Association; Ernie Patterson, over 40 years of service on Claresholm Council, politician and vigorous supporter of rural communities; Dave Poulsen, outstanding rodeo announcer, author of 17 books, and promoter of childhood education; Ric Swihart, for over 35 years a highly respected agriculture and business reporter and editor at the *Lethbridge Herald*; Sharon Tennant, tireless proponent of higher education for all and dedicated supporter for persons with disabilities; Ron Watmough, long-time journalist and crusader for the protection of domestic animals and the No Kill Alliance; Doris Wichers, prominent leader in the family restaurant business and promoter of local activities; and Monica Wilson, legendary barrel racer and champion of equal rights and opportunities for women in Canadian rodeo.

Honourable senators, I am very proud of all these people who have changed our communities through their vision and success.

THE LATE ROSA PARKS

Hon. Donald H. Oliver: Honourable senators, I am pleased to rise today to pay tribute to a civil rights icon, Rosa Parks, who died Monday at her home in Detroit at age 92. She is known by many different names. Some call her the mother of the movement that led to the dismantling of institutionalized segregation in the South. Others say she was the Alabama seamstress whose simple act of defiance on a segregated Montgomery bus in 1955 stirred the non-violent protest of the modern civil rights movement. Others say her arrest for violating Alabama's bus segregation laws galvanized Montgomery's Blacks who boycotted the city's buses for 381 days until the U.S. Supreme Court declared the law unconstitutional.

Honourable senators, these are magnanimous achievements. As one American politician said, "Her legacy was her quiet dignity and instinctive rage against injustice."

Honourable senators, the Montgomery boycott succeeded beyond the wildest dreams of its planners. What was planned as a one-day action stretched into a year and two weeks. The boycott nearly bankrupted Montgomery's public transit system, which depended on Black riders for as much as two thirds of its revenue. It also sorely tested the ingenuity and tenacity of Black Montgomery residents, few of whom owned cars. Those who did own them were pressed into service to power an elaborate ad hoc system of carpooling and private cabs. Parks, who had lost her job as a seamstress, served as a dispatcher.

Honourable senators, at this time, a young man by the name of Martin Luther King was a 26-year-old minister of Dexter Avenue Baptist Church, and the Parks incident catapulted him into international prominence. I heard Martin Luther King preach in Toronto at a World Baptist Youth Conference in 1956. He is one of the many influences that have encouraged me to fight for equality rights for all.

Honourable senators, the work of Rosa Parks will long be remembered for the magnificent influence it had on civil rights and human rights movements throughout North America.

[Translation]

COLD LAKE WOMEN'S CONFERENCE

Hon. Lucie Pépin: Honourable senators, it was with great pleasure that I travelled to the military base in Cold Lake, Alberta, last weekend. During my visit, I talked with many of the people who work and live there. I was also the keynote speaker at the opening of the Cold Lake Women's Conference held on October 22.

On that date, women from the region gathered at the Medley Community Centre for a day-long conference, the theme of which was Celebrating Today's Women — You've Come a Long Way. The participants also divided up into small groups to take part in workshops on a variety of themes including health, recreation, physical activity, leadership and non-traditional roles. This conference was a time to share, reflect and enjoy.

The participants came from all over northeastern Alberta and from sometimes very different environments. However, many of them are spouses of military personnel serving at the Cold Lake base. This shared reality shaped our discussions and set the tone for more than one exchange of ideas.

I found it particularly appropriate to attend a women's conference at Cold Lake because October is Women's History Month. This year's theme is Women and War: Contributions and Consequences. The Canadian government wanted to showcase the role of Canadian women in times of war and peacemaking.

• (1340)

Active members of the Canadian Forces are not the only ones making a contribution in this area; there are also the women who provide our soldiers with the steadfast support they need. Without having actually joined the army, military spouses wear the "invisible uniform." Their lifestyles are shaped to a large extent by the military environment. We do not talk about them much, but they are there, standing proud and true.

I reminded the women in Cold Lake that pioneer women, both military and civilian, have shown courage, tenacity, leadership and talent. As women, we owe them a great deal. I also told them that we could be very proud of the gains we have made, but just the same we cannot relax our vigilance because the work is still in progress.

Honourable senators, I would like to take this opportunity to congratulate the organizers of the Cold Lake Women's Conference, particularly the staff at the base's Military Family Resource Center. This conference was right on target, and their hard work ensured its success.

[English]

OVARIAN CANCER

Hon. Terry M. Mercer: Honourable senators, a Decima Research study released in September by the National Ovarian Cancer Association uncovered disturbing facts regarding women's knowledge of ovarian cancer, a disease that kills over 60 per cent of those diagnosed.

Of the women surveyed, 96 per cent could not identify a combination of the most common symptoms of ovarian cancer. This finding is particularly worrisome because there is no screening test for the early detection of ovarian cancer and women and their physicians must rely on symptoms to bring the disease to their attention.

Honourable senators, when women are diagnosed at the early stages, more than 90 per cent can be treated effectively. Sadly, the majority of women are diagnosed later in the progression of the disease, when the survival rate drops dramatically, to 20 per cent. Each year, over 2,400 Canadian women are diagnosed with ovarian cancer. Approximately 1,500 die of the disease annually.

On November 14, 1996, my wife, Ellen, had her last chemotherapy treatment for ovarian cancer. She is still in remission today, but many others are not.

On September 11, 2005, a walk to raise money for research into this silent killer was held in Comox, British Columbia. Walks to raise money for research have also been held in Edmonton, Calgary, Winnipeg, Toronto, Ottawa, Montreal, Halifax and St. John's. For the past few years, I have been walking with my wife and friends, and many of you have been kind to sponsor us, and for that I am most appreciative.

Honourable senators, please continue to support this important cause for your mother, your sister, your wife, your daughter, yourself or your friends.

LITERACY ACTION DAY

Hon. Marilyn Trenholme Counsell: Your Honour, it was my intention to make a statement on the occasion of Literacy Action Day tomorrow, but I then realized that I am scheduled to read to children in your office at that time, so I take this opportunity to make that statement today. I will speak without notes, but I can assure honourable senators that my comments are from the heart.

Tomorrow Senator Fairbairn will bring to the Senate her vast experience and her unparalleled passion on this subject. In anticipation of that, I would thank her and acknowledge the incredible work she does across the land on the subject of literacy. Unfortunately, I will not be in the chamber when she makes that statement.

Honourable senators, in our dealings with children, every day should be Literacy Action Day in every home. That is the message I try to convey at every opportunity.

Tomorrow, largely, what we will discuss is how to treat a malady in our society — I speak as a doctor — something that has gone wrong, an illness. It is, however, a preventable illness. It can be prevented by introducing literacy into every home as soon as children are born. That is why the Born to Read program, Le goût de lire program in New Brunswick, the Read to Me program in Nova Scotia, and the programs in many other provinces, are so important.

[Translation]

Every day is family literacy day.

[English]

For many years, my motto has been: The family home, the cradle of learning and of love.

Honourable senators, each of us has many opportunities to take a parent by the hand and show them how easy it is to read these little books to babies and toddlers. Even if the adult has difficulty in reading, the pictures tell the words. It is amazing. Children will help adults with the words. They will pick you up if you fall, that is, if you do not know the word. On Literacy Action Day and every day, we can help parents to introduce literacy into their homes. Still, at least 30, maybe 40 per cent of our children in this

country go to school totally unprepared. That is because there are no books in their homes. No one has ever read a story to them. There are no games in their homes. It is this love of books, of pictures, of numbers, and the stimulation of imagination that will cure this illness.

I ask honourable senators to think about literacy tomorrow, as Senator Fairbairn speaks to this problem in this country. The real challenge is to ensure that, in every home, every day, children are given the gift of stories. As I said last year, give books this Christmas, this holiday, whatever your holidays are, to children.

QUESTION PERIOD

TREASURY BOARD

RESOURCES FOR DEPARTMENTS TO RESPOND TO ACCESS TO INFORMATION REQUESTS

Hon. David Tkachuk: Honourable senators, while the government has said that they will rehire auditors laid off a decade ago, the Access to Information office struggles without adequate resources.

Adscam was not exposed by the government's internal auditors; it came to light as a result of an Access to Information request. David Dingwall's expenses were exposed not by internal department audits but through an Access to Information request. Horror stories on the gun registry came to light as a result of Access to Information requests.

In his latest report, Access to Information Commissioner John Reid raised the Treasury Board's continuing refusal to give him the staff resources that he needs to do his job. Will the government, as well as beefing up auditing offices, make resources available to hire more people in the access to information area of each department so that they are able to respond to requests that come in from the public and from members of Parliament?

Hon. Jack Austin (Leader of the Government): Honourable senators, I am happy to note Senator Tkachuk's question. I will seek out and provide whatever information I can.

PRIVY COUNCIL OFFICE

RESOURCES TO RESPOND TO ACCESS TO INFORMATION REQUESTS

Hon. David Tkachuk: Honourable senators, according to the report, some departments do a poor job of responding to information requests. In this year's annual report, the commissioner singled out four departments: The Privy Council Office, the Department of Justice, the Department of Foreign Affairs, and the Department of International Trade. One reason cited for delays in responding to access requests is a lack of staff within departments to deal with these requests.

The Leader of the Government in the Senate is supported in his work by one of the departments that received a failing grade, namely, the Privy Council Office. Could he advise the Senate as to

what precise steps the PCO is taking to ensure that staffing does not impose a barrier to timely responses to access to information requests?

• (1350)

Hon. Jack Austin (Leader of the Government): Honourable senators, the question asked by Senator Tkachuk is being considered in the Privy Council Office, and when that answer is available to me it will be provided to the chamber.

Senator Tkachuk: Honourable senators, for the 12-month period ending November 30, 2003, the Information Commissioner gave the Privy Council Office a grade of C. A few days later, Paul Martin became the Prime Minister and for the 12-month period ending November 30, 2004, the PCO has a grade of F, a mark assigned when there are: "...so many major deficiencies that a significant departmental effort is required to deal with their resolution."

After just a year with Paul Martin as Prime Minister, why is the PCO a far less open department than it was under Jean Chrétien?

Senator Austin: I thank Senator Tkachuk for the question. I will add that to the work I will do to try to respond.

CANADA-UNITED STATES RELATIONS

REQUIREMENT TO SHOW PASSPORTS AT BORDER CROSSINGS

Hon. Hugh Segal: Honourable senators, my question is for the Leader of the Government in the Senate. It is a follow-up to questions that I had the privilege of putting to him last week with respect to the American emergent policy relative to passports being required within a two-year period of time for land travel across our border.

As the honourable senator will understand, coming from British Columbia as he does, the disposition of this matter is of great import and substance for many Canadian communities. The American Secretary of State was recently in Ottawa. I made the point last week that the U.S. State Department and U.S. Department of Homeland Security continue to push for this policy despite President Bush and Senator Hillary Clinton having expressed a contrary view. Is the minister able to report to us today on any progress that might have been made yesterday or any new process that might have been set in place in a constructive way to advance this matter?

Hon. Jack Austin (Leader of the Government): Honourable senators, I cannot provide anything to this chamber on the question of border security and border access beyond the fact that the subject was on the formal agenda of talks.

Senator Segal: Honourable senators, in making any further inquiries about the proceeding that took place yesterday, and determining whether he can share any of that with us, would the Leader of the Government in this chamber inquire as to whether the next steps have been decided upon by our own government, relative to making representations in the U.S. House of Representatives, the U.S. Senate or with the U.S. State

Department? Will the Leader of the Government also inquire as to whether any innovative proposals are coming forward from any official Canadian source with respect to biometrics or other methodologies that might be used to reduce the salience of the passport?

The minister will know, as will other honourable senators, that Canadians have a much higher percentage of passport ownership than our American friends. Therefore, the main pain and suffering, if you wish, will occur from limiting Americans coming across the border, which for places such as Kingston, Brockville, and the Thousand Islands, are absolutely fundamental, as they are for many other communities across Canada.

Senator Austin: Honourable senators, I share with Senator Segal his concern about the disruption of the economies of both Canada and the United States with respect to these proposed security measures being considered by the Department of Homeland Security and by the Secretary of State in the United States.

When Senator Segal and I had an exchange previously, we also acknowledged that serious security questions are involved. These issues are being dealt with at technical levels. The points the honourable senator makes about biometrics must be evaluated. We must know not only whether they work, but also what it would cost to introduce these various measures.

I do not believe the work underway today will produce any specific reportable results. It should be acknowledged again that the issue is of paramount importance and is being worked on diligently.

As Senator Segal will know, having been a chief of staff to a previous prime minister, the discussions are of a bilateral nature. Canada and the United States require the consent of the parties to announce process, progress or conclusions. I believe it will be a while yet before anything can be reported, but I will certainly stay on the file.

BORDER ISSUES—POSSIBILITY OF FORMING INTER-PARLIAMENTARY COMMITTEE

Hon. Hugh Segal: When Senator Clinton was in Massena, New York, she said that she and many of her colleagues voted for the broad piece of legislation that produced this specific problem without actually understanding the implication, and many of them were caught in that divide. Would the Leader of the Government in the Senate give some consideration to the notion of a joint presence between members of this place and the other, along with our colleagues in the American Congress to make some representations and perhaps begin to work constructively, at least on the legislative side, while the diplomats and bureaucrats do what they have to within the normative context?

Hon. Jack Austin (Leader of the Government): I am a great fan of parliamentary diplomacy. In this chamber, Senator Grafstein is the co-chair of the Canada-United States Interparliamentary Group. I will have a discussion with him. We have had colleagues from this chamber, along with members of the other place, in Washington, discussing this topic with U.S. legislators.

I believe that it is a well-merited pursuit for parliamentarians to carry on the dialogue at the legislative level. I thank the honourable senator for his proposal.

INDUSTRY

BOMBARDIER—BUILDING OF PLANT IN MEXICO

Hon. Mira Spivak: Honourable senators, over the weekend it was reported that Bombardier is set to outsource jobs to Mexico. The company is expected to announce the construction of a \$200 million manufacturing facility in Querétaro, Mexico that some reports say will create 5,000 jobs north of Mexico City. Others say the first 360 aerospace jobs are just the start of what could be a stream of job transfers to the city.

All honourable senators are well aware of the amount of support the Government of Canada has given to Bombardier. The company whose customers had what looks like \$6.5 billion in outstanding loans to Export Development Canada, as of December 31, 2003, is asking for more money.

I have a particular interest in this question, because an active government lobbyist has contacted my office on several occasions and has suggested that under certain circumstances, which I will not go into here, Bombardier could move its entire production to Mexico.

What does the government expect to recover, while Bombardier's suppliers in Ontario and the West suffer, if the anchor of Canada's aerospace industry, Bombardier, keeps moving jobs to Mexico?

Hon. Jack Austin (Leader of the Government): Honourable senators, I am not aware of the news reference to which Senator Spivak refers. Therefore, I will have to consider the question and make inquiries of my colleagues in the cabinet to understand the events transpiring.

Senator Spivak: I have copies of the news report that I will be pleased to give to the office of the Leader of the Government.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before going to delayed answers, I would like to draw your attention to the presence in our gallery of the Right Honourable Jack McConnell, MSP, First Minister of Scotland. On behalf of senators here today, welcome to our chamber.

• (1400)

As well, honourable senators, I draw your attention to the presence in the gallery of Ms. Jenny Randerson from the National Assembly for Wales. She is the Liberal Democrat member for Cardiff Central and Chair of the Business Committee. Welcome to our chamber.

Both our guests today are in the company of British High Commissioner David Reddaway. Welcome to you as well, sir.

ORDERS OF THE DAY

PUBLIC SERVANTS DISCLOSURE PROTECTION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Smith, P.C., seconded by the Honourable Senator Eggleton, P.C., for the second reading of Bill C-11, An Act to establish a procedure for the disclosure of wrongdoings in the public sector, including the protection of persons who disclose the wrongdoings.

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, I remind the chamber that the opposition reserves its 45 minutes to the leadoff speaker on this issue.

The Hon. the Speaker: Is it agreed?

Hon. Senators: Agreed.

Hon. Mira Spivak: Honourable senators, I support this bill in principle. We have needed whistle-blower protection in Canada for a long time. The need may be obvious today, as the report of the Gomery inquiry looms, thanks to Allan Cutler, the original whistle-blower of the Public Works and Government Services Canada advertising and sponsorship scandal.

However, the truth is that there have always been principled public employees who have had the courage to go public when they had knowledge of wrongdoing — wrongdoing that breached a law, endangered the public or tossed tax dollars down the drain.

Within our memory, we can thank Pierre Blais, the Health Canada scientist who exposed the risks of silicon breast implants in the 1980s; Elizabeth May, who was a one-time minister's assistant and who resigned and then exposed the deals behind the Rafferty and Alameda dams and the breach of environmental assessment law; Michelle Brill-Edwards, who took a Health Canada director to court for overruling the scientific decisions on drug safety; or Nancy Olivieri, a University of Toronto researcher who fought back when a drug company tried to suppress findings of clinical trials.

Typically, these whistle-blowers receive a deluge of kind words, awards and kudos, but in practical terms they are punished, isolated, shunned, red-circled, demoted and often forced to resign when they are not fired. Their financial security suffers, their career suffers, and every so often their health suffers dramatically.

Historically, we have not protected them. The U.S., Britain and Australia have had whistle-blower protection for years. We have had none. We are not protecting them today. This bill, unofficially dubbed the Whistleblower Protection Act, although a step in the right direction, will not give them enough protection.

Mr. Cutler, now retired from the public service and director of the Federal Accountability Initiative for Reform, FAIR, has critiqued the government's various bills. On this bill, he is blunt. He recently wrote to *The Hill Times*:

I would never recommend that a whistleblower trust that this bill would protect them. It is deficient in a number of important ways...

He lists eight of them, in addition to the fatal flaws that the co-ordinator of Democracy Watch, Duff Conacher, pointed out as the bill was making its way from the House of Commons to this chamber. Mr. Conacher identified, among other things, the absence of public rulings so the public will know what took place, the protection for the identity of the wrongdoer, and the bill's narrow application.

To that list, Mr. Cutler added other significant objections: that the independent commissioner does not have the power to force compliance to protect the whistle-blower; that the government can add or delete any Crown corporation or other public body at will, and three points I want to stress by example.

First, the bill leaves the burden of proof for reprisals on the whistle-blower; second, the remedy for the reprisals is to apply to the Public Service Staff Labour Board; and third, the person accused or involved in the complaint may be assisted or represented by counsel paid for by the government, while the whistle-blower is not assigned a lawyer.

The example I cite will be familiar to some of you. Some of you may have passing knowledge of it, and to some it may be entirely new because the three whistle-blowers it concerns have been out of the headlines for more than a year. I note Senator Kinsella's considerable work in this area. This example speaks not only to the integrity of the government but especially to the integrity of the Senate.

I speak, of course, of the three Health Canada scientists — Shiv Chopra, Margaret Haydon and Gerard Lambert — three highly qualified, experienced scientists who worked in what was then Health Canada's Bureau of Veterinary Medicine. Their job for many years was to judge the safety and efficacy of drugs entering the market for food-producing animals — the safety for the cows, pigs and poultry that end up on our dinner tables — and the safety, or lack of safety, for people who consume the beef, pork and chicken that may contain traces of those drugs, or people who may contract diseases that can be transmitted from animals to human. Think avian flu or mad cow disease.

Some 10 years ago, these scientists grew alarmed by what they viewed as pressure on them to approve drugs of questionable safety. They felt the pressure from managers who lacked scientific training and balked when the scientists simply wanted to ask drug manufacturers to supply more data establishing safety before approving a drug. Managers who lacked scientific training in this area happened to be a tendency some years ago when it was felt that the managers ought not to be people with scientific background but people with managerial background.

In those years, they were concerned about the rapid use of growth hormones and antibiotics in factory-like farm operations. While the national media made much ado about drugs tests for our prime athletes, these drug evaluators were concerned about drug residues in our prime rib.

As mad cow disease ravaged the cattle industry in Britain and parts of Europe, they also became concerned about animal feed that contained ground-up cattle or waste from poultry barns or road kill. In fact, in December 1997, through the Professional Institute of the Public Service of Canada, they warned the Prime Minister in writing:

Health Canada plays an integral part in ensuring Canadians do not face disasters such as BSE (mad cow disease.) We cannot afford to play "Russian Roulette" with the legislation that governs the inspection of food and drugs in this country.

As it turns out, they were ignored, and we all know the horrific costs to the cattle industry that resulted.

They went through the proper channels, filed grievances, called for an external investigation and finally named names of those in Health Canada they believed were standing in the way of fulfilling their duty to protect the public interest. Seeing no change, in 1998, they appeared on national morning television and repeated the charge that they were "being pressured to approve drugs of questionable safety and the department (was) not willing to look into the matter."

That same year, they appeared before the Standing Senate Committee on Agriculture and Forestry, and greatly assisted us into our study of the growth hormone rBST and the drug approval process. If you missed the news back then, rBST was the first genetically engineered drug to land at the door of the department. It had no therapeutic benefit and, in fact, had all sorts of harmful effects on cattle. Monsanto wanted to sell it in Canada to help farmers increase milk production. The scientists were extraordinarily well informed and reluctant to give the nod to the drug. They were also, frankly, fearful of reprisals. They feared losing their jobs.

Here is how our committee report put it in March 1999:

Several of the Health Canada scientists who appeared before the Committee were so concerned about their future employment that they delayed appearing until they had received assurance that there would be no reprisals.

As well, they took the unusual step of swearing an oath before testifying. These concerns are serious, and the Committee reiterates the point made during their appearance: it wishes to be contacted should they feel they are suffering reprisals related to their appearance, whether in the short or long term.

• (1410)

There were reprisals, including a five-day suspension without pay for Dr. Chopra, a suspension the department claimed was not linked to his appearance before the Senate committee but, rather, to statements he made at a March 1999 conference on employment equity.

Our Rules Committee did investigate and, in April 2000, found that the standard of proof required to determine that contempt of Parliament had occurred had not been met, adding, "...but that is not to say there is no evidence." The committee stated:

The evidence clearly establishes that the working environment at the Bureau of Veterinary Drugs at Health Canada is highly unsatisfactory. There is a great deal of suspicion and lack of trust, and therefore allegations of this nature cannot be entirely discounted. Your Committee finds this situation deplorable, and urges the Minister of Health and the Deputy Minister to take steps to remedy it, as a priority and a matter of urgency.

The remedy, as it turns out, was further isolation for these whistle-blowers, working conditions that led to further stress and sick leave, and a suspected heart attack that claimed the life of one of our witnesses.

Finally, on July 14, 2004, the three remaining defenders of the public interest were simultaneously fired, with Health Canada claiming it had nothing to do with their activities as whistle-blowers. The government holds to that spin.

I will read to you what some of the nation's editorial writers and columnists had to say. In the *Montreal Gazette* we saw the following article:

Health Canada fired three of its most visible and controversial employees this week, leading everyone with a functioning brain to suppose the action was retaliation for their public criticism of departmental policy.

The London Free Press article stated:

It is suspiciously convenient that three Health Canada scientists who happened to be among this country's most outspoken whistleblowers are also guilty of other, undisclosed, offences so serious that they had to be fired. It is a curious coincidence that the three were fired on the same day.

The Toronto Star wrote:

Unlike the United States, Britain and Australia, Canada still has no protection for federal public servants who, in good faith, blow the whistle on improper or illegal conduct by officials or agencies. Health Canada's firing of three outspoken scientists this week is a reminder that we need such a law.

These diverse views of the sad event — Health Canada's on the one hand and the scientists' and the press on the other — were presented 15 months ago. The only remedy available to the scientists — the same remedy proposed in Bill C-11 — is a hearing before the Public Service Labour Relations Board. Applications were filed, and the applicants waited. They still have not had disclosure of documents. They have not had a single day of hearings in a case that is likely to take between 20 and 30 days of hearings before the board.

A few days were slated for next month and then cancelled, according to their lawyer, because the board cited “reasons beyond its control.” A few days are slated for mid-December; and in response to a request for dates any time between January and March, the government offered two dates in February.

If they are lucky, these whistle-blowers will get the board hearing to which they are entitled within two years of their dismissal. That is two years without income, without interim relief, and with the stress and strain of unemployment.

Of the government-prompted delays, their lawyer puts it mildly: “You have to wonder how they can’t be available for so long.”

I think that we collectively have a moral duty to do better for these whistle-blowers who helped us do our work, which, not incidentally, was a factor in keeping rBST residue out of our milk supply, an action that encouraged other countries to follow suit.

As far as this bill is concerned, we should ensure that it does not permit similar procedural delays and abuses in the future.

For these three, we should not forget our promise to them to be open to hearing any facts they want to present to us on any long-term reprisals. I know that they have again approached the Rules Committee and are waiting to know whether they will be invited to appear before the committee. The committee that examines this bill should also hear from them, and I look forward to the discussion of this bill in committee.

At the end of the day, we must honour our word.

On motion of Senator Stratton, for Senator Kinsella, debate adjourned.

FOOD AND DRUGS ACT

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

Hon. Terry M. Mercer moved second reading of Bill C-28, to amend the Food and Drugs Act.

He said: Honourable senators, I am pleased to commence second reading debate on Bill C-28, which proposes two amendments to the Food and Drugs Act. These amendments would provide the Minister of Health with the authority to allow Canadians faster access to a wider variety of safe and nutritious food products.

The bill was introduced in response to the concerns of the Standing Joint Committee of the Senate and the House of Commons for the Scrutiny of Regulations about the legal status of regulations that currently permit issuance of notices of interim marketing authorizations under the Food and Drug Regulations. These notices allow the availability of safe foods in the Canadian marketplace earlier while the formal process is undertaken to amend the regulations.

The amendments introducing this concept into the Food and Drug Regulations came into effect in July 1997 after thorough consultation and analysis and in accordance with the requirements of the federal regulatory process.

These provisions allow the director, defined as the “Assistant Deputy Minister of the Health Products and Food Branch of Health Canada,” to issue a notice of interim marketing authorization. This notice exempts certain foods from the application, in whole or in part, of the regulations after a thorough safety assessment has concluded that no harm would be caused to the consumer or the user. By doing so, the director can allow the sale of these foods by all manufacturers and producers while the regulations are amended.

Honourable senators, the final step in the federal regulatory process is the review by the Standing Joint Committee for the Scrutiny of Regulations made by the Governor-in-Council as per the Statutory Instruments Act. The standing committee conducted its review of the notice of interim marketing authorization provisions and expressed concerns that the power to exempt food products from the provisions of the Food and Drugs Regulations conferred an ultra vires administrative discretion on the director of a legislative authority granted by Parliament to the Governor-in-Council.

In essence, the standing committee maintains that the regulations that allow for the issuance of notices of interim marketing authorizations are beyond the regulation-making authority of the Food and Drugs Act; hence this bill.

Since these regulations came into effect, Health Canada has issued 82 notices of interim marketing authorization with no problems or concerns expressed by consumers or industry.

The consumer has benefited from early access to new and safe food products. For example, foods containing added vitamins and mineral nutrients to improve their nutritional quality were marketed earlier. In addition, notices of interim marketing authorization have allowed the earlier sale of foods derived from crops that have been treated with safe, effective agricultural chemicals, including pest control products.

• (1420)

In order to maintain the current mechanism that offers benefits to consumers and industry by allowing timely access to safe food products, the government has introduced Bill C-28. The first proposed amendment would provide the Minister of Health with the authority to exempt the food from the application in whole or in part of sections 5 to 6.1 of the Food and Drugs Act and the applicable requirements of the Food and Drug Regulations.

The minister would do this by issuing an interim marketing authorization, which would allow the immediate sale of some food products for which scientific assessment has established that these products would not pose a hazard to the health of Canadian consumers or users. The sale of these food products would be allowed while the full regulatory process would be undertaken to amend the regulations.

This is an important point. The issuance of an interim marketing authorization would not affect or circumvent the conducting of a thorough safety assessment prior to the availability of these food products on the market. These authorizations could only be issued when the scientific evaluation concludes that no harm to consumers would result from the consumption of the food, and Health Canada has made the decision to propose the regulatory amendment for: (1) the extension of use of a food additive already permitted to be added in other foods into a new food, or the change of a permitted level of use of a particular additive; (2) maximum residue limits of an agricultural chemical — including pest control products — or veterinary drug in a food where the Food and Drug Regulations already permit these substances in other foods, or the increase in the permitted maximum residue limits; or (3) the addition of vitamins, mineral nutrients or amino acids at different levels than those listed in the regulations, or to new foods.

The limited scope of application of the interim marketing authorization mechanism in this bill is exactly the same as in the current regulatory mechanism reviewed by the standing committee. The only difference is that it clearly specifies the authority in the Food and Drugs Act instead of in the regulations.

The second aspect of Bill C-28 relates to pest control products and how they are regulated under the Pest Control Products Act and the Food and Drug Regulations. The new Pest Control Products Act, which received Royal Assent in December 2002, provides the minister with authority to specify maximum residue limits for a pest control product, its components or derivatives in or on food.

Before specifying the maximum residue limit, the minister must evaluate the health risks of the product and must determine that the risks are not significant. For that purpose, there must be reasonable certainty that no harm to human health will result from the consumption of food containing the residue of this specific pest control product at or below the specified maximum limit.

However, the adulteration provisions in the Food and Drugs Act and its regulations state that foods are adulterated if they contain residues of pest control products above levels set out in the regulations. Therefore, foods containing residues of pest control products at or below the maximum limit specified by the minister under the Pest Control Products Act cannot be sold until the specified maximum residue limit is also established in the Food and Drug Regulations.

The delay caused by the need for regulatory amendments to the Food and Drug Regulations can be as long as two years. The proposed amendment to the Food and Drugs Act recognized maximum residue limits specified under the new Pest Control Products Act for Food and Drugs Act purposes, which would result in administrative efficiencies and would also benefit the agricultural industry by allowing faster access to improved pest control products for use on food crops.

Bill C-28 will not permit foods that are unsafe, or whose safety has not been evaluated, onto the market. Interim marketing

authorizations will be considered only for an additional use, or a change in the permitted level of use, of certain products that have been previously reviewed and approved by Health Canada.

Issuance of an interim marketing authorization will require a new safety assessment to be conducted by Health Canada, even though the product is already in use. This will provide a valuable opportunity to update the original safety assessment and to ensure that any new use is based on the results of the most current, comprehensive and science-based safety assessment.

An interim marketing authorization would only be issued if Health Canada scientists conclude that there will be no hazard to the health of the consumer.

The proposed amendments to the Food and Drugs Act support the Speech from the Throne of October 2004 objective of providing a predictable regulatory system that accomplishes public policy objectives efficiently while eliminating unintended impacts.

The proposed amendments are also in line with the ongoing intent of the Government of Canada's Smart Regulation Initiative, and the recommendations for the External Advisory Committee on smart regulation. Their aim, in part, is to provide access to safe products in a more timely fashion and remove possible restrictions on international trade.

In addition, the proposed amendments will support the ongoing work of the North American Free Trade Agreement Technical Working Group on Pesticides, through which Health Canada and the United States' Environmental Protection Agency have accelerated bilateral harmonization in the registration of pest control products. This is in order to provide faster and simultaneous access to a wider range of newer, safer pest management tools in both countries.

I invite you, honourable senators, to pass this bill to ensure that the Minister of Health can continue to allow consumers to have timely access to safe food products.

On motion of Senator Keon, debate adjourned.

FIRST NATIONS GOVERNMENT RECOGNITION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator St. Germain, P.C., seconded by the Honourable Senator LeBreton, for the second reading of Bill S-16, An Act providing for the Crown's recognition of self-governing First Nations of Canada.—(subject-matter referred to the Standing Senate Committee on Aboriginal Peoples on February 22, 2005)

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, we need to reset the clock on this item. The bill is before the committee. This item should hold its place on the Order Paper so that it can be debated when the bill is reported to the house. I would ask that we begin this procedural process again.

The Hon. the Speaker: Is it agreed, honourable senators, that this matter be returned to day one as of the next sitting?

[English]

Hon. Senators: Agreed.

On motion of Senator Rompkey, debate adjourned.

• (1430)

[Translation]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

MOTION TO ALLOW REINTRODUCTION OF BILLS FROM ONE PARLIAMENTARY SESSION TO THE NEXT ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Hervieux-Payette, P.C., seconded by the Honourable Senator Smith, P.C.:

That the Standing Committee on Rules, Procedures and the Rights of Parliament study and make the necessary recommendations on the advisability of amending Senate practice so that bills tabled during a parliamentary session can be reintroduced at the same procedural stage in the following parliamentary session, with a view to including in the *Rules of the Senate*, a procedure that already exists in the House of Commons and would increase the efficiency of our parliamentary process.—(Honourable Senator Lapointe)

Hon. Jean Lapointe: Honourable senators, when Senator Hervieux-Payette, whom I admire for her candour and her talent, called for the Standing Committee on Rules, Procedures and the Rights of Parliament to study and make the necessary recommendations on the advisability of amending Senate practice so that bills tabled during a parliamentary session can be reintroduced at the same procedural stage in the following parliamentary session, with a view to including in the *Rules of the Senate* a procedure that already exists in the House of Commons and would increase the efficiency of our parliamentary process, I was very pleased.

Honourable senators are familiar with my aversion to wasting time. During the process of studying the bill on video lottery terminals, we were treated to an election and a prorogation, so I had to start the debate over from the beginning every time. It is deplorable that the upper chamber must lose so much time in repeating speeches that have already been given. I support Senator Hervieux-Payette's motion 150 per cent.

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

Motion agreed to.

EFFICACY OF GOVERNMENT IN IMPLEMENTING KYOTO PROTOCOL

INQUIRY—DEBATE CONTINUED

On Inquiry No. 19, by Senator Andreychuk:

That she will call the attention of the Senate to the failure of the government to address the issue of climate change in a meaningful, effective and timely way and, in particular, to the lack of early government action to attempt to reach the targets set in the Kyoto Protocol.

Hon. A. Raynell Andreychuk: Honourable senators, I rise to rewind the clock so that I might speak to this item next week.

The Hon. the Speaker: Is it agreed, honourable senators, that the clock be rewound on Item No. 19 and that it stand in the name of the Honourable Senator Andreychuk?

Hon. Senators: Agreed.

On motion of Senator Andreychuk, debate adjourned.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

MOTION TO AUTHORIZE COMMITTEE TO STUDY STATE OF PREPAREDNESS FOR PANDEMICS—DEBATE ADJOURNED

Hon. Terry Stratton (Deputy Leader of the Opposition), pursuant to notice of October 19, 2005, moved:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report upon the state of preparedness for a pandemic on the part of the Canadian Government and in particular on measures that Canadians and Canadian businesses and organizations can take to prepare for a pandemic; and

That the Committee submit its report no later than December 8, 2005.

He said: Honourable senators, this week, ministers of health from around the world and heads of international organizations gathered in Ottawa to discuss key issues and to coordinate their preparations for a possible influenza epidemic.

[Translation]

This proves that the government does not take the threat of a possible global epidemic lightly and for that we commend them.

[English]

Taking steps to work with other governments is fine but we need to ensure that we are doing everything we can to help Canadians prepare here at home. That is why I am calling on the Standing Senate Committee on Social Affairs, Science and Technology to study and report on this country's state of

preparedness for a pandemic and, in particular, the measures that Canadians, individually and as families, businesses and organizations can take to prepare for that possible event.

The word “pandemic” has been tossed around a great deal lately. Let us be clear on what we mean. We are talking about an influenza pandemic, which occurs when a new virus appears that spreads easily, potentially globally, and against which people have little immunity. Because pandemics typically arrive every 30 years or so, and there has not been a major one since the late 1960s, we appear to be overdue for the next one, but we do not know when it could happen — in six months or six years — or how bad it could be. Many strongly believe that the next pandemic will come in a mutation of the H5N1 strain of avian flu. The strain has already killed some 65 of 116 people known to have been infected in Asia. It is spreading quickly and widely and has been detected in Europe for the first time, where it infected birds in Turkey, Romania and Greece. As the fall season rolls along and birds migrate, the next fear is for Africa.

Currently, this highly virulent strain cannot be passed from animal to human. The risk would occur if the flu were to evolve into a strain capable of passing from human to human. That evolution could result in a pandemic rivalling the 1918 Spanish flu, which killed 20 million to 40 million people worldwide. If the virus were particularly nasty, the effect of a pandemic could be, as the Conference Board of Canada recently put it, “catastrophic.” In its report, *Performance and Potential 2005-2006*, the board states:

The consequences would be devastating, with the estimated number of victims ranging between 180 and 360 million. Aside from the sheer dent in the global workforce, an epidemic of medium proportions would break global production chains, shatter trade and impede the delivery of services involving human contact. A flu pandemic on a large scale would throw the world into a sudden and possibly dramatic global recession.

Sherry Cooper of BMO Nesbitt Burns stated in the October 2005 report, *Don't Fear Fear or Panic Panic*:

The bottom line is that a pandemic, even one meaningfully less virulent than the 1918 influenza outbreak ... would have hugely disruptive effects. Depending on its length and severity, its economic impact could be comparable, at least for a short time, to the Great Depression of the 1930s.

• (1440)

According to a U.S. federal report leaked to the *New York Times* a few weeks ago, hospitals would be overwhelmed, riots would strike vaccination clinics and even power and food supplies might be disrupted. This is the reality we may be facing. There is a great possibility that a pandemic will overcome the earth at some point in the future. It could be mild, as it was in 1968, or it could be as devastating as it was in 1918.

The key question is: Are we as a country ready? Just last week, Canada's Minister of State for Public Health, Dr. Carolyn Bennett, talked to the *Winnipeg Free Press* about SARS and the lessons we learned from that relatively minor outbreak. In her opinion, the biggest problem with SARS was the hysteria created by a lack of information. She said:

It was a problem of fear and not knowing. I think people need to know there is a plan. Everyone needs to know what they have to do.

My message to the minister is this: There is still no information available for Canadians. There is no public education guiding people about practical measures they can follow to protect themselves and those around them.

It has gotten so bad that some members of Parliament, even Liberals, are starting to issue their own avian flu advisories. Conservative member of Parliament Carol Skelton has pointed out that the website for public health has not been updated since early September. NDP Member of Parliament Jean Crowder said, and I am quoting from *The Hill Times*:

There are still some places where we haven't done enough work for example, I don't see us having put in place a communications network...

Here is my contribution on the matter of education. Each of us can take four steps that will help to stop the spread of any viral infection, and we should be doing these things all the time, 12 months of the year. First, you wash your hands using soap. It is not enough just to rinse them under the tap. This is probably the most important thing that any one of us can do to stop disease in its tracks. I wonder how many here really know how to wash their hands. Perhaps Dr. Keon and a few others in the health care system know how to do it, but I do not think many of us know how to do it properly. Perhaps Dr. Keon can give us a demonstration.

The second recommendation is to use cough and sneezing etiquette. This means covering your mouth and nose if you cough or sneeze. Using a hanky or tissue would be even better, and do not forget to wash your hands after. It is plain and simple.

Stay home if you are sick. It sounds simple. Last year, I made the mistake of not staying home. Being a macho guy, I got sick, took pills and kept going to work. I should not have done that. I apologize for it. The next time I get sick, remind me to stay home.

If you are not sick, avoid sick people, if possible. You do not want to get sick, so avoid them. We all have the habit of putting our fingers up to our eyes. We put our fingers up to our noses to scratch. That causes problems.

These four steps are things that we already know we should do, but we do not necessarily do them because they either take extra effort or we are not aware of the impact that not doing them can have on our own daily lives. It takes time to get a message like this across.

We found out from the SARS experience that people did not immediately do the things they were supposed to do to protect themselves, things like following the four steps I just listed. The importance of these measures has to be learned.

For that reason, we need to start working now through public education to make people aware of what they can do and turn that awareness into action. These actions, such as the four steps, must become second nature to us before any epidemic or pandemic arises. While this may not stop the spread of the virus, it sure can help to slow it and it may save lives, including your own and those of the people you love.

I call on the Social Affairs Committee of the Senate to present a report on what Canadians individually, as families, and as businesses can do to get the needed information out there, and to kick-start the process of educating people and help them acquire habits that will help slow the spread of disease.

Canadian businesses and organizations must also develop strategies before a pandemic shows up at their doorstep. They are valuable crucibles for reinforcing the four steps I have discussed. However, in the face of a pandemic, they have the additional burden of trying to continue their operations when their employees stop showing up for work because they are sick, supplies are unavailable, infrastructure is falling apart and clients disappear. Large firms operating across borders must work with different political jurisdictions that have their own rules and procedures to fight a pandemic.

SARS thumped Toronto's economy hard, and it was just a minor outbreak, albeit with 44 deaths. Imagine for a moment the economic impact of countless SARS outbreaks springing up throughout the country for months on end.

I understand that the federal and other ministers of health will be meeting with business leaders in November. This could be a good start, depending on who is involved and what is accomplished and the information that is available to all businesses thereafter. Leadership and direction is needed.

[Translation]

I repeat: providing information is critical and a public study on the major challenges could help achieve this goal.

[English]

In the past years, we have faced many problems together: SARS in Ontario, an avian flu outbreak in British Columbia, an ice storm and a major power failure in parts of Eastern Canada. We have had hurricanes, floods, snowstorms, and just about anything else you can think of. Through each of these disasters we have learned, I hope, many lessons in how to respond. My fear is that we have not properly applied these lessons and that they are not being adequately communicated to the people of this country.

I want all Canadians to be prepared and knowledgeable should a pandemic hit. That is why I want the Standing Senate Committee on Social Affairs, Science and Technology to examine how ready we are, as well as the practical steps we can take to prepare, particularly the latter.

[Senator Stratton]

As the former Prime Minister of the United Kingdom, Stanley Baldwin, prophesized before the start of the Second World War, "The bomber will always get through." Whether that bomber is dropping a nuclear bomb or a firecracker, I want to ensure that we are ready for what is ahead.

Hon. Jean Lapointe: Will Senator Stratton accept a question?

Senator Stratton: Yes, I will.

Senator Lapointe: Before I ask my question, I should like to pay two compliments to the honourable senator. First, I compliment him for raising this serious matter which he addressed, incorporating some humour. I find the honourable senator more sympathetic when he is funny.

Second, I believe that the honourable senator had two French interventions in his speech. They were exquisite, and I congratulate him on his competent use of the French language.

My question is this: Does the honourable senator, even though he is an opposition member, have any idea when the vaccine will be available for use to enhance the taking of all of the precautions he mentioned?

Senator Stratton: I thank Senator Lapointe for paying me those two compliments. On the first one, I would just say, please remind me when I get too serious. That needs to happen. As to his compliment concerning my use of the French language, I am fortunate to have a marvellous professor from Collège universitaire de Saint-Boniface in Winnipeg who is helping me immensely.

With regard to the vaccine, it is unfortunate that, since only so many doses are available, it will be impossible for every Canadian to be vaccinated, if the flu should strike in the next little while. We must accept that reality and move on. That is why I say it will take an education process, and every country is in the same boat. The United States is in the same boat, as well as Great Britain. We are not alone in not being able to produce enough vaccine.

• (1450)

It would help if we throw some money at it. I encourage governments to throw some money at half those countries that now have to kill their flocks of domestic birds. The farmers there do not get compensated. They come in, they kill their birds, and the farmers are left destitute. In Indonesia, as an example, they are not killing the birds. They are letting the birds get sick and die, and they are still not culling the flock.

There will not be enough vaccine. We must recognize that. That is why I believe there needs to be an educational process where we can take steps like the first four I described. Those steps would be sufficient for now.

We are starting the flu season right now. Honourable senators will notice that certain people in this chamber have colds. I believe it is important that we do those things as a first step, but I also think there needs to be a second and third level of care taken by individuals, families and businesses if this flu evolves into a pandemic. The first four steps I described we should be doing anyway. Hopefully I have answered the honourable senator's question.

Hon. Bill Rompkey (Deputy Leader of the Government): I am glad Senator Lapointe said that we could be a little funny on this issue, even though it is a serious one, because I wanted to remind Senator Stratton of a little rhyme that I learned in the Junior Red Cross in grade 5. I was elected secretary of the Junior Red Cross in grade 5, and the little rhyme that we learned was, "Whenever you cough or sneeze or sniff, be quick, my lad, with your handkerchief."

On motion of Senator Rompkey, debate adjourned.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to the presence in our gallery of a delegation of senior officials on health care from Russia who are visiting Ottawa and Vancouver to share, and to have shared with them, information about matters such as those we have heard about from Senator Stratton and Senator Lapointe, as well as other matters. They are accompanied by Mary Collins, our former colleague from the other place, and they are the guests of Senator Fairbairn. Welcome.

Hon. Senators: Hear, hear!

[Translation]

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY ON BILINGUAL STATUS OF CITY OF OTTAWA

Hon. Lise Bacon, pursuant to notice given October 25, 2005, moved:

That, notwithstanding the Order of the Senate adopted on Wednesday, April 13, 2005, the date for the presentation of the final report of the Standing Senate Committee on Legal and Constitutional Affairs on the petitions tabled

during the Third Session of the Thirty-seventh Parliament, calling on the Senate to declare the City of Ottawa a bilingual city and to consider the merits of amending section 16 of the Constitution Act, 1867, be extended from October 27, 2005 to June 30, 2006.

Motion agreed to.

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY ON INCLUDING IN LEGISLATION NON-DEROGATION CLAUSES RELATING TO ABORIGINAL TREATY RIGHTS

Hon. Lise Bacon, pursuant to notice given October 25, 2005, moved:

That, notwithstanding the Order of the Senate adopted on Wednesday, November 3, 2004, the date for the presentation of the final report of the Standing Senate Committee on Legal and Constitutional Affairs on the implications of including, in legislation, non-derogation clauses relating to existing aboriginal and treaty rights of the aboriginal peoples of Canada, under s. 35 of the Constitution Act, 1982, be extended from October 31, 2005 to June 30, 2006.

[English]

Hon. Terry Stratton (Deputy Leader of the Opposition): As I understand it, the reason is that the Honourable Senator Bacon is dealing with legislation; that is her priority and that is why these two items are delayed.

An Hon. Senator: Question!

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

Motion agreed to.

The Senate adjourned until Thursday, October 27, 2005, at 1:30 p.m.

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