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THE HONOURABLE NOËL A. KINSELLA
SPEAKER

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THE SENATE

Friday, December 11, 2009

The Senate met at 9 a.m., the Speaker in the chair.

Prayers.

[*Translation*]

SENATORS' STATEMENTS

THE LATE HONOURABLE JEAN-ROBERT GAUTHIER, C.M.

Hon. Marie-P. Poulin: Honourable senators, our former colleague, the Honourable Jean-Robert Gauthier, passed away yesterday at the age of 80. His accomplishments have helped make Canada stronger, more balanced, and more rooted in its rich history of two languages and two founding peoples.

Jean-Robert was born in 1929 in Ottawa. Very early on, he developed a survival instinct. He was abandoned by his father and placed in an orphanage at the age of three. At six, he moved in with his grandfather, Dr. Louis-Philippe Gauthier, a former federal member of Parliament and clerk of the Senate.

Jean-Robert's life in the public eye began in 1960, first as a school board trustee, then as a member of the House of Commons from 1972 to 1994, and finally as a senator from 1994 to 2004.

All of his accomplishments in education, healthcare and official languages, among others, were based on a principle that is essential to the development of Canada: minority language rights must be protected by the Constitution, laws and regulations.

The Honourable Jean-Robert Gauthier truly did embody the meaning of the expression "having the courage of his convictions." On behalf of all of my parliamentary colleagues here today, I offer our sincere condolences to his wife Monique and to their children and grandchildren.

Hon. Dennis Dawson: Honourable senators, last night, the honourable Speaker brought us the sad news of the passing of our friend Jean-Robert Gauthier. I had the pleasure of serving in the other place with Jean-Robert. He had already retired from the Senate by the time I arrived. If you were to search for "Gauthier" in Google, I am sure that one of the first results to come up would be Jean-Robert Gauthier, that strong advocate for the francophone community — not only for Ontario's francophones, of course, but for all of Canada's francophone communities.

He was a pioneer in the debates on the Charter. It is no great secret that Jean-Robert and I were not always on the same side in many battles, but I nevertheless recognize that Jean-Robert Gauthier was an important pioneer in terms of his contribution to the Francophonie in Canada.

During the debate on the patriation of the Constitution in 1982, we did not see eye to eye. However, today I would say that Jean-Robert was probably right. He decided to stand up to his

caucus and his party leader to assert his principles, to say that he believed in something fundamental in that process, and that he wanted to support it.

He continued his fight here in the Senate as he had in the House of Commons and later on behalf of the Montfort Hospital and Ontario schools. Jean-Robert Gauthier was a hero of the Francophonie, a hero of Franco-Ontarians, but above all, honourable senators, Jean-Robert Gauthier was a hero for all Canadians.

[*English*]

CANADIAN DELEGATION TO COMMEMORATE THE ITALIAN CAMPAIGN

Hon. Wilfred P. Moore: Honourable senators, during the week commencing November 27, 2009, a delegation of Canadian parliamentarians travelled to Italy to commemorate the sixty-fifth anniversary of the Italian Campaign in World War II. The delegation was ably led by the Honourable Greg Thompson, Minister of Veterans Affairs, who was joined by Senator Meighen and yours truly, as well as by Mr. Guy André, Mr. Rob Oliphant and Mr. Peter Stoffer of the other place.

Most importantly, the delegation included four veterans of the Italian Campaign: Mr. Henry Beaudry, 88 years of age, of the Sweet Grass First Nations Reserve near North Battleford, Saskatchewan; Mrs. Betty Brown, 92 years, of Ottawa, Ontario; Mr. Roland Demers, 87 years, of Tecumseh, Ontario; and Mr. David Morton, 88 years, of Gibsons, British Columbia. They were joined by World War II veteran Robert Ross, 85 years, of Mississauga, Ontario.

Each of these veterans spoke about their own wartime experiences, some publicly, some in private.

Minister Thompson aptly characterized our mission when he said:

Together, our unique delegation will walk on some of the same streets where Canadians fell. We will walk among the headstones belonging to the youth of another generation. And we will remember them by reading their names aloud; by running our fingers over letters carved in granite, by thinking of dreams unfulfilled, by remembering lives lost. And by remembering families torn apart by their sacrifice.

One of those graves we visited at Cassino was that of Lieutenant Charles A. Ritcey, of Lunenburg, Nova Scotia. He was the commander of the 11th Independent Machine Gun Company (Princess Louise Fusiliers). He was mortally wounded near the town of Ceprano on May 27, 1944, age 28 years, in the Battle of Cassino, while acting as a forward observation officer in leading his company. His only concern when he was being treated was for his signaller, Fusilier C.B. Musgrave, of Northwest Margaree, Nova Scotia, who was wounded by the same shell that took Lieutenant's Ritcey's life.

Lieutenant Ritcey was the uncle of my spouse, Jane Adams Ritcey.

Two of the delegation were youth: Nolan Hill from Calgary, Alberta, and Melanie Morin of Drummond, New Brunswick, 16 and 17 years of age, respectively. Each spoke eloquently about a deceased soldier from their respective province whose resting place is known only unto God. These two young people represented the youth of Canada very well, and confirmed our pledge to "remember them."

The delegation also participated in ceremonies of remembrance and laid wreaths at the Price of Peace Monument in Ortona, the Moro River Canadian War Cemetery, the Breaching of the Gothic Line Plaque in Rimini and the Coriano Ridge War Cemetery in Rimini.

The Italian Campaign was one of the bloodiest and costliest for Canada in World War II, where more than 6,000 Canadians died. Of the 16 Victoria Crosses bestowed in World War II, three were awarded to Canadians for their heroic services in the Italian Campaign. We visited the sites where those Canadian heroes earned the Victoria Cross — Major J.K. Mahony in Roccasecca; Captain Paul Triquet in San Martino and Private Ernest Alvia "Smokey" Smith in Cesena. The Italian Campaign has not received the attention of other campaigns but deserves more attention and should be taught to our young people. Perhaps that attention will prompt all Canadians to reflect on the price of freedoms gained, and ensure that we shall keep our pledge to remember those who fell and those who suffered injury.

[Translation]

BUSINESS LEADERSHIP

Hon. Pierrette Ringuette: Honourable senators, at a time when Canadian parliamentarians are anxious to return home to be with their families for the holiday season, many Canadian families are facing the most financially difficult winter they have seen in over 20 years.

• (0910)

[English]

Yesterday, all our Canadian newspaper headlines read as follows: "National Bank Profits More Than Triple"; "CIBC Profits Beat Expectations"; "Bank Profits on Fast Track"; "Record Bonuses at Canada's Banks."

I will quote this article:

Bonuses at the country's six largest banks will reach a record \$8.3-billion for fiscal 2009, an increase of 18 per cent from last year and about 4-per-cent higher than in 2007, according to an analysis by *The Globe and Mail*.

These are the financial institutions that all Canadian taxpayers supposedly bailed out in the last eight months in the following way: \$60 billion buyback of mortgages; \$12 billion buyback of auto leasing; \$30 billion liquidity from the Bank of Canada.

[Senator Moore]

There may be more than the figures I have just stated, but at least we know that the taxpayers of Canada provided \$102 billion to those financial institutions and that, today, before the worst Christmas and winter Canadians have faced, those financial institutions are recording major profits and major bonuses.

How can we accept that our taxpayers are still paying record rates of interest on credit cards, between 18 and 30 per cent, at the same time that the Bank of Canada overnight rate is at 0.25 per cent and the average prime rate is at 5 per cent? How can we accept that it is okay that our Bankruptcy and Insolvency Act provides greater security to banks than to employees and retirees? Where have our principles of fairness and overall respect for our Canadian citizens and their families gone?

Last, but not least, this quote:

We are at the end of a difficult generation of business leadership, and maybe leadership in general. Tough-mindedness, a good trait, was replaced by meanness and greed, both terrible traits.

Rewards became perverted. The richest people made the most mistakes with the least accountability. . . . In too many situations, leaders divided us instead of bringing us together.

That is a statement by Jeffrey Immelt, head of General Electric. His remarks were made at West Point.

THE LATE HONOURABLE JEAN-ROBERT GAUTHIER, C.M.

Hon. Sharon Carstairs: Honourable senators, I was not in the chamber yesterday when His Honour announced the passing of Jean-Robert Gauthier, but I did hear it on the news this morning.

Jean-Robert was my first seatmate in this place. He was a remarkable man, and I should like to recall for all senators, particularly those who were not here, that it was on a trip to Africa on behalf of the Senate that Jean-Robert contracted a virus that left him profoundly deaf and with a number of other physical handicaps. He never once complained that he had become ill in the service of his country, and I think that was a measure of this particular individual.

It also led Senator Brenda Robertson and me to introduce changes in this place to make the Senate friendlier to those who are hearing impaired and others with physical disabilities. We led that initiative long before the House of Commons, and it was in tribute to Jean-Robert Gauthier.

THE HONOURABLE LORNA MILNE

Hon. Jane Cordy: Honourable senators, I should like to pay tribute to Senator Lorna Milne. It was such a privilege yesterday to meet her family, her children and grandchildren, of whom she is so rightfully proud, but I learned just how proud her family is of her and how pleased they are that they will see more of her.

Honourable senators, if anyone was destined for a life in politics, it was Lorna Milne. She is the daughter of William Dennison, a former Mayor of Toronto. As Senator Callbeck said yesterday, she was born during one of her father's election campaigns. Her husband Ross is a former Liberal MP for Peel—Dufferin—Simcoe. Ross is also the cousin of Agnes Macphail who, as we know, was the first woman to sit in the House of Commons. We can readily say that politics has been a part of Lorna's life forever.

When I first came to the Senate, reading the Order Paper was like reading a document written in Greek. For the first few months, I asked Lorna continuously, "Where are we on the Order Paper?" Or, "When do I stand up to speak?" She patiently and graciously guided me through the process, and I thank her for being so generous and willing to help out and offer advice over the years.

I remember my first pre-Christmas in the Senate, which was, let us say, "challenging." Progressive Conservative opposition at the time gave new meaning to the term "Christmas bells," and I guess that tradition still holds true.

During one night, after several hours of bells ringing and yet another bell starting, Senator Milne looked at me and, seeing the look on my face said, "Why don't you join Senator Pearson and I in my office?" It was perfect. I do not think I have ever thanked Lorna for her kindness. As she often says, it is so good to share a giggle. Lorna's friendship over the years has been very special to me.

Lorna, my best to you and to Ross. I know you have great plans on how to spend your retirement and that you will enjoy having more time to do exciting things together, starting with the family train ride.

THE LATE JAMES DELOREY

Hon. Michael L. MacDonald: Honourable senators, I rise today on a very sad note. Last Saturday, James Delorey, a 7-year-old boy from Cape Breton, wandered away from his family's home. He followed the family dog, Chance, out into the woods, no doubt on the sort of adventure little boys enjoy; but he did not come home that day. He was not dressed for the cold; no winter coat, no hat, no mittens. The first snowstorm of the season was on its way.

Hundreds of people in Cape Breton — the police, volunteer firefighters, the military, emergency services and ordinary citizens — mounted the most extraordinary search. Little James had autism and did not speak, so they knew that he would not respond to the calls of people searching for him. The searchers did everything they could. They played his favourite music and offered him pizza, his favourite food, anything they thought might reach him.

Two days later the dog returned home. By retracing the paw prints through the snow, searchers eventually found little James. He was almost frozen, but he was alive, against almost incredible odds. We can only imagine how James must have felt lost in the

woods as the snow began to fall. As a father, my heart aches for his parents, Jason and Veronica, who lived the worst horror of all: Their little boy was lost and they could not protect him.

On Monday afternoon, the joy of finding him alive quickly turned to grief because, despite the best efforts of the surgeons, doctors and nurses, he succumbed to hypothermia on Tuesday morning and died at the IWK Health Centre children's hospital in Halifax.

Honourable senators, I want to pay tribute to the people of Cape Breton. I want to pay tribute to their compassion and their generosity. Nothing in life can prepare a person to lose a loved one, least of all a child. For a few days this week, James was everybody's little boy. God rest his soul and God bless his family.

• (0920)

ROUTINE PROCEEDINGS

ABORIGINAL PEOPLES

BUDGET— STUDY ON FEDERAL GOVERNMENT'S RESPONSIBILITIES TO FIRST NATIONS, INUIT AND METIS PEOPLES—NINTH REPORT OF COMMITTEE PRESENTED

Hon. Elizabeth Hubley, for Senator St. Germain, Chair of the Standing Senate Committee on Aboriginal Peoples, presented the following report:

Friday, December 11, 2009

The Standing Senate Committee on Aboriginal Peoples has the honour to present its

NINTH REPORT

Your committee, which was authorized by the Senate on Wednesday, February 25, 2009 to examine and report on the federal government's constitutional, treaty, political and legal responsibilities to First Nations, Inuit and Metis peoples and on other matters generally relating to the Aboriginal Peoples of Canada, 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 April 28, 2009 and on June 18, 2009. On May 5, 2009, the Senate approved the release of \$402,023 to the Committee and on June 22, 2009, the Senate approved the supplementary budget of \$172,495.

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,

ELIZABETH HUBLEY
for Gerry St. Germain, Chair of the Committee

(For text of budget, see today's Journals of the Senate, Appendix, p. 1641.)

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

INTER-PARLIAMENTARY UNION

PARLIAMENTARY PANEL OF THE WORLD TRADE
ORGANIZATION PUBLIC FORUM 2009
AND SESSION OF THE STEERING COMMITTEE
OF THE PARLIAMENTARY CONFERENCE
ON THE WORLD TRADE ORGANIZATION,
SEPTEMBER 30 TO OCTOBER 1, 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 Panel within the Framework of the WTO Public Forum 2009 and the Nineteenth Session of the Steering Committee of the Parliamentary Conference on the World Trade Organization, held in Geneva, Switzerland, from September 30 to October 1, 2009.

QUESTION PERIOD

NATIONAL DEFENCE

LETTER FROM DIPLOMATS

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, yesterday I asked the government leader whether the government was prepared to apologize to Canadian diplomat Richard Colvin for the gratuitous attacks made on his reputation and, in particular, for those comments by the Minister of Defence, who associated Mr. Colvin with the most abhorrent acts of the Taliban administration.

As we all saw, the Leader of the Government in the Senate refused to respond directly to my question. With each passing day, we see that the public is more and more concerned with the government's treatment of Mr. Colvin.

At last count, 95 former ambassadors of Canada have signed an open letter castigating the government for how it dealt with Mr. Colvin's disclosures. The names on this open letter are not the names of opposition politicians or even journalists. They are

the names of Canada's former official representatives to the United Nations, Israel, Rome, Moscow and many foreign diplomatic missions. The list of names includes James Bartleman, who has not only served abroad in Australia, NATO and the European Union but who also served as Lieutenant-Governor of Ontario.

My question is this: What is the government's response to this unprecedented open letter from our former top diplomats?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): Honourable senators, the government has received this letter. This is a free country. The people who signed this letter can sign any letter they want, just as the testimony of Mr. Colvin is his right. Mr. Colvin appeared before the parliamentary committee and gave his testimony, and that is absolutely his right. Others gave testimony presenting the opposite view of Mr. Colvin, and that is their right. Many people support the statements of the people who had opposite views.

The letter from the former diplomats is their right as well, but many people do not share their view. That is the nature of a free democracy, in which we live.

Senator Cowan: Honourable senators, my friend, the Leader of the Government in the Senate, has been on Parliament Hill for a long time, much longer than I have, and she has held positions at the highest level in the Prime Minister's Office. She knows well how these situations happen.

In all of her experience and in all of the time she has been on Parliament Hill, has she ever seen or heard of anything approaching what, in my experience, is an unprecedented letter from senior former diplomats who are normally reluctant — I am sure she will agree — to speak out on the issues of the day? In all of her experience, has she ever seen anything like this letter?

Senator LeBreton: I am here as Leader of the Government in the Senate. I am not here to go into a long catalogue of all my experience on Parliament Hill and in political circles. There have been many occasions in the past where we have witnessed debates in this place, going back to the GST and free trade, where many people wrote and signed letters and petitions against the government. This is what people do in a free and open society. In a democracy, they are free to do so.

Senator Cowan: Is the minister seriously suggesting that a letter signed by almost 100 former senior diplomats who have served Canada abroad is the same as a letter signed by 100 ordinary citizens, and that such a letter should be treated as only the opinion of those senior diplomats? Is that what the honourable senator suggests? Surely she does not suggest that.

Senator LeBreton: Honourable senators, I think 100 ordinary Canadian citizens are as valuable as 100 former diplomats.

Senator Cowan: Do I take it that the government, of which this minister is a senior member, will not take any action and will not respond in any way to this letter? Is that what the minister is saying?

Senator LeBreton: I said no such thing. I simply said that these people have the right, as we all do, to register our opposition to the government of the day. Goodness knows, there have been many examples in the past. I am simply saying that the former diplomats decided to write to the government about this particular incident; that is their right, and we respect their right.

Senator Cowan: There is absolutely no question about their right. No one disputes their right to write the letter. I go back to my original question: What is the government's response to this letter? Will the government respond to this letter, and if so, when?

Senator LeBreton: I repeat: Everyone has the right to write to the government.

Senator Cordy: That would be a "no."

Senator LeBreton: Honourable senators, I have only seen reports; I have not seen the actual letter, or all of the signatures. The fact is that the former diplomats have written a letter. As now retired diplomats, they have expressed their views and the government has heard their views.

Senator Cowan: The answer to the question is that the government will not respond to this letter; is that correct?

• (0930)

Senator LeBreton: I did not say that. Do not put words in my mouth.

HEALTH

PALLIATIVE AND END-OF-LIFE CARE

Hon. Sharon Carstairs: Honourable senators, my question is directed to the Leader of the Government in the Senate. We have a national strategy on diabetes. We have another on HIV/AIDS. We have another on cancer. All good strategies. Indeed, according to my research, there are 13 such strategies. The glaring omission is a strategy on palliative end-of-life care, which will, at some stage, have an impact on every single Canadian. Why is this government unwilling to develop such a strategy?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): Honourable senators, this is an area about which Senator Carstairs speaks with great knowledge. As I have said before, it is a complex issue. Many levels of government are involved. At the meeting I attended in Edmonton of the ministers responsible for seniors, it was an item on the agenda of the National Seniors Council. I have discussed with them various ways that they could advise the government on the issue of end-of-life decisions and care. I do not accept Senator Carstairs' statement that the government refuses — I do not know the exact word the honourable senator used — or does not take this matter seriously.

Senator Carstairs: In 2001 and 2006, the federal government funded the Secretariat on Palliative and End-of-Life Care with an annual budget of \$1 million to start, which increased to \$1.5 million. This secretariat was tasked with developing the

strategy. The first year this government was in office, it reduced the budget to \$470,000. This year, it eliminated the budget totally and shut down the Secretariat on End-of-Life Care.

Can the minister tell me why?

Senator LeBreton: Honourable senators, as the honourable senator knows, and as I have said in this place many times, we have programs for seniors and matters that concern seniors that are not exactly the same programs. Just because previous governments had certain programs does not mean that when we came into government, our government was not free to pursue other initiatives on behalf of seniors. The situation is the same for the previous aging council. We replaced it with the National Seniors Council, which is made up of volunteers from communities who advise the government on seniors' issues.

We have many areas where we are working with seniors, for example, on elder abuse, with low-income seniors, and on income splitting. The National Seniors Council did a report on low-income seniors and I am awaiting a report on the issue of active and healthy aging and volunteerism.

I repeat: Just because certain programs under the previous government have been shifted into other programs does not mean that we do not address these issues directly. We just have a different approach. Obviously, Senator Carstairs does not agree with it, but I would not want the honourable senator to think for a moment that the whole issue of end-of-life care and palliative care, and a host of decisions that seniors must make, are not being addressed by this government.

On healthy and active aging, that is one reason why we had our volunteers from the National Seniors Council go out and discuss these issues. They will make some recommendations and the government will then take the recommendations and act accordingly, just as we did with elder abuse.

Senator Carstairs: Honourable senators, I find what I have just heard to be incomprehensible. This is not just a seniors' issue. It is true that 70 per cent of the people who die in this country are seniors. However, 30 per cent of the people who die in this country are not. They include children.

Some Hon. Senators: Hear, hear!

Senator Carstairs: The need is for an end-of-life care strategy to address all in this country who face death, not just seniors.

Obviously, Senator Brazeau does not think death in this country is an important issue upon which to comment.

Some Hon. Senators: Shame.

Senator Carstairs: However, as we learned so eloquently from Senator MacDonald this morning, he does.

Canada was a leader on end-of-life palliative care. It is now falling behind. When will this government address a need of every single Canadian, because we all, whether or not we like it, will die.

Senator LeBreton: Honourable senators, on the issue of palliative care, I was thinking of it in the context of seniors because of the Senate report on aging and seniors, and it was an obvious conclusion for me to draw. I am sorry if I have offended the honourable senator.

Honourable senators, I realize maybe more than most about people who die before they are seniors. In any event, I will take the honourable senator's question as notice.

[Translation]

INTERNAL ECONOMY

SENATE LABOUR RELATIONS

Hon. Jean-Claude Rivest: My question is for the Chair of the Standing Committee on Internal Economy, Budgets and Administration, Senator Furey.

Yesterday in this chamber, we talked about labour relations issues involving certain Senate employees and the Senate administration. Apparently, talks have broken down and arbitration is planned for January.

Is it true that the Senate administration is forcing its employees to give up their seniority provisions? I think that is a ludicrous way to conduct labour relations. I would like to know if that is indeed the position that the Senate of Canada's administration has taken with respect to its employees.

[English]

Hon. George J. Furey: I thank the honourable senator for the question. The Internal Economy Committee does not get directly involved in the negotiations for obvious reasons. If that clause is on the table or if it is being promoted by administration, I have no idea. However, I will check at the next meeting of the committee and ask the administration how the negotiations are progressing to see if that is the case.

Hon. Hugh Segal: Honourable senators, I ask the chairman as well if he might be able to share with the chamber at some time in the future precisely what the administration is trying to achieve with the employees or, as the case may be, on the backs of the employees, so that we might be aware of that process and we might give him advice in his role relative to protecting the balance and fairness, which, I think, we would all want for any group of employees in this country, including those who work for us in this place.

Senator Furey: Honourable senators, it is a difficult position in which to put the committee, if you are asking us to get directly involved in negotiations. If we do so, employees will then come to different senators and different people will bring different aspects of what is going on in negotiations to the committee. We deliberately stay out of the negotiations and allow them to take their course. The time for senators to get involved is once the negotiations are completed. We can see what went on and make a determination then if the end result is fair and just.

Senator Segal: I defer to the committee and its responsibilities in this regard.

• (0940)

Can the honourable senator assure us that the Internal Economy Committee is aware of the position of the administration, supports it and believes it to be fair? I can understand why the honourable senator may not want to disclose all the details, but if he were to say to us here today that he is comfortable, he has reviewed that matter with the administration in confidence and that he is comfortable the proposition is fair, that would be more than sufficient for me.

Senator Furey: Honourable senators, I cannot stand today and say that I am fully aware of all the negotiations taking place. I know of one or two items that have been brought to my attention on which I think the starting position of administration is not unusual. I will say that much. I do not want to disclose whether a particular position is one that we support or do not support at this particular time because that would be seen as interfering with the overall negotiations, but I can assure the honourable senator that when the negotiations are completed, there will be a full review of those negotiations. All senators will have an opportunity in this chamber to provide input into negotiations and to ensure that the end result is fair and just for all our employees.

Senator Segal: Accepting that assurance with confidence and joy, can I impose upon the chair perhaps the undertaking that he will inform himself of the details? I will be sufficiently happy and content knowing that the chair of the committee has been informed of the details and that he remains comfortable. He need not report back. The mere fact that he undertook to inform himself of the details I am sure will be wildly assuring to all honourable senators in this chamber.

Senator Furey: I will go two steps beyond that, honourable senators, and not only ensure that I am brought up to speed on everything that is taking place but that my colleagues, Senator Tkachuk and Senator Fox, who sit on the steering committee, are also kept up to speed by the administration.

Senator Segal: In that case, honourable senators, my cup runneth over.

[Translation]

LABOUR

MUSEUMS LABOUR DISPUTE

Hon. Jean Lapointe: Honourable senators, my question is for the Leader of the Government in the Senate. I have good news. Striking workers and management will be meeting today. That ought to put you in a good mood for the rest of the day, because you have been hounded, hassled and pestered about this issue. Today, I received confirmation that a meeting is scheduled for this afternoon.

[English]

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): Honourable senators, the honourable senator has told me something I did not know. That is great news. The senator is to be credited for his diligent questions on this issue. Perhaps this matter will be settled and we can all have a merry Christmas.

PUBLIC SAFETY**CROSS-BORDER FIRST NATIONS
IDENTIFICATION CARDS**

Hon. Joan Fraser: Honourable senators, my question is for the Leader of the Government in the Senate. For years now, the Government of Canada has known that, with the thickening of the American border, with their new security initiatives, more documentation will be required for Canadians crossing the border from Canada into the United States.

In particular, there is a requirement in the United States for new native identity cards for Canadian status Indians. They are to have new secure status Indian cards. This initiative was supposed to be in effect last June, and the Americans gave us a six-month grace period, but here we are, coming up to the end of 2009, and no new cards have been issued.

Can the minister tell us why and when the new cards will be issued? They are vital pieces of documentation for those status Indians.

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): Honourable senators, I will take the honourable senator's question as notice.

Senator Fraser: Honourable senators, I have a supplementary question. I understand that the American requirements include a requirement that these cards be readable by sophisticated technology, that they include magnetic chips or strips to make them impervious to counterfeiting or whatever. At any rate, this capability is what the Americans require.

Do I have your attention?

Senator LeBreton: Yes.

Senator Comeau: The honourable senator is a multi-tasker, believe me. She can listen and talk at the same time. I know.

Senator Fraser: Well, it is courteous to listen.

Senator LeBreton: I am listening.

Senator Fraser: Honourable senators, my question is: Can the leader confirm that those cards, when the status Indians finally receive them, will include the necessary technology? There have been suggestions that when they finally do receive the cards, the cards still will not meet the American technical requirements.

I have a further supplementary question. What steps is the government taking to ensure that while the people who have applied for these cards are waiting for them, at least 45,000 people, the Americans will accept, for as long as it takes, the old status cards, because otherwise what will those people do? Many of them cross the border to work.

Senator LeBreton: The honourable senator has asked a technical question. I know that the Public Safety Minister has been working with his counterpart in the United States, Janet Napolitano. The Minister of Indian Affairs and Northern Development is involved in this issue, as are others.

The question is technical. As I said in answer to the first question, I will take this question as notice and refer it to the departmental officials for a detailed answer.

HEALTH**HAZARDOUS PRODUCTS**

Hon. George J. Furey: Honourable senators, my question is for the Leader of the Government in the Senate. I begin by apologizing to the minister that I have not had an opportunity to submit my question in writing, which I would have preferred to do, but I have only just cobbled it together.

Can the minister tell the chamber what power the Minister of Health has under the existing Hazardous Products Act to take immediate action to deal with any products that pose a significant risk to the health and safety of all Canadians?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): Honourable senators, we have a bill before us at the moment. I think the bill speaks for itself. Hopefully, the Senate, in its wisdom, will see to it that the pleas of the various consumer organizations, family organizations and the Canadian Medical Association are heard in this regard and pass the bill.

ENVIRONMENT**CLIMATE CHANGE POLICY**

Hon. Grant Mitchell: Honourable senators, I am encouraged, and many of us are, to hear Minister Prentice say that he has a plan on climate change and that it is clear. I have asked before and, as honourable senators know, I have had great oratory from the leader about Copenhagen. The honourable leader reads those cards as though she is speaking.

I want to shift the focus from Copenhagen generally to the plan that is clear, and that the minister might speak about in Copenhagen on behalf of Canadians. Plans generally have several specific items; certainly climate change plans do.

Can the leader tell us what is said in Mr. Prentice's clear plan about when he estimates that greenhouse gas emissions in Canada will peak?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): Honourable senators, this question is the honourable senator's third or fourth try to have me divulge to honourable senators Minister Prentice's and the government's plan. The minister has clearly stated our position going into Copenhagen. We have an outstanding team. There was a briefing this morning again by Michael Martin, who is leading the Canadian delegation. We have excellent people in Copenhagen representing Canada's interests.

With regard to Minister Prentice and the government's plan, stay tuned.

Senator Mitchell: Honourable senators, we should not have to stay tuned because Minister Prentice says he already has a clear plan. In fact, he has said that Canadians support it. I do not know how Canadians can support something they have not seen. Let me try to help that situation. Let me try to provide Canadians with more information.

• (0950)

Could the leader please tell Canadians how Minister Prentice's plan will get to the \$28 per tonne of carbon, which is the cost that the United States will incorporate into their plan? Will it be cap and trade? Will it be a carbon tax? Will it be some other mechanism? What is it that is in that clear plan?

Senator LeBreton: My answer is the same. Minister Prentice has been an outstanding Minister of the Environment. He has travelled this country and consulted widely. He has taken an excellent delegation over to Copenhagen. We have had Michael Martin and a team of negotiators working on this matter for quite some time. As Mr. de Boer said Wednesday, Canada is making a very constructive contribution to the debate.

One of my colleagues thinks that if Senator Mitchell feels so strongly about a plan, he can run in an election for one of the Alberta Senate seats and see if he can get elected.

Senator Mitchell: I would ask the same question of the 27 appointments that have been made in the last 18 months by your government, appointments that it said it would never make. I have never been a hypocrite about that; your side has.

Some Hon. Senators: Oh, oh.

Senator Mitchell: I am sorry, but that is what it is. Let us go there. Where is Bert Brown? Let us ask Senator Brown.

Getting back to the question, I am always struck by how the government, Mr. Prentice, Mr. Harper and members of this Senate caucus say that confronting climate change will hurt the economy. For them to be so certain, they must have some idea. I would expect that they must have data and studies that would be incorporated into their clear plan. Could the leader please tell us what the government's clear plan indicates the costs of climate change action will be to our economy?

Senator LeBreton: My answer is the same: Stay tuned. Minister Prentice is in Copenhagen. Try as the honourable senator might, it is incumbent upon him and all of us to support the minister and our country at the negotiating table in Copenhagen.

POINT OF ORDER

Hon. Jane Cordy: Honourable senators, I rise on a point of order. Rule 52 states:

A Senator considering himself or herself offended or injured in the Senate, in a committee room, or in any of the rooms belonging to the Senate, may appeal to the Senate for redress.

Earlier this morning during Question Period, when Senator Carstairs was asking questions about the very important issue of palliative care, particularly relating to the 30 per cent who receive palliative care and who are not seniors, Senator Brazeau was making the motion of playing a violin. How do I know that? I was watching and I saw him. I find that truly unfortunate. I find it very offensive for anyone in the Senate to do that in respect to such a serious issue. Perhaps Senator Brazeau would like to apologize to the Senate.

Hon. Hector Daniel Lang: Honourable senators, I would like to speak to the point of order. As a relatively new member of the Senate, I have been paying close attention to how the house conducts its business and how all members have been conducting their business. I would say to the member opposite who raised the point of order that perhaps all senators should take a look at themselves in the mirror. A tone is being set in this house that carries on day to day —

Senator Cordy: I am?

Senator Tardif: We are?

Senator Lang: It starts in Question Period and does not end until midnight. Senators on the other side stand in their places and talk about how this is the house of sober second thought. I can honestly say to honourable senators that someone watching from the gallery would not say it is the house of sober second thought.

We do have a Question Period, and one individual has the responsibility of bringing information into this house in order to respond. I would ask honourable senators to think about how those questions are put. No one, and I do not care what position they hold in this house, likes to be bullied.

The Hon. the Speaker: I recognize Senator Dallaire on the narrow question of the point of order.

[Translation]

Hon. Roméo Antonius Dallaire: Honourable senators, I am convinced that our colleague's comments speak to a very basic issue. The offensive remarks that are made, sometimes in a very offhand manner and not necessarily in a hushed voice, contribute to the friction that unfortunately taints the exchanges vital to the democratic process.

I have been a member of the Senate for four years now and I must admit that my outrage is growing at the size and nature of the problem.

If you will permit me, honourable senators, I will put the ball back in your court. Quite often, I have been the target of offensive comments — some even made by the leaders of the party in power — during Question Period, when, I believe, there should be even more restraint.

In short, I suggest that if we listened to the questions with as much respect as the answers, we could once again become an entity comprised of gentle folk — to use an old term — and the atmosphere would be much more dignified and in keeping with our role.

[English]

Hon. Patrick Brazeau: Honourable senators, first, it is unfortunate that some senators felt a little slighted by the gesture. However, if Senator Cordy would like to know what I was referring to, the gesture was in reference to a comment by Senator Moore and not to what Senator Carstairs was talking about; having said that, I have nothing to apologize for.

Second, if there is to be an apology, perhaps it should be for the comments made by Senator Mercer yesterday. I am the youngest senator in this chamber. I did not get up and cry over what he said because, let us face it — here is a white man saying that I do not represent my people. If anyone should apologize, it should be him.

Third, when Senator Demers made a comment yesterday, the Honourable Senator Stollery said that if he cannot take it, he should not be here. Well, does anyone need a mirror here?

The Hon. the Speaker: Honourable senators, the chair has heard enough. In rendering my decision on the point of order, I wish to begin by using a metaphor. Honourable senators who come from the maritime divisions of the Senate are familiar with the rise and fall of the tides. Very often with reference to the rule that the Honourable Senator Cordy has cited, it seems that it is high tide and we have big waves coming in very close to line over which, should we cross, we are in breach. Equally, within a moment, the wave recedes, and the Christmas message of goodwill and cheer prevails in the chamber.

• (1000)

However, as the presiding officer, it is my responsibility from time to time, although, remarkably, it is seldom necessary, to recall that behind the Speaker's chair in this chamber, the throne is located. Indeed, the colour of our rug speaks to this as being the throne chamber. That is why, I suppose somewhat either apocryphally or metaphorically, the rug colour in the other place is green. Some may suggest, that house is green because their members are out in the fields and meadows gathering or trying to rustle from the Crown more power unto itself.

However, I will invite all honourable senators to make a New Year's resolution that when we return in the new year, it will not be necessary for the Speaker to rise and remind people of the colour of the rug in this chamber.

I believe we do quite well. I cannot recall when I was overly offended by anything that I heard, and I do not think there is any ill will behind any of the comments or observations that are made, but we would all be better off if we exercised a little custody of the tongue from time to time and, as the physiotherapist will tell us, custody of movements of limbs. With that, honourable senators, I will take it that the matter is settled.

[Translation]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, pursuant to rule 27(1), I would like to inform the Senate that when we proceed to Government Business, the Senate will address the items in the following order: second reading of Bill C-62, An Act to amend the Excise Tax Act.

Resuming debate on the motion of the Honourable Senator Oliver, seconded by the Honourable Senator Di Nino, for the second reading of Bill C-27, An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act;

Resuming debate on the motion of the Honourable Senator Carignan, seconded by the Honourable Senator Tkachuk, for the second reading of Bill C-36, An Act to amend the Criminal Code;

Third reading of Bill S-8, An Act to implement conventions and protocols concluded between Canada and Colombia; Greece and Turkey for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income;

Resuming debate on the motion of the Honourable Senator MacDonald, seconded by the Honourable Senator Greene, for the second reading of Bill S-6, An Act to amend the Canada Elections Act (accountability with respect to political loans);

Resuming debate on the motion of the Honourable Senator LeBreton, P.C., seconded by the Honourable Senator Comeau, for the second reading of Bill S-7, An Act to amend the Constitution Act, 1867 (Senate term limits);

Resuming debate on the motion of the Honourable Senator Wallace, seconded by the Honourable Senator Eaton, for the 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;

Resuming debate on the inquiry of the Honourable Senator Comeau, calling the attention of the Senate to *Canada's Economic Action Plan — A Third Report to Canadians*, tabled in the House of Commons on September 28, 2009, by the Minister of Transport, Infrastructure and Communities, the Honourable John Baird, P.C., M.P., and in the Senate on September 29, 2009;

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.

[English]

Hon. Claudette Tardif (Deputy Leader of the Opposition): On a point of clarification, my understanding was that leave was not given to deal with Bill S-8 at the next sitting of the Senate, but two days hence. Could we have clarification?

[Translation]

Senator Comeau: On that point, honourable senators, we are going to ask the table officers here to advise His Honour the Speaker as to whether we should deal with this bill today.

[English]

The Hon. the Speaker: On a point of order, Senator Lapointe.

[Translation]

Hon. Jean Lapointe: Honourable senators, we debated Bill C-6 and Bill C-15 yesterday. Why not resolve this issue, Mr. Comeau? I know you object as a matter of course and can drag such things on until you secure a majority, but why not deal with this first and then proceed to your proposed Orders of the Day?

Senator Comeau: Honourable senators, that is an excellent question. What is more, I am not at all offended that you called me Mr. Comeau. That is what my assistant calls me. I know that some senators were offended yesterday when I used the term “mister” instead of “senator.”

But let us come back to the matter at hand. The Order Paper indicates how we are to proceed with respect to the Orders of the Day, but it is our prerogative, under the rules, to change the order and do it another way.

We will get to Bill C-6 eventually. I am not sure what time, but we will certainly get to it today and I will be pleased to listen to your speech on this bill.

Senator Lapointe: Thank you Mr. Comeau.

[English]

PROVINCIAL CHOICE TAX FRAMEWORK BILL

BILL TO AMEND—SECOND READING

Hon. Stephen Greene moved second reading of Bill C-62, An Act to amend the Excise Tax Act.

He said: Honourable senators, I am pleased to rise to begin the second reading of the provincial choice tax framework act. Let me begin by providing a little historical context. Little over a decade ago, under the former Liberal government of then Prime Minister Jean Chrétien, three provinces decided to transform their model of provincial taxation and made the choice to harmonize their provincial value-added tax with the federal value-added tax.

• (1010)

Having a clear request from these provinces, the then Liberal federal government moved to facilitate this provincial request by introducing technical tax legislation that allowed them to move towards a harmonized value-added tax.

Reading from a news release dated November 29, 1996, from the then Liberal Finance Minister, Paul Martin:

This proposed legislation to implement agreements between the federal government and the governments of Nova Scotia, New Brunswick and Newfoundland and Labrador represents another step towards an integrated national sales tax system for Canada. Harmonization will mean a simpler tax system for taxpayers. The HST will also improve the competitiveness of businesses in the participating provinces and represents a positive step towards creating jobs in those provinces.

I note that, to this day, all three provinces — Nova Scotia, my province; New Brunswick, the province next to mine; and Newfoundland and Labrador, somewhere over the horizon — have maintained that harmonized value-added tax.

What is more, an influential 2007 study by University of Toronto economics professor, Michael Smart, found that per capita investment rose by more than 11 per cent in the three aforementioned provinces compared to the non-harmonized provinces after the mid-1990s move to a harmonized value-added tax. In addition, total investment in machinery and equipment increased over 12 per cent annually above the trend that existed before. Finally, the ironically named Professor Smart concluded there was almost no change in overall prices following the move. In fact, he concluded that consumer prices in the harmonizing provinces fell and thus partially offset adjustments resulting from the new model of provincial taxation.

Overall, the sum net effect of the move, in his own words as reported in an October 19, 2007 *National Post* article:

The work I've done on the Harmonized Sales Tax in the Atlantic provinces suggests that if you cut taxes on business inputs it quickly results in lower consumer prices.

Basically, it's great for the economy and a wash for consumers.

For those senators interested in learning more about Michael Smart's work —

The Hon. the Speaker *pro tempore*: Honourable senators, there are many conversations going on in the chamber. I think out of respect for the senator who has the floor, please have conversations in the reading room.

Order please.

Senator Greene: For those senators interested in learning more about Professor Smart's work, I would suggest reviewing the article, “The Economic Incidence of Replacing a Retail Sales Tax with a Value-Added Tax: Evidence from Canadian Experience” in the March 2009 edition of *Canadian Public Policy*, Volume 35, Number 1.

Returning to the larger picture and to summarize, in the 1990s, three provincial governments made a choice regarding their provincial taxation for which they had the responsibility, and the federal government listened to the voices of those duly elected provincial governments and implemented the necessary legislation to facilitate those provincial decisions.

Today, we find ourselves in much the same situation as, this year, two provinces — namely, British Columbia and Ontario — have announced their decisions to harmonize their value-added taxes. Before getting into the specifics of the legislation for the benefit of senators, let me quickly provide a basic technical introduction to the concept of harmonization of sales taxes as defined in a 2009 Toronto Dominion economics research paper by economists Don Drummond and Diana Petramala:

Harmonization is the process in which the rules that govern the provincial retail sales tax (currently the RST) will be integrated with those of the federal goods and services tax, (GST) to create a final tax — the HST. . .

The HST is a value-added tax which ensures that not only the value added by the business providing the good or services is taxed. Thus, it attempts to avoid the situation where a product may have been taxed multiple times — at different stages of production — and in some cases earlier taxes may have been compounded by applying tax upon tax before ultimately being taxed one last time when purchased by the consumer. This process is commonly referred to as tax cascading. To prevent this, businesses can claim a tax credit for much of the HST they pay on non-labour inputs, effectively reducing the amount of tax on many inputs to zero, with the tax just being paid on the final sale of the good or service. This makes a value-added tax more efficient than a retail sales tax because it avoids the cascading tax effect, which is ultimately passed along as higher prices to consumers.

As I have mentioned previously, earlier this year, two provinces publicly announced their intentions on pursuing a harmonized value-added tax model. First, this past spring, Ontario's Minister of Finance, Dwight Duncan, announced in their 2009 provincial budget his government's decision to proceed with a new model of taxation, along with the other taxation reforms. I will quote Minister Duncan's speech of March 26, 2009, delivered in the Legislative Assembly of Ontario, wherein he announced this decision, and I will quote at great length to ensure the full context of this provincial decision is truly captured:

Ontarians have a great track record of success when we work together to build a better future for our children.

Our goal is a better future powered by a stronger economy. The next step we must take to get there is tax reform.

Specifically, today we propose three significant tax changes.

First, a single value-added sales tax for Ontario.

Second, permanent personal tax relief and three direct payments to Ontarians as we transition to a single sales tax.

Third, comprehensive corporate tax reforms to permanently and significantly reduce business taxes for large and small enterprises across the province.

More than 130 countries have adopted a value-added tax. Every other country in the OECD, save the United States, has a value-added tax — as do four other Canadian provinces. It is the way modern, globally competitive jurisdictions do business.

The Ontario Chamber of Commerce, many experts, research groups and sector associations have called on us to reform our tax system and create a single provincial—federal sales tax.

Over the next 15 months, we plan to implement a single provincial—federal sales tax of 13 %. The single sales tax would begin July 1, 2010.

A few months later, this past July to be precise, the Province of British Columbia announced their provincial decision to move towards a harmonized value-added tax as well. As British Columbia's Finance Minister, Colin Hansen, would later explain to the Vancouver *Province* newspaper, this decision was primarily triggered due to Ontario's decision:

If Ontario adopted the HST and we didn't, our overseas exporters would be at a huge competitive disadvantage.

Nevertheless, I will quote at length from a provincial news release from July to capture the full expression of British Columbia's rationale for that decision. It said that British Columbia intends to harmonize its provincial sales tax with the federal goods and services tax effective July 1, 2010, to boost new business investment, improve productivity, enhance economic growth and create jobs. Premier Gordon Campbell said that this is the single biggest thing we can do to improve B.C.'s economy.

• (1020)

The Premier went on to say that this is an essential step to make our businesses more competitive, encourage billions of dollars in new investment, lower costs on productivity and reduce administrative costs to B.C. taxpayers and businesses. Most importantly, this will create jobs and generate long-term economic growth that will in turn generate more revenue to sustain and improve crucial public services.

Finance Minister Colin Hansen said that the PST is an outdated, inefficient and costly tax, some of which is hidden in the price of goods and services and passed on to and paid by consumers. Mr. Hansen said that evidence from the Atlantic provinces showed that the hidden tax is moved very quickly, with the majority of the savings passed through to consumers in the very first year.

The article goes on to state that more than 130 countries, including 29 of the 30 OECD countries, along with four Canadian provinces, have adopted taxes similar to the HST, called value-added taxes. Implementation of a single sales tax in British Columbia would immediately reduce costs and enhance the competitiveness of British Columbia manufacturers and exporters both nationally and internationally and bring British Columbia into line with what is viewed as the most efficient form of sales taxation in the world. The release went on to say that once fully implemented, the single sales tax will make British Columbia one of the most competitive jurisdictions in the industrialized world for new investments.

Accordingly, the Provincial Choice Tax Framework Act is a straightforward piece of legislation that merely affirms that provincial taxes are the responsibility of their respective provincial governments. Essentially, the legislation before you now simply provides the necessary coordinating technical amendments to the federal Excise Tax Act needed to facilitate such provincial decisions. Again, this legislation will not only facilitate the decision of these provincial governments, but will also allow for all governments to enter this uniform framework — a framework equally available to all.

Again, it is the decision of the provinces, not the federal government, on what form of taxation they will institute in their jurisdictions. This is a basic principle of our Canadian federation. The autonomy of provinces is paramount and must be respected. As *Toronto Star* columnist Chantal Hébert pointed out recently, “The Ontario and British Columbia HST plans are well within the scope of their provincial prerogatives.”

In a similar vein, let me also draw to the attention of senators an important op-ed from this week’s *Globe and Mail*, written by a former deputy prime minister and minister of finance for Canada who served during the previous Liberal government, John Manley. He said:

... retail sales tax harmonization is fundamentally a matter of provincial jurisdiction. The duly elected governments of Ontario and B.C. have decided to reform and streamline the system by which they tax the sale of goods and services. Federal legislation is required to make this happen and to compensate consumers during the transition period. Beyond that, it should be left to the provinces to determine what is in their respective interests. Ontario Premier Dalton McGuinty and B.C. Premier Gordon Campbell have each taken a political risk by proposing harmonization; they have done so because they believe it will promote increased business investment and job creation. If they’re wrong, they and their governments will undoubtedly pay the price in terms of voter support. That’s as it should be, and it’s not the job of the federal (Parliament) to second-guess them.

Clearly, John Manley understands that it is not the role of one level of government — in this case the federal government — to make a decision for another level of government — in this case provincial governments — regarding matters of the latter’s jurisdiction. That is the right of the respective provincial governments and will ultimately be approved or rejected by the respective duly elected provincial legislatures. The leaders of Ontario and British Columbia themselves have recently evoked this rationale and rightly so.

Listen to the Premier of Ontario, Dalton McGuinty, who said:

I am very confident that the government of Canada will honour the wishes of the people of Ontario, as expressed by their duly elected Parliament, their Legislature and their government. . . . I expect that the result will be respected by the people of Canada, as expressed through the government of Canada. . . . I think members of Parliament in the House of Commons . . .

And the Senate:

... understand that Ontario in particular has suffered greatly. Our families and communities have suffered greatly as a result of this global economic downturn. They know that we need to take strong action. They know that we need to be rather dramatic in terms of the reforms that we put in place. They know that we’ve given long and hard thought to what needs to be done . . . to create those 600,000 jobs for the people of Ontario.”

As his Minister of Finance Dwight Duncan remarked:

I fully expect and hope the Parliament of Canada will honour the wishes of the duly elected governments of Ontario and British Columbia.

Ontario, as we know, is not the only province that used this rationale. In the words of British Columbia Premier Gordon Campbell:

This is a matter of provincial autonomy. It is simply saying that British Columbia and Ontario will get the same kind of opportunities they have had for Nova Scotia, New Brunswick and Newfoundland . . . and it’s the single most important thing we can do to strengthen our economy and make it more productive as we come through this challenging economic time and come out on the other side even stronger, so I would expect it to pass in the Parliament. . . . I believe we’re always served best as Canadians and as British Columbians when our governments do what they believe is right and allow the public to hold us to account for that. This is important to our future as a province. When I hear leading economists across the country saying this is the most important thing we can do for our economy in British Columbia, for our forest industry, our mining industry, and they’ve defined this themselves, not me, as the most important thing we can do as they move into the 21st century, I’m willing to stand on that.

Listen to his Finance Minister, Colin Hansen:

The question MPs have to ask themselves is not whether they like or don’t like the HST, it’s whether or not they will honour a request from the provinces of B.C. and Ontario.

It is important that we respect these decisions of these provincial governments. Today, as a result, we are merely asking that the federal Parliament respect that autonomy — an autonomy that has long been accepted, and also an autonomy that has already led to a variety of models of provincial taxation to exist throughout Canada.

Indeed, currently, five provinces have sales taxes, four provinces have value-added taxes or variations thereof and one province has neither. This legislation will confirm that provincial governments can indeed choose whatever tax system is right for their individual economic objectives and their goals.

We all acknowledge, as provincial taxation is a provincial responsibility, that all provinces should have the right to make their own tax decisions. This includes the right to switch to a

harmonized value-added tax. Therefore, out of respect for provincial autonomy, we merely facilitate any province's desire to switch.

Ultimately though the decision to adopt or not adopt a harmonized value-added tax is not a decision that can be dictated by the federal government. That decision is a provincial decision, a decision that some provinces have recently made in the affirmative, like British Columbia and Ontario, while other provinces, like Manitoba, have recently made the decision to decline to pursue at this time.

Although I note even the latter group of provinces have underlined the importance of maintaining their provincial choice on this matter by declaring their willing to potentially exercise their provincial autonomy over provincial taxation in this respect. In the words in the words of the current Manitoba New Democrat Premier Greg Selinger, who indicated only a few short months ago:

... it was inevitable that Manitoba would have to give it some serious thought when both Ontario and B.C. announced earlier this year they would do it. ... that means more than 90 per cent of the country will soon be paying an HST and their might be a disadvantage to Manitoba businesses if it doesn't go down this road.

• (1030)

Let me repeat: As was the case for British Columbia, Ontario, Manitoba or any province, the ultimate decision whether to adopt or not adopt a harmonized value-added tax at the end of the day rests completely and totally with the elected provincial governments and legislatures. The federal government cannot interfere in or force — nor would it — a choice on such a matter of obvious provincial autonomy.

While some want this Parliament to take away the right of provincial governments to choose their own tax system, honourable senators, we do not believe that is appropriate or right. By supporting this legislation, we will enshrine the federal Parliament's belief that provincial taxation is a matter of provincial autonomy. Furthermore, the federal government should not restrict provincial tax choice but allow provinces to pursue all options, including transitioning to a harmonized value-added tax if they so choose. Through the proposed provincial choice tax framework act, this choice will not only be open to Ontario and British Columbia but any other province that may choose to harmonize their provincial sales tax at any time.

The question before this chamber is simply this: Do we believe the provinces have a fundamental right to whatever provincial taxation choices they so desire? This is not a difficult or complex question and can be answered by a simple yes or no. Either yes, a province within our federation can choose their system of taxation, or no, provinces do not have that right and must be beholden to the federal government and federal interference.

I know which side of the question this government is on: Yes, the federal government should respect provincial autonomy and jurisdiction over provincial taxation to allow them to make whatever decision they deem appropriate within their own

jurisdiction. This is open federalism within their jurisdiction. This is open federalism, a sign of mutual respect. The alternative is that we move toward an intrusive type of federalism where it is not the duly elected provincial governments that have authority over their own decisions, but the federal Parliament bypassing the provincial legislatures.

We all know where the provinces stand on this issue. I hope I know where the senators in this chamber stand on this issue as well. I believe I do, as this does not need to be a partisan issue. As I noted earlier in my speech, it was under a previous Liberal government that three provincial governments first moved toward a harmonized value-added tax. This is a long-standing principle of government that crosses partisan political lines. This principle did not begin with the harmonization debate of the 1990s, but it is a larger, general principle that goes back to the beginning of Confederation itself. Today we reaffirm this essential aspect of Confederation with regard to taxation.

The provincial choice tax framework act will ensure that all provinces have equal opportunity to enter into a fully harmonized value-added tax framework. It will provide for, among other things, the facilitation of a new harmonized value-added tax framework to accommodate any province's decision to implement a harmonized value-added tax in that province.

Specifically, the act includes, first, the imposition of the provincial component of the harmonized value-added tax in respect of that province; second, the application of any element of provincial tax policy flexibilities, including rate flexibility for the provincial component of the harmonized value-added tax; third, the proper administration and enforcement of, and compliance with, the act.

Businesses and consumers are already gearing up and planning for the implementation of the recent provincial tax changes and making important decisions based on expectations. To reverse course would be troubling. For instance, BCE has already publicly announced its intention to accelerate its investment in Ontario for 2010 based on the Ontario government's implementation of a harmonized value-added tax. To quote George Cope, President and CEO of BCE:

As has been the experience in other provinces in which Bell operates, savings from a single sales tax structure will accelerate our investment in Ontario. Fewer dollars going toward taxes in 2010 mean more dollars that Bell will reinvest in our networks and service in the province next year.

By working together, we can move to provide the certainty the provinces and their employees, businesses and individuals all deserve. We cannot allow uncertainty to take hold. This would be unfortunate for Canada's international competitiveness and all parties involved.

We need to move quickly to provide this certainty. Only Parliament can end this uncertainty. This is precisely what we are asking honourable senators to do today. We need to pass this legislation in a timely manner before we rise for Christmas so that businesses, provinces and individuals can move forward knowing what the future holds so they can have certainty.

As the Minister of Finance stated in the House of Commons earlier this week:

That is what we have heard not only from the Government of Ontario, but also from the Government of British Columbia. They would like to have certainty. They would like to know whether in fact they are going to be harmonizing their taxes within their area of jurisdiction. This is a minority Parliament. The question that I discussed with members opposite last week was a very simple one: Is this Parliament going to support the decisions being made by those governments in those provinces, supported by votes in their legislative assemblies; or is it not? It is important that they be respected and be given certainty by this Parliament, one way or the other. I look forward to the votes, one way or the other.

However, before I conclude, as we have spoken about tax reform and the provincial governments of British Columbia and Ontario, let us turn to this Conservative government's record on taxes and improving Canada's competitiveness at the federal level.

Our Conservative government believes that leaving more money in the pockets of hardworking Canadians is the right thing to do, and we have the record to prove it. Since coming to office in 2006, we have cut over 100 taxes, reducing taxes in every way government collects them: personal, consumption, business, excise taxes and more. We removed almost 950,000 low-income Canadians completely from the tax rolls. We reduced the overall tax burden to its lowest level in nearly 50 years.

Honourable senators, this all translates into substantial tax savings for individuals and families. For example, for families with incomes of \$15,000 to \$30,000, tax relief in 2009 will average nearly \$650; families with income in the \$80,000 to \$100,000 range will receive, on average, a tax reduction of over \$2,200.

Let us review a few of the actions we have taken to reduce taxes on individuals, families and businesses by an estimated \$220 billion over 2008-09 and the following five fiscal years.

We ensured that all Canadians, even those who do not earn enough to pay personal income tax, benefited from the 2 per cent reduction in the GST rate.

We ensured that all taxpayers benefited from personal income tax relief, which included reducing the lowest personal income tax rate to 16 per cent and increasing the basic amount that all Canadians can earn without paying federal income tax.

We introduced the new Tax-Free Savings Account to improve incentives to save through a flexible, registered, general-purpose account that allows Canadians to earn tax-free investment income.

The recession-fighting, job-creating Home Renovation Tax Credit was introduced last January. We introduced significant tax relief to position Canadian businesses for success. In 2008-09 and the following five fiscal years, business tax relief will total more than \$60 billion, including substantial, broad-based tax reductions that will reduce the general income tax rate to 15 per cent by 2012 for job-creating businesses and a significant

increase in the amount of small business income eligible for the reduced federal tax rate to \$500,000 and a reduction of the small business tax rate to 11 per cent.

• (1040)

I could go on and on.

Some Hon. Senators: More, more!

Senator Greene: As the Canadian Council of Chief Executives noted, "The" Conservative "federal government clearly has done everything it can to reduce tax rates within the boundaries of prudent fiscal management."

To summarize, the proposed provincial choice tax framework act is an uncomplicated piece of legislation that simply recognizes that provincial taxes are the responsibility of their respective governments — specifically, the decision to adopt a harmonized value-added tax. This act facilitates such a decision of provincial governments through compulsory coordinating technical amendments to the federal Excise Tax Act — as was required when the three Atlantic provinces made the same decision in the 1990s under the former Liberal government. Moreover, this act will further extend this uniform framework equally to all other provinces going forward.

Once more, honourable senators, let me underline that at the end of the day this is ultimately a provincial decision, not a federal one. We should not interfere or impose our judgment. Provincial taxation is the right of provincial governments and their duly elected legislatures. We should respect that principle.

The Hon. the Speaker *pro tempore*: Senator Downe has a question.

Senator Greene, will you accept questions?

Senator Greene: Yes.

Hon. Percy E. Downe: Honourable senators, Senator Greene delivered an impressive speech. He quoted so many Liberals that I have to agree with almost all of his speech.

However, I do have a concern with regard to bragging about tax cuts. As honourable senators know, the previous government cut taxes, but they also balanced the budget and reduced the deficit. Is the honourable senator concerned that this government, given the ever-increasing deficit, will have to reduce some of those tax cuts in the very near future?

Senator Greene: Honourable senators, no, I have no concern whatsoever about that. The deficit will decrease in future years. While Paul Martin's 1995 budget has a lot to do with the situation that we are in now, he was pushed and pressured into it by the Reform Party.

Some Hon. Senators: Oh, oh!

Senator Downe: I thank Senator Greene for that interesting interpretation of history. I, unfortunately, do not share his view, but I made notes of his words to the effect that we do not have to fear future tax changes. I will keep those notes on file and hope that I will not have to use them.

Hon. Pierrette Ringuette: I have two questions for Senator Greene.

At the beginning of his speech, the honourable senator put forth many statistics in regard to the Atlantic provinces and the HST. Because of the delay in receiving Hansard, would it be possible to have a copy of the honourable senator's speech so that I can look at the research?

Senator Greene: Yes.

Senator Di Nino: It is in Hansard.

Senator Rompkey: We do not receive the Hansard today; it is delivered tomorrow.

Senator Ringuette: The honourable senator indicated that there is tax relief of \$60 billion. He also indicated that the average Canadian receives an income tax break of \$650. If I make a quick calculation, I see that average Canadians will receive \$13 billion altogether, which leaves \$47 billion.

Of the \$47 billion in tax breaks that the honourable senator mentioned, how many billions of dollars in tax breaks have been legislated for the big banks of Canada?

An Hon. Senator: Hear, hear! Good question.

Senator Greene: Honourable senators, the question makes no sense to me. If the honourable senator wishes, I would be happy to read the last 10 pages of my speech.

An Hon. Senator: Yes.

Senator Greene: I will do that, then.

Senator Ringuette: I did not ask for the honourable senator to reread his speech. He cited data in regard to the tax break that the Reform Tories have put forth. Out of the \$60 billion that he mentioned in his speech, the honourable senator's research would also indicate how many billions of dollars in tax breaks go to the big banks of Canada, which are currently paying themselves big bonuses. How many billions of dollars is that?

Senator Greene: Honourable senators, I do not have that particular information on file right now. However, the honourable senator is mixing apples and oranges. The tax breaks we have offered go to individuals, businesses and families. Tax relief to banks is not included in the \$60 billion.

The Hon. the Speaker pro tempore: Senator Murray, do you have a question or do you wish to speak?

Hon. Lowell Murray: Both. I will ask a question, and I believe Senator Day will be speaking for the official opposition.

The honourable senator has vaunted the merits of the broadly-based consumption tax, and I agree with all his arguments in that respect. Then he went on to praise the various tax measures and tax reductions that have been brought in by the present government.

I note that as a percentage of total federal revenues, personal income tax revenues have gone from 46 per cent a few years ago to 50 per cent now, whereas GST revenues — that is, the broadly-based consumption tax, whose merits he has properly spoken about today — have gone from 15 per cent to 11 per cent.

In terms of outcomes, does the honourable senator think that this is an appropriate division of burden, that is to say, a rising share of government revenues accounted for by the personal income tax and a declining share of government revenues accounted for by the broadly-based consumption tax?

Senator Greene: There are a number of points I can make in responding to the honourable senator's question.

First, the population of Canada is not static; it is growing, as a result of births and immigration. That is one factor that would lead to higher tax revenues from income tax.

Second, we have a strong, growing economy. Wages are expanding. Over the past year, even in the midst of the recession, our economy has been relatively strong. Of course, we have cut the GST. This would account for the rising revenue from income tax and related sources.

• (1050)

The Hon. the Speaker pro tempore: Senator Ringuette, I am sorry; I did not realize that you were not finished. The Honourable Senator Ringuette has the floor for one more question to Senator Greene.

Senator Ringuette: I am somewhat dismayed that the honourable senator is indicating that the \$60 billion in tax breaks does not include tax breaks for the banks. I guess we will be able to look at all of this in committee.

One of the major responsibilities of the federal government is to enhance free trade between the provinces — that is, the better flow of goods and services. Right now, a model has been built between B.C. and Alberta of which the federal government seems to be proud. Alberta has no provincial sales tax but B.C. will now have a harmonized sales tax. Have the federal government and the Minister of Finance looked at what the impact of this new regime will be with regard to trade harmonization between B.C. and Alberta?

Senator Greene: I do not know if they have examined that particular issue, but I would be happy to find out. The model of a free trade agreement that is on the books between B.C. and Alberta is a good one. When I was with the Province of Nova Scotia, we looked at that carefully. At one point, we took steps to join it. The new government in Nova Scotia will do its own thing, I am sure. It is an important and worthwhile free trade agreement between provinces that everyone across the country should look at.

Senator Ringuette: To ensure that I understood the honourable senator properly, will he be talking with the minister to see if research on the economic impact has been done? If so, will it be tabled at the committee?

Senator Greene: What committee is that?

Senator Ringuette: At whichever committee the honourable senator's leadership decides to send this bill.

Senator Greene: I cannot promise that it will be tabled, but I can certainly promise honourable senators that I will talk to both the minister and the department to see if they have done such work.

Hon. Joseph A. Day: Honourable senators, I would like to begin by congratulating Senator Greene on his speech, in particular the first part of his speech that actually dealt with the bill before us. I find that I can agree with most of the points made therein. I will leave for others the second part of the speech that wandered into political posturing. I will try to stick with the features of the bill. There is enough within this bill that we need not wander off into other areas.

This is second reading debate of an amendment to the Excise Tax Act. At second reading, we discuss the bill in principle, which often results in many questions, especially given that this chamber received this legislation only two nights ago. We sat late Wednesday night to receive the bill. I trust that honourable senators will forgive me if many of the points that I raise are really questions that I hope to pursue if and when this bill is referred to committee.

Honourable senators, I am not entirely in agreement with the Honourable Senator Greene in respect of his characterization — and he said it several times — of the fundamental question of whether the provinces have the right to fix the tax. I suggest that the fundamental question of this bill is with respect to the proposed harmonized sales tax for Ontario and British Columbia.

Our task is to study the implications from the federal point of view. We must properly review 34 pages of provisions concerning the federal government's desire to meet the request of the provinces to harmonize a sales tax with the GST. That is the fundamental issue that we will want to look at.

The honourable senator spoke about political risk, and there certainly is one. However, that is a decision for the provinces, and we will leave that decision to the provinces to make. I agree with the honourable senator that the provinces have the right, under our Constitution, to directly tax their citizens. The federal government has a broader tax authority and can tax citizens of Canada in any matter that it sees fit. However, the GST has been characterized as a sales tax similar to a provincial sales tax.

Honourable senators, let us now look at some of the steps that have been taken in this particular bill from the federal government's point of view. First, there is the decision with respect to Ontario. In consultation with the Province of Ontario, the tax will be 13 per cent; for British Columbia, it will be 12 per cent. Ontario will receive compensation of \$4.3 billion from the federal government in order to help with the transition into this program; British Columbia will receive \$1.6 billion.

The harmonized sales tax is not new. Certain provinces, such as New Brunswick, Nova Scotia and Newfoundland and Labrador, entered into a similar scheme in 1997. As a resident of the province of New Brunswick, I can tell honourable senators that the program works very well. I believe that the objectives of

efficiency from the point of view of tax collection in the provinces save money because the federal government — that is, the Canada Revenue Agency — collects the money much like it collects the provincial portion of federal taxes in many of the provinces. It is more efficient from the point of view of industry because they pay one tax only. Manufacturers should be able to pass that on in the form of lower prices for their products.

I support that concept. However, we must specifically review the provisions of this particular bill, whether they achieve the desired result and whether there are any areas that we should be concerned about.

Honourable senators, when a previous government tried to encourage harmonization, every province was have the same rate. There is built-in flexibility now. As I stated, the overall harmonized tax in British Columbia will be less than it is in Ontario; Ontario will have the same rate as the Atlantic provinces. There is now a built-in flexibility that in large part is a good idea, but it creates other problems if there is cross-border trade between provinces — that is, if a product is manufactured in one place and sold in another place — and if there are taxes in terms of the input tax credit. If a manufacturer makes its sales to an intermediary, then there is an input tax credit back to the original manufacturer. Ultimately, the consumer pays the entire tax, but what about the various people in the chain between provinces?

• (1100)

That is one of the issues that we will want to explore in more depth at committee.

The flexibility that is built in to allow provinces to provide for tax rebates for new home construction is something new. Different provinces will opt for different ways in that regard. There is some suggestion in this bill of flexibility, which I think is right as long as it can be managed.

With regard to the treatment of the financial sector and how we deal with new home construction started before July 1 and concluded after July 1 will have to be considered. In fact, all of the transition rules are points that will require review.

Honourable senators, in our more cooperative moments here we talked about this bill possibly going to the Finance Committee. That committee is ready to review the legislation if this chamber decides it should go there. We are prepared to deal with it.

One issue we will want to look at is the provision for opening up, in effect, the agreements in the other provinces for harmonized sales tax if they feel they got a worse deal than the two new provinces. I anticipate that that will be one point of discussion between the federal government and the provinces in the future.

Another point that must be made here is that the First Nations have brought to our attention that they have not been consulted in relation to this measure to the degree they would have liked. They claim that they have an issue and that there should be provisions made to accommodate their tax-free status at point of sale. They are now exempt at point of sale from paying the provincial sales tax portion. With harmonization, they are now

being told that they will not have that exemption, and there has been no meaningful discussion to compensate or accommodate them in that regard.

That is the primary area that we will have to wrestle with and determine. We have witnesses already set up to talk to us about that matter.

Those are some of the points that I see from an initial review of this legislation. I saw in the supplementary estimates that we reported on two days ago that the federal government is anticipating that we will pass this bill and are providing for almost \$43 million. This is at page 100 of Supplementary Estimates (B). We have already approved that, in principle, through the report, and the supply bill will be dealt with on Monday. The \$43 million is spread among the Canada Border Services Agency, Canada Revenue Agency and the Department of Finance to deal specifically with the harmonization and the bringing into effect of what hopefully we will pass in Bill C-62.

The funds are already there from the federal government, and I have already discussed the compensation.

Honourable senators, those are some of the points that I believe will be of interest when this matter is referred to committee. We look forward to reporting to you after we have had a chance to look into the bill in detail.

Senator Murray: Honourable senators, early in his speech, the sponsor of the bill referred to an academic commentator as “the ironically named Professor Smart.” I begin, therefore, by thanking the ironically named Senator Greene for his sponsorship of this bill and for giving such a thorough explanation of it.

I must say in passing that it was rather cruel of Senator LeBreton to have assigned this bill to Senator Greene. Senator Greene, if I am not mistaken, is a former top adviser and strategist to Preston Manning, the leader of the Reform Party, and must surely therefore have been part of the Greek chorus predicting calamity when the GST was brought in here 19 years ago. In that respect, of course, the Reformers and the Liberal opposition of the day were joined at the hip, as they were in various other crusades.

[Translation]

On December 13, 1990, 19 years ago this week, I had the unforgettable pleasure of sponsoring the GST bill in this chamber. Many honourable senators probably remember that this parliamentary drama came just months after the last difficult stage of the Meech Lake Accord, another crusade on which Reform Party members and Liberals worked together, if not unanimously. Moreover, the debates on the GST came just a few weeks before the final vote on abortion.

So 1990 was a rather tumultuous year in Canada’s Parliament, but I can assure you that nostalgia is not the only reason I am rising today to express my support for Bill C-62.

[English]

I support this bill almost with enthusiasm. I say “almost” because I would not want to be mistaken for a tax-and-spend Conservative. I am not one of those who believe that there are no

good taxes or that there are no bad taxes. I do say, and I think most of us agree, that taxes are necessary and that some taxes are better than others, or less bad than others, in terms of both their fiscal and economic impact.

I think we are also agreed now, belatedly in some cases, that a broadly-based consumption tax applicable to both services and goods, more comprehensive, more equitable, less distorting to the economy than other tax, fairer and simpler than a loophole-laden personal or corporate income tax, is much to be preferred; which is why I raised the question earlier to Senator Greene whether we really want to see a rising share of government revenues accounted for by personal income tax now at 50 per cent and a declining share of federal revenues accounted for by the broadly-based consumption tax. We will see how that works out in the future.

In the case of the federal government, the GST was intended to be and has proven to be greatly preferable to the 13 per cent manufacturers’ sales tax that it replaced, for all the reasons that I have alluded to earlier, plus the manufacturers’ sales tax was a drag on Canada’s competitiveness.

The GST, with its input credits, has been a boon to investment, productivity, production and exports. I may say that long before we brought in the GST, all these considerations had been abundantly documented in numerous studies and reports, including those from parliamentary committees.

• (1110)

When we brought it in, a broadly-based consumption tax at the federal level to replace the manufacturer’s sales tax, this initiative, by any fair reading, was long overdue. I say that it is no coincidence that we introduced it almost contemporaneously with the conclusion and implementation of a free trade agreement with our biggest commercial partner, the United States.

For the record, the Mulroney government’s Finance Minister, the Honourable Michael Wilson, brought in a significant policy of income tax reform even before he introduced the GST. In his 1988 budget, Mr. Wilson reduced the number of tax brackets from ten to three. The top federal rate was reduced by five points, a reduction made possible by elimination of a number of incentives in both the personal and corporate sectors. A number of deductions were converted to credits, with a view to targeting assistance to those most in need. Thus, for example, the child deduction and later family allowances and the child tax credit were folded into a Child Tax Benefit.

These reforms were fiscally sound and realistic. Some of them elicited howls of outrage from the opposition and others who refused to acknowledge that the reforms were more socially progressive than the provisions they replaced or amended.

Contrary to later accusations that we had waited until after the 1988 election to “ambush” Canadians with the GST, Mr. Wilson could not have been clearer as to our policy. I quote from his 1988 budget:

Still ahead of us is reform of the federal sales tax. We will replace the archaic and distorting sales tax system we now have with a multi-stage system that will be effective in supporting growth and job creation.

Then he went on to make a point that must be obvious to everyone, and I believe it is obvious even to former Reformers and present Liberals, namely, that all the advantages that I have mentioned as to the superiority from both a fiscal and especially an economic point of view of a broadly based consumption tax are multiplied in a federal system such as ours when we harmonize the sales taxes of the central government and the provinces. Mr. Wilson would have taken this measure 18 years ago if the provinces had been willing. As he said in his 1988 budget address:

We have been working with the provinces and others to develop the most effective means of implementing this new system — particularly the opportunity of an integrated national Sales Tax. While the progress so far has been good, we have more work to do. We are actively pursuing these discussions to ensure that, coupled with the major reforms in the personal and corporate income taxes, Canadians have a tax system that meets both our shared commitment to fairness and the demands we face in a competitive world.

Honourable senators, this bill should be, in the words of one commentator, and here I will quote the same source that Senator Greene quoted, namely, Chantal Hébert, a “no brainer” for federal parliamentarians. The governments of Ontario and British Columbia have resolved to harmonize their respective provincial sales tax with the federal Goods and Services Tax, as four other provinces have already done. That decision, and here I am in accord with Senator Greene and Senator Day, is one to be approved or otherwise by the legislatures and ultimately the voters of Ontario and British Columbia. Surely it does not lie with us here in the federal Parliament in Ottawa to vote on the fiscal policies of those provincial governments.

One of the best features of this bill is that, if it passes, provinces that may wish to harmonize their sales tax with the GST in future will be able to do so by executive agreement with Ottawa. It is legitimate, of course, for Parliament to pronounce on incentives offered by the federal government to sweeten provincial harmonization, and we have the final word on any amendments to the federal GST itself. However, I join with others in stating that we must respect the authority of the provinces to set their own fiscal policies in accordance with their own needs and priorities.

Having said that, I must add that I wish I had made this speech 13 years ago when the bill was before us to harmonize the provincial sales taxes of New Brunswick, Nova Scotia and Newfoundland and Labrador with the federal GST. I had forgotten about those debates. I looked up the record several days ago and found that, far from respecting the right of the provinces to set their own fiscal policies, members of the House of Commons filled 374 pages of their debates — 219,754 words — on the subject. The Reform Party, forbearers of the present Conservatives, were against it because they said it was a tax hike. The Bloc was against it because they said it provided compensation that had not been provided to Quebec when that province earlier started to harmonize. The NDP was against it because, well, because they are the NDP.

The Senate debate on the bill covers 101 pages, containing 54,634 words. Our former colleagues, Senator John Buchanan, an ex-premier of Nova Scotia, Senator Brenda Robertson and

Senator Jean-Maurice Simard, ex-cabinet ministers in New Brunswick, spoke. Senator Noël Kinsella spoke at length. Another present colleague, Senator Donald Oliver, piled on. The speeches they made could have been delivered and should have been delivered only in the legislatures of New Brunswick and Nova Scotia, for they dealt almost exclusively with the decision of those governments to harmonize their sales taxes with the GST, a matter for provincial members of the Legislative Assembly and voters.

In my own defence, I can say I did not make a speech. However, I am mortified to confess that I joined other senators in the now defunct Progressive Conservative Party in support of several amendments, the rationale and purport of which, even as I read them today, is a mystery to me as it probably was then.

The temper of the official opposition in the Senate was not improved by the opening speech in the debate by the bill's sponsor, our former colleague, Senator Michael Kirby. As to the substance, he was, as usual, formidably well documented and well briefed. Then he came to the politics of the issue, and he had the chutzpah to try to argue that by harmonizing the federal and provincial sales taxes, the Chrétien government was implementing its promise to abolish the GST. This was what the theologians call casuistry with a capital C, and we treated it with the scorn it deserved.

One amendment that seems to have been accepted, unfortunately, by the Liberal government at the time, a Senate amendment, defeated a proposal for tax-inclusive pricing of the goods and services affected by the HST. When I was younger than I am now, more conservative, more idealistic and more naive — those qualities are all the same thing — I believed that the beginning of wisdom in fiscal responsibility was that taxes had to be transparent, visible and easily quantifiable. In principle, I am still of that opinion. However, I am convinced that the vast majority of consumers and retailers much prefer that the sales taxes be included in the sticker price of any good or service. For consumers, it is simply more convenient and more efficient. Today, I would almost certainly support a move in that direction.

Hon. Michael A. Meighen: Would Senator Murray accept a question?

Senator Murray: Yes.

Senator Meighen: Senator Murray is to be congratulated on the humour and wisdom of his intervention, which is not uncharacteristic of him. He says he is not as young as he used to be.

The Hon. the Speaker *pro tempore*: I am sorry to interrupt. Senator Murray's time has expired. He has to ask for more time.

Are you asking for more time, Senator Murray?

• (1120)

Senator Murray: Yes. After I heard the introduction to Senator Meighen's question, the flattery should get another five minutes for him to put the question.

Senator Meighen: I only wish that I had been more flattering; I might have had 10 minutes.

I thank Senator Murray for those remarks. It is nice to correct revisionist history from time to time, and it is amazing how, as we all get a little older, we tend to forget the facts of what happened in those tumultuous days when Canada was set on a proper and successful economic course.

My question arises from his question to Senator Greene. He asked Senator Greene about the difference between the percentage of government revenues represented by income tax and that represented by consumption tax, and he noted that the income tax percentage was going up and the GST percentage was going down. From his experience, could this be due to the fact that the cuts in the GST percentage would put more revenues in the pockets of taxpayers and hence taxpayers would be obliged on a personal level to pay more tax?

Second, what would Senator Murray's view be as to the appropriate spread between those two taxes? I heard him speak in glowing terms of the fairness of the general consumption tax, and I agree with him. At what level would he, if he were reincarnated as Minister of Finance, like to see it settle at?

Senator Murray: Honestly, I am not expert enough to quantify what would be an appropriate division as between personal income tax and broad-based consumption tax. I accept the view of most economists to the effect that the broad-based consumption tax is much preferable and that it would be better for our economy and for equity for us to continue to reduce income taxes and depend more on the revenues from a broad-based consumption tax.

I should point out a few things to complete the record. The source is the Department of Finance, and the year in question was the last fiscal year, 2008-09. Personal income tax accounts for 50 per cent of total federal revenues; corporate income tax, as a share, has gone down from 17 per cent the year before to 13 per cent in 2008-09; and GST, 11 per cent.

I cannot quantify what the division should be. I just say that I would like to see a greater share of revenues accounted for by the GST and a lesser share by income tax, both personal and corporate, as a matter of fact, if I was pressed.

Hon. Joan Fraser: Honourable senators, it is always terrifying to rise to speak after Senator Murray because he is unique in his combination of speaking skill, wisdom and knowledge. It is a terrifying combination to follow.

Nonetheless, one word that he used prompts me to rise as, perhaps, the last of the Luddites. In the dear dead days to which he referred when we were having all these arguments, I was neither a Liberal nor a Conservative and, certainly, not in politics. The views that I held then were based on a modest degree of study and reflection, and I have not changed them since.

My quarrel is with the argument that any general consumption tax is fairer than other forms of taxation. I am not quarrelling with this bill. I would go to the wall for the right of the provinces

to set their own fiscal policy, and I would not stand in opposition to any province's wish to set its taxes as it saw fit as long as it was within its constitutional rights.

I am not even arguing that Canada alone could stand against the tide that has swept the Western world over the past generation in favour of shifting taxation toward general consumption taxes. If we did try to stand alone against that tide, we would see probably some very harsh consequences because all the people who have money would take it out of this country and put it someplace else that they found more congenial, whether their own personal investment portfolios or their business investments, and Canadians would pay a high price.

I know that the GST is now such a rooted part of our system that it would be disruptive in the extreme to go through another convulsion and change it. I know the GST has been a magical money machine for governments and that a wise government can even use some of that magically obtained money for wonderful purposes.

The basic problem is with the notion of the fairness of a consumption tax. A broad-based sales tax is a regressive tax. It is by its nature designed to be a regressive tax. The only kind of sales tax that is not regressive is a luxury sales tax, but it does not bring in nearly enough money. Therefore, a broad-based sales tax will be regressive. It will weigh proportionately more heavily on the poor and lower income brackets than on the rich. The poor get to pay the GST. I know there are exemptions for certain essential goods, but they still end up paying proportionately more of their income on the GST than the rich. Meanwhile, the rich get wonderful treatment in relation to capital gains.

I am a realist. I am not mounting a crusade to say we have to change that principle, although it would be lovely if we could remember it. John Kennedy said that life is not fair, and he was right, but just let us remember what we are doing. I do not think it is quite appropriate to compare a GST, which in my view is inherently unfair, with a progressive income tax system that is, in application, unfair. I agree that proliferation of loopholes of one sort or another is insane. I would stand with Kenneth Carter and Edgar Benson: a buck is a buck and should be taxed as such. We do not do that, but that is not a windmill I will tilt against. I will pick slightly more vulnerable windmills if I go tilting.

I ask all honourable senators to remember what it is we are talking about. Before someone says, "In that case, you should have supported the cuts to the GST," I will say that I would have supported the cuts to the GST if they had been counterbalanced by corresponding increases in other tax revenue that was more progressive. Instead, all we got for the cuts in GST were deficits, and guess who ends up paying for them?

Senator Eaton: No.

Senator Fraser: You may think I am a Luddite; I said it at the outset. However, this is something that should be on the record. We should know what we are doing.

Hon. Hugh Segal: Would the honourable take a question?

• (1130)

Senator Fraser: To the best of my ability.

Senator Segal: The honourable senator made the broad claim that sales taxes are regressive by definition, structurally. I think it is fair to say that a sales tax applied without any consideration for folks with a lower income has the potential of being massively regressive. As the government of the day introduced a relatively generous GST tax credit, which was automatic, which was deposited into people's accounts and for which people, by filling out their tax form, could apply before the year in which they ended up paying the GST, there is evidence that in the way one designs the tax, one can achieve a measure of progressivity that would not otherwise exist in a general sales tax, as mentioned by my honourable colleague.

More importantly, if we think about what 5 per cent generates for Her Majesty on the purchase of a Mercedes versus 5 per cent on the purchase of a Focus, honourable senators can understand that this tax has the capacity of evening out some of the inequalities that exist in a world where not all inequalities can be managed, as the honourable senator rightfully advances.

Where I think there is perhaps — and I would like her opinion on this point — a broad area open for debate is how those tax credits are managed. What level should they operate at? Are they adequate to meet the gap in some way? I am interested in any thoughts the honourable senator may wish to share with the chamber in that respect.

Senator Fraser: Is the honourable senator asking me to put my money where my mouth is?

Senator Segal: I would never be so crass.

Senator Fraser: On the well-known example of Mercedes versus Focus or whatever, the point is not that the government's revenue from the GST on a Mercedes is greater than its revenue from the GST on — is it a Focus? I am not a car person.

Senator Segal: Yes.

Senator Fraser: The point is that the GST on the Focus probably represents a higher proportion of the purchaser's income than the GST on the Mercedes represents as a proportion of the income of the buyer of the Mercedes.

How can it be rejigged? Goodness only knows. I know that the designers of the tax tried and were prodded by parliamentarians to attempt to design the GST in such a way as to lessen the inequities. It is my view that they could not do so and still attain the goal — which they did attain — of extracting vast new sums of money from the pockets of Canadian taxpayers.

The poor and the modestly well-off spend a greater proportion of their income on consumption than the well-to-do do. The poor do not put a whole lot of money into registered retirement savings plans, RRSPs, for example. The middle classes do, and the upper classes — well, it is pocket change for them, but still, they tend to take advantage of tax sheltered investment systems. The poor do not. The poor buy items and they pay the GST on them.

I am not Kenneth Carter; I do not have a whole new tax system to propose. My far more modest plea is that, as we go about

legislating these changes, we keep in mind this glowing distant ideal of a principle that we should not move too far away from.

Senator Segal: I ask the honourable senator's perspective on the larger question of how these tax changes tend to affect low-income Canadians overall, because that is where she is taking us with her thoughtful comments.

Governments around the world have decided, in the face of the financial crisis of a year or so ago, to provide what I will call macrostimulus to the car industry and financial institutions, all of which I think was probably historically the right thing to do in a difficult time to keep a desperate situation from becoming utterly without redemption.

That being said, I agree with the honourable senator that all the data suggests that if one wants to stimulate the economy, if one can put more liquidity in the hands of low-income people, they have no choice but to spend it. They will not put it into an RRSP, sadly. They will not be able to sock it away into a Tax Free Savings Account, TFSA, because they do not have the financial freedom to do so. They have obligations to deal with, and they have no stretch with which to negotiate.

I expect that debate will take place in the legislature of Ontario and British Columbia at budget time about what is being done for low-income Ontarians and British Columbians by the provincial jurisdiction. I am interested whether, in the honourable senator's judgment, the negative impact that she ascribes to this tax, however well intentioned she understands it to be, might be dealt with by a more substantive review of our income security program so that we do not leave the poor outside the mix in a way that has, on occasion, been part of the Canadian experience.

Senator Fraser: Senator Segal offers a wonderful occasion for me to congratulate him, Senator Eggleton and their colleagues for their work on poverty — sincere congratulations. I think it is important work. It is the beginning of the kind of thoughtful examination of broad, broad questions that he calls for. I can think of no better task for any government at the provincial or federal level to undertake than such a broad examination, and I congratulate Senator Segal for having pushed to start at least one part of that debate.

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

Hon. Senators: Question.

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

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I move that this bill be referred to the Standing Senate Committee on National Finance.

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

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

ELECTRONIC COMMERCE PROTECTION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Oliver, seconded by the Honourable Senator Di Nino, for the second reading of Bill C-27, An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act.

Hon. Grant Mitchell: Honourable senators, I rise to speak on Bill C-27, the spam bill. I will say before I start that I listened with great interest to the HST debate, and I am sure that I reflect broadly the sentiment in this house that the quality of debate distinguishes the Senate. I congratulate each of the members who debated.

Not by way of criticism but simply by way of correcting the record, I point out that the debate not once addressed the HST in Alberta, and I should say, on behalf of Albertans and Alberta, that the harmonization of the tax in Alberta caused absolutely no problem whatsoever. It was done without a ripple; if only all the other provinces could follow that example.

With respect to the spam bill, before anyone begins to yell at me, I want to say that I agree with the bill in principle. I look forward to having it discussed in committee. The spam bill is a good bill in principle, absolutely and fundamentally. We all know about spam. We have all heard of spam. There are many kinds of spam. We know that it is a tremendous waste of productivity. We know that it is a hindrance to effective business. We know that it is fundamentally a nuisance, a problem for us as individuals, and we know it must be dealt with.

• (1140)

It is interesting to note that Canada is one of the few industrialized nations that is without anti-spam legislation and it is interesting to note, unfortunately, that we have gained a reputation somewhat as being a haven for spammers. This legislation is past due. This bill needs to be dealt with and we have to fix the problems.

I point out that there is a good deal of bipartisan, all-party collaboration on this issue. Of course, it has been passed in the house after intense but positive debate — learned debate, I believe — and it has been championed in this house both by Senator Donald Oliver of the Conservative caucus and by our former colleague, Senator Goldstein, both of whom had presented private members' bills.

I will put one small partisan plug in to say that the process of reform for bringing in legislation was started with a task force established by the Liberal government in 2004. Again, in the spirit of cooperation and collaboration in this environment that is sometimes maligned, the government has picked up on much of that work and has brought in a piece of legislation that is an important step.

Let me list briefly what the bill will do, but first let me point out that there are a couple of forms of spam, at least, which were clarified for me. Most of us see spam as those unwanted emails that we receive over and over again, and that the classic view of spam and that was my view.

However, it turns out of course that there can be spammed programs — software — that can be downloaded without consent and that can be extremely dangerous. Often, we refer to those programs as viruses. We have them all the way from inconvenient and a nuisance, to extremely dangerous and damaging, with huge consequences both to personal files and to commercial enterprise.

What does the bill accomplish? As was suggested by the definition of the problem, the bill prevents the downloading of software without consent but it wisely, because an amendment was made, excludes automatic updates to software that one has chosen to download already to their computer. Often that is the case: The software is updated and users want the update. These updates will be excluded.

The bill also prohibits electronic commercial messages, commercial emails and that kind of thing that one can receive at this point without consent; without direct consent or implied consent. Clearly, it is important that we differentiate, that we allow for implied consent in the way that businesses operate. We do not want to impede the ability of businesses to deal with their clients or their prospective clients.

Interestingly, it also prohibits companies from taking personal information without consent. It is important from a privacy point of view and, as we work our way through this area of communications on the Internet, on the web, privacy remains an important issue. Step by step, we have to plug the holes and fix the problems.

This bill is distinguished by the fact that it uses a regulatory approach for implementation rather than some kind of criminal approach. I suppose it can become criminal in certain areas, but basically the approach is a regulatory approach that is coordinated through the Canadian Radio-television and Telecommunications Commission, CRTC, the Office of the Privacy Commissioner and the Competition Bureau; all three are good choices for having responsibility and application to the supervision of this process.

This bill is also serious about dealing with infractions. First, it provides for fines of up to \$1 million for any individual who spams, and it also provides for up to \$10 million in fines for any company that spams.

I can see Senator Mockler wondering, if he receives a Liberal email, is that spam? I do not know, but I can answer the other way: It is continuing education. If I receive an email from the Conservatives, it might not be spam, but it would be wrong.

Sorry, I am trying to rise above that. Merry Christmas.

The other thing the bill includes is a private right of action provision that will allow consumers, businesses and Internet service providers to take civil actions against violators. I think that provision is all good. It hits the highlights of the problem. It has a structure for administration. It has a structure for penalties to make people focus on the seriousness of these potential problems. It is a 21st century bill and it is good.

Now, right to that point; there is one slight problem. I should not say the problem is slight. It is significant and I know it has been debated, and Senator Oliver has given me assurance that it is being considered.

The problem is this: The bill is sweeping. As you might imagine, it is difficult to structure a spam bill in the environment we are in. That is to say, things are emerging and changing. The Internet, the web, is expanding so dramatically and so quickly and communications are shifting from what we have seen as traditional ways of advertising and communicating, often on paper or on TV, to this remarkable place that many of us have yet to understand: the Internet, the web, the ether.

It is understandable that we would have a broad approach to this bill as a first crack at it. However, there is a single problem that I think we have to address in particular. That problem was raised with me and others by Research in Motion, the BlackBerry people, because it inhibits a company like RIM from responding quickly to a spam virus attack — an attack that could crush their system or parts of their system.

Normally, when immediately faced with a threat, the menace of a virus, a viral attack on their system, RIM has been able to go out into that structure, into that process, and seek out the location, the origination of that attack. The privacy requirements in this bill and the privacy provisions make it difficult for them to react quickly. The company might be able to react, but I think they would have to have certain kinds of provisions to react. It is difficult to find the balance. We are having the same debate on Bill C-6. However, that problem must be looked at and we must discover a way that a company like RIM is not vulnerable to attacks that can be devastating. To this point, they have been able to defend themselves because they have had mechanisms but those mechanisms might be threatened by this particular piece of legislation.

Honourable senators, I do not know exactly what steps will be taken in a concrete way to fix the problem, but of course committee debate and discussion will be a place where the problem can be considered, and I am sure it will be.

The second point is that a couple of questions arise out of this legislation. I am sure government has thought about the questions and perhaps there are specific answers. If not, I expect we will see some of them in future budgets, et cetera. There is the question, of course, of resources for enforcing the provisions of this bill. It is not as though the CRTC has extra money, the Competition Bureau has too much money or the Privacy Commissioner has extra money, and yet they will be given this tremendous responsibility.

To point out an example of this kind of problem, we need only look to the Do Not Call Registry, which receives about 20,000 complaints a month to the CRTC. However, since the inception

of that program, the CRTC, faced with 20,000 complaints a month, has issued only about 70 warning letters. Those numbers underline the magnitude of these issues, and they raise the question of what the resources will be and how we can implement this legislation effectively.

The second matter similar in its implications is that the legislation provides for creating a national coordinating body that, according to the Industry Canada website “will synchronize public education and awareness, track and analyze statistics and trends, and lead policy oversight and coordination.”

That sounds like something we need in climate change, it dawns on me — but not to distract. Of course, we can see why that might be the case. There are implications for both levels, provincial and federal, I am sure, in the application of this kind of legislation; policing forces, information-gathering systems, et cetera. There needs to be coordination.

• (1150)

Again, how will this be structured? Where will it be placed? What kind of money will it have? What kind of resources?

Finally, this is a question of the evolution of the administration of this act; there will be huge implications also for international communication and coordination. Often spam comes from other countries. Therefore, it is necessary to coordinate with those other countries in what they are doing to help us and vice versa in any given case or any given policy development matter. The CRTC, the Office of the Privacy Commissioner and the Competition Bureau will need to have the resources and personnel to focus on that relationship and make that relationship work.

I look forward to the next step, discussing the bill in committee and making it perfect.

Hon. Percy E. Downe: I appreciate the honourable senator's comments on the proposed bill and his comments about the Do Not Call List. He highlighted but skimmed over some of the problems the CRTC is having with the Do Not Call List. My information is that the CRTC, to date, has received over 700 complaints, they have filed nine fines, and the companies are refusing to pay the fines. There is, in effect, no enforcement.

Despite having registered on the Do Not Call List, many people are receiving more calls. Some people who registered their cell phones and were getting no calls before are now getting calls. The CRTC recently issued a request for proposal to hire a contractor to carry out investigations of the Do Not Call List. It then abandoned the request. Why would we have any confidence in the ability of the CRTC to monitor this spam bill if they cannot do it with the Do Not Call List?

Senator Mitchell: I am glad the honourable senator did not call me about that. Senator Downe is emphasizing the point that I was trying to make. While I want to remain optimistic, the question arises: Will there be the resources for this policy to be implemented properly? Clearly the CRTC example to this point with the Do Not Call List is an issue.

The second issue is how you go about — once you go through the process of getting a fine allocated or penalty levied on an individual or company — determining who will take responsibility for that next step? I am not a lawyer, but I expect there is some legal process to go through to follow up and collect it.

I agree with the honourable senator. That is a problem.

Senator Downe: I have a further question. I constantly receive emails from very kind people in Nigeria who want to assist me financially if I would only send them my banking and other personal information. Senator Mitchell indicated his concern about resources. I am more concerned about enforcement.

How will the government prevent foreign countries, and companies operating in those countries, from continuing to send spam to Canadians? Will we enforce the law on providers and servers in Canada? Will they be fined? Does the honourable senator have any information on that?

Senator Mitchell: No. There are probably experts with ideas about that, and we should call some of them to the committee. I will tell honourable senators that my impression is that, of course, there will be spam coming from an infinite number of places, many of which one could not find in time to fix it.

One of the responsibilities for the national coordinating body is it would coordinate public education and awareness efforts. To some extent, those kinds of issues that Senator Downe raises — and we all have received unsolicited mail — beg the question of how one responds and understanding what it means and what its consequences are. The best way to do that is to arm citizens, and public education and awareness would be one step towards that.

Senator Downe: I hope the committee members would be very careful, given the donnybrook we have with the CRTC and the Do Not Call List.

The CRTC, for example, holds hearings in secret. Canadians are not aware of which companies are under investigation. The CRTC will only release that information if, after the company is fined, they refuse to pay. There is no transparency, no openness, and no protection for Canadians. There is no sense of duplicating our problems with the Do Not Call List with the spam bill and I hope, as a member of the committee, the honourable senator will keep that in mind.

Senator Mitchell: Will do. Thanks.

Hon. Jane Cordy: I thank the honourable senator for the excellent speech. I agree with the comments that the committee must look carefully at this bill. Sometimes what looks very simple can have negative consequences that the drafters of the bill had never intended. It is very important that the members of the committee look extremely closely to ensure that, whatever happens to it, it is the best bill that it can be for Canadians.

At many NATO meetings I have attended, the country of Estonia was concerned about the cyberterrorism that happened to them. They believe that this terrorism came from Russia in an effort to make them a little more subservient. When this

happened, the whole banking and economic systems within the country of Estonia were brought to a standstill because none of the computers in the country would work due to the spam that they believed came from Russia.

Will this bill address those kinds of things? Will Canada be safe from that type of thing? Hopefully it would never happen, but certainly the possibility is always there. Is that something the bill would look at?

Senator Mitchell: I think we see, from the nature of these questions, the breadth of the interest amongst us. I think that is probably reflective of Canadians generally.

The bill would facilitate dealing with spam, but it comes back to the question of resources. In relation to Senator Cordy's point about cyberterrorism and its implications, is the CRTC equipped to combat such actions? Is the Privacy Commissioner equipped to do that? Who is equipped to do that? There may need to be more brought into this process.

It is important to raise that kind of question before the committee as well. One would hope that there are agencies right now working on that kind of thing, and we need to find out if this bill would facilitate or hamper them.

Hon. Donald H. Oliver: I had a point of clarification. When the honourable senator made his presentation and was talking about the Do Not Call List, as I heard him, he said that there were 20,000 complaints a month. He said there were only seven letters that came from it.

Is the honourable senator saying, therefore, that the only reason for the seven letters is that they did not have enough resources? Was that the point? Is there any evidence to that effect?

Senator Mitchell: It was 70 letters. It is not a big difference, I know. My point is that it certainly raises the question of whether they have resources. I do not know that they do not. Maybe there were only 70 that they had to act on, but it seems to me that there probably is a resource issue. I am just asking the question.

Senator Oliver: It may not be a resource issue.

Senator Mitchell: It may not be, but I think the question needs to be asked. I would bet it is. Do you want to bet?

(On motion of Senator Tardif, debate adjourned.)

BUSINESS OF THE SENATE

Hon. Gerald J. Comeau (Deputy Leader of the Government): Before we go any further, honourable senators, I have spoken to the other side about the possibility of breaking for lunch between 12:30 and 1:30.

If His Honour were to seek of the views of the house, I am quite sure he will find that leave would be granted to take a break between 12:30 and 1:30.

The Hon. the Speaker: Is it the consent of the house that between 12:30 and 1:30 we will suspend?

Hon. Senators: Agreed.

The Hon. the Speaker: So ordered.

• (1200)

TAX CONVENTIONS IMPLEMENTATION BILL, 2009

THIRD READING—DEBATE ADJOURNED

Hon. Stephen Greene moved third reading of Bill S-8, An Act to implement conventions and protocols concluded between Canada and Colombia, Greece and Turkey for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

He said: Honourable senators, this bill will put into force three new tax treaties that Canada has concluded with Colombia, Greece and Turkey. Canada has for decades been expanding its network of income tax treaties with countries around the world and it happens to be one of the most extensive networks of any country in the world. In fact, presently, Canada has tax treaties in force with 87 countries. If these three treaties are passed, we will have treaties with 90 countries.

I would like to make clear at the outset that Bill S-8 does not represent any new or significant change in policy, nor is it controversial. Rather, our tax treaties are all modelled on the OECD Model Tax Convention on Income and on Capital, which is generally accepted by most countries around the world. The provisions in all these treaties are fully compliant with international norms.

Canada's economy is becoming increasingly intertwined with the global economy. As we grow more interconnected with our global partners, it becomes increasingly important to eliminate tax impediments to international trade and investment. These new treaties are precisely designed to facilitate cross-border trade, investment and other activities between Canada and each of its treaty partners.

Tax treaties primarily set out the degree to which a particular country can tax the income, personal or corporate, of a resident of another country. For Canada, our tax treaties give us assurances of how Canadians and Canadian businesses will be taxed abroad. Conversely, for our treaty partners, Canada's treaties give them assurances of how their residents will be treated in Canada.

Our tax treaties are all designed with two general objectives in mind. The first objective is to remove barriers to cross-border trade and investment, most notably, the double taxation of income. The second objective is to prevent tax evasion by encouraging cooperation between Canada's tax authorities and those in other countries.

Allow me to take a few moments to expand on each of these objectives. First, removing barriers to trade and investment are paramount in today's global economy. Investors, traders and others with international dealings need to know the tax implications associated with their activities, both in Canada and abroad.

Canadians also want to be treated fairly, with consistent tax treatment that is set out from the start. In other words, they want to know the rules of the game and they want to know that the

rules will not change in the middle of the game. Bill S-8 will remove uncertainty about the tax implications associated with doing business, working or visiting abroad.

Tax treaties establish a mutual understanding of how the tax regime of one country will interface with that of another. This can only promote certainty and stability and help produce a better business climate, especially with regard to eliminating double taxation.

No one wants to have their income taxed twice, nor should it be. However, without a tax treaty, that is exactly what happens. Both countries could claim tax on income without providing the taxpayer with any measure of relief for the tax paid in the other country.

To alleviate the potential for double taxation, tax treaties use two general methods, depending on the particular circumstances. In some cases, the exclusive right to tax particular income is granted to the country where the taxpayer resides. In other cases, the taxing rate is shared.

For example, if a Canadian resident employed by a Canadian company is sent on a short-term assignment, say for three months, to any one of the three countries in this bill, Canada has the exclusive right to tax that person's employment income.

If, on the other hand, that same person is employed abroad for a longer period of time, say for a year, then the country where that person works can also tax the employment income. However, under the terms of the tax treaty, this individual would be treated fairly. When the individual files their taxes, they will be provided credit on the tax that has been paid in the other country, thus avoiding double taxation and keeping the tax system fair.

One way to reduce the potential for double taxation is to reduce withholding taxes. These taxes are a common feature in international taxation. They are levied by a country on certain items of income arising in that country and paid to residents of another country. The types of income normally subjected to withholding tax would include, for example, interest, dividends and royalties. Withholding taxes are levied on the gross amounts paid to non-residents and represent their final obligations with respect to Canadian income tax.

Without tax treaties, Canada usually taxes this income at a rate of 25 per cent, which is the rate set out under our own legislation, the Income Tax Act. The treaties in Bill S-8, however, provide for a maximum withholding tax on portfolio dividends paid to non-residents of 15 per cent, in the case of Colombia and Greece, and 20 per cent in the case of Turkey. For dividends paid by subsidiaries to their parent companies, the maximum withholding rate is reduced to 5 per cent in the case of Colombia and Greece, and to 15 per cent in the case of Turkey.

Withholding rate reductions also apply to royalty, interest and pension payments. The treaties in this bill cap the maximum withholding tax rate on interest at 10 per cent in the case of Colombia and Greece, and 15 per cent in the case of Turkey. Each treaty in this bill caps the maximum withholding tax rate on royalty payments at 10 per cent and on periodic pension payments at 15 per cent.

I mentioned that tax treaties have two objectives. I have spoken about the first objective of removing barriers to cross-border trade and investment by eliminating double taxation.

The second objective is to encourage cooperation between Canadian tax authorities and those in other countries — in the case of Bill S-8, Colombia, Greece and Turkey. By increasing cooperation between Canada and the other countries, we are better able to prevent tax evasion.

Tax treaties are an important tool in protecting Canada's tax base by allowing consultations and information to be exchanged between the two governments. This means that we can better catch those trying to avoid taxes, in order to ensure the integrity of our tax system and to ensure that everyone is taxed equally.

Bill S-8 represents a part of Canada's ongoing efforts to update and modernize its network of tax treaties with other countries, a network that is one of the most extensive of any country in the world. Canadian exports account for more than 40 per cent of our annual GDP. Canada's economy relies on this international trade. What is more, Canada's economic wealth depends on direct foreign investment to Canada. Tax treaties like those in Bill S-8 will promote certainty, stability and a better business climate for taxpayers and businesses in Canada, and in these treaty countries as well.

I urge honourable senators to support this important legislation to provide clear tax directions to the individuals and businesses that do business in these countries.

Hon. Percy E. Downe: Would Senator Greene accept a question?

Senator Greene: Yes.

Senator Downe: I was intrigued by what the government hopes to do with regard to provisions on tax evasion, because the record in this area has not been great. In 2006, an employee at a bank in a well-known tax haven, Liechtenstein, obtained information on a host of clients at that bank. The Government of Germany purchased that information and the German authorities shared the information with other countries around the world. In 2006, they advised the Government of Canada of the names of 100 Canadians who had accounts at that bank.

As honourable senators know, it is not illegal to have a foreign bank account. It is, however, illegal not to declare any income earned. Since 2006, the Government of Canada has taken no action. A number of Canadians have stepped forward on a voluntary basis to declare income that should have been paid, but no Canadian has been taken to court; no charges have been filed. After four years, the only money recovered has been from those individuals who stepped forward.

• (1210)

Could the Honourable Senator Greene tell us how this bill will help address some of these problems?

Senator Greene: It will certainly address these problems with regard to the three countries mentioned in the bill.

With regard to the larger problem, that is an interesting case. I do not have any information on it whatsoever, although I do recall it. I can offer to provide information at a later date to determine what, exactly, has been done.

Canada has the most extensive treaty network of this kind in the world. Hopefully, all countries can eventually sign on to them. I must report that the Canadian government is in the process of negotiating similar treaties with more countries. It is my hope, and should be that of everyone, that such tax avoidance problems do not recur or become worse.

Senator Downe: I thank the senator for that answer. I appreciate that he is not an expert in all of these files.

Could Senator Greene explain why the current government is proposing to enter into a trade agreement with Panama, which is also a well-known tax haven? The United States government tried to enter an agreement with Panama on trade as well, but the U.S. Congress refused to ratify the deal because of concerns that Panamanian banking institutions and tax officials were not following international rules. Does the honourable senator think it is acceptable for Canada to enter into an agreement with Panama?

Senator Greene: Honourable senators, we must diversify our economy as much as possible. We must engage in, create and expand our network of free trade agreements across the world. We must do that especially at a time when the U.S. economy is in recession. They have always been the chief marketplace for our products. I am sure that they will be long into the future, but the percentage for which that is the case may well decline.

Honourable senators, the Canadian government has embarked on a series of free trade agreements with countries in Latin America. I should think that the ease with which Panama is able to obtain treaties with countries like Canada will encourage them, in the long run, to adopt practices that the developed world is familiar with and maintains.

Senator Downe: I thank the senator for that response.

If the government is sending out a positive message with this bill, while on the other hand they are trying to enter into agreements with other countries that have ongoing tax problems, I think that is a problem for the government. Would Senator Greene's advice to the government be to continue trade negotiations with a known tax haven like Panama?

Senator Greene: I did not suggest that we are in the process of developing a tax agreement with Panama because I do not know whether or not that is true. With regard to a free trade agreement, that is a different story.

Yes, I do believe that the extension of free trade agreements to as many countries as possible is necessary for the Canadian economy. Our economy is a resource economy. It is built on trade. We must and should be the biggest free trader in the world.

Senator Downe: I would like to go back to the case study of Liechtenstein, where these Canadians had bank accounts. I filed an access to information request with the Canada Revenue

Agency in December 2008. I received a partial answer. I do not want to call it a response because much of the information was blocked out. The only useful piece of information we found out from the CRA determined that these 100 Canadians had over \$100 million invested in that one country.

Could the honourable senator give us his estimate of how much tax is avoided around the world by Canadians?

Senator Greene: I could not.

Senator Downe: Could he tell us about the avoidance of taxes in respect of the countries referred to in Bill S-8?

Senator Greene: That is a question for which it would be wonderful to know the answer. The problem, of course, is that when you are trying to put a figure on tax avoidance, how do you know what that number is if you are not receiving any of the taxes? If there was a way to put a figure on the amount of tax avoidance relating to certain countries, then we would know that there was tax avoidance and we would be able to take steps to limit it. However, it is impossible to know exactly how much tax avoidance there is without taking steps, and we would take steps; therefore, we do not know how much tax avoidance there is.

Hon. Consiglio Di Nino: Honourable senators, Senator Downe raised a number of questions that may not be directly related to the bill.

Relationships between sovereign states are created for specific purposes. Further to Senator Downe's comments, it is probably worth repeating the main purpose of a tax treaty with any country. Why are we doing this? What is the main purpose of the treaty that we are trying to sign with these three countries?

Senator Greene: From Canada's position, we are doing it to expand investment, create jobs and allow for business opportunities to create better and stronger conditions for foreign investment. The other three countries are doing it for the same reasons.

Senator Di Nino: The fact that any and all of these countries may have structures in their sovereign governments that may be referred to as tax havens and other governmental structures that are legal and generally acceptable in world affairs should not impede our relationship with them in any way whatsoever, particularly since Senator Downe asked a question dealing with free trade. In my opinion, that does not create an impediment to us in dealing with these countries through free trade agreements.

Senator Greene: I would agree with those comments completely.

Senator Di Nino: Bill S-8 deals with three countries — Colombia, Greece and Turkey. I do not believe any of them have tax structures that provide tax havens. I may be wrong.

• (1220)

Senator Greene: That is certainly my understanding, yes.

Senator Di Nino: The comments and questions by Senator Downe on tax havens do not apply in these cases; is that correct?

Senator Greene: That would be my impression, yes. That would be right.

Senator Downe: Did I not hear Senator Greene in his speech use the words "tax evasion"?

Senator Greene: It was tax evasions with respect to these particular countries, yes.

Senator Downe: It was on that basis that I was asking the question, because Senator Greene raised it in his speech.

Surely, I did not hear the Chair of the Foreign Affairs and International Trade Committee — I must have this wrong — indicate that it is acceptable for Canada to enter into a free trade agreement with a country such as Panama, which is accused of having a banking system that is not transparent, and is often accused of being a shelter for tax evasion. Surely, he would agree that if the United States government refuses to enter into a trade agreement and refuses to ratify an agreement because of concerns of tax evasion, that Canada should not have a lower standard. Maybe Senator Greene or the Chair of the Foreign Affairs Committee would like to respond.

Senator Di Nino: If the honourable senator is asking me a question as Chair of the Foreign Affairs Committee, I will answer, but I do not think it is appropriate. I will do it through a question to Senator Greene so the Speaker is not presented with a question of proper procedure.

My question was specifically related to Bill S-8 and I tried to make that clear. I did not bring in Panama. I questioned the fact that Senator Downe was talking about a tax haven which, under Bill S-8, will not be an issue. Could the honourable senator clarify that matter for Senator Downe, if he agrees with me?

Senator Greene: These treaties have been in the works for a long time. In the case of Turkey, it has been for more than a decade. Negotiations have gone back and forth. The Canadian government conducted analyses, of course, about the potential value to Canada of these treaties. These are three. In the future we will see more. They are good things for the government to do. They expand investment. They protect our own tax regime. As well, they enable other countries to participate in the global economy.

Senator Di Nino: I certainly would not agree to signing a free trade agreement with any country that does not live by international standards of any nature. However, I do not believe we should refuse to dialogue or engage in free trade agreement discussions with any country because they might be what would be called a tax haven, if it is within the normal acceptable international standards that exist. Would you agree or disagree?

Senator Greene: I do agree.

Senator Downe: I thank Senator Di Nino for his interesting interventions, but I do not think the view would be shared by many Canadians that it would be acceptable standards for us to enter into trade agreements with countries that are alleged tax havens. I asked the question about tax havens and tax evasion because Senator Greene referred to it in his earlier remarks.

There is a collective responsibility on all Canadians to pay our taxes. They fund our infrastructure, education, health care, military, RCMP and so on. I referred to one case that Canada Revenue Agency became aware of where 100 Canadians, in their estimate, had \$100 million in this one country. I question — and I am sure other Canadians do as well — whether the accounts were all legitimate. Were a number of people trying to avoid taxes? So far, the Canada Revenue Agency has indicated, in the access response, that they recovered \$17 million from people on a voluntary basis. As I said earlier, no one has been charged. Not one charge has been laid by the government after four years.

If you are a Canadian with a European bank account, you do not have much to worry about. If you are a Canadian working in this country and the government overpays you in some benefits, the Canada Revenue Agency will come back to you in full force; but we seem to have a double standard when it comes to foreign accounts.

I am sure that all senators would share my view that if these Canadians become ill, they do not run off to these countries for their health care. They take advantage of the Canadian system, which we all pay for collectively. The three countries referred to in this bill — Colombia, Greece and Turkey — are not known as tax havens.

Senator Greene referred to tax evasion in his speech. Is he aware of any further action the government will take on tax evasions and tax havens in future bills?

Senator Greene: Honourable senators, I am not aware of any future action that the government might take on tax evasion or tax avoidance, except in the context of future treaties such as these, and the federal government is currently in negotiations with a number of countries.

The issue here really is this bill. It is an important bill and it has not gone without notice in the countries themselves. I was in Halifax about two weeks ago at a breakfast at which the ambassador of Turkey to Canada happened to be present. He spoke. I was introduced to him. He knew right away that I had introduced this legislation in this house, and he urged me to pass it because, of course, they have to pass similar legislation, as does Greece and Colombia. He believed that they would pass theirs before the new year.

He argued that it is another step in Turkey joining the community of nations and ascending the ladder of countries that participate in the global economy. He also pointed out that Turkey is a NATO ally.

This is a very important piece of legislation, not only for Canada but for other countries, some of whom are allies and becoming even closer friends to us than they have been in the past.

Hon. Michael Duffy: Senator Greene made a very important distinction between tax evasion and tax avoidance, tax evasion of course being a criminal act. I was impressed by my colleague from Prince Edward Island's argument that we should all pay our taxes. In this broad discussion we are having of offshore arrangements and taxes, is the government looking at rules related to flags of convenience, re-flagging ships, Canadian corporations seeking to avoid paying taxes here through this convenience or fiction of flagging their vessels overseas?

Senator Greene: I am tempted here, but will not go that way.

That issue needs to be looked at. I come from the East Coast of Canada where flags of convenience are an important issue, and have been for a long time, not only transport vessels but also fishing vessels. It is a very important issue. We have rules with regard to flags of convenience that not all countries have adopted. It is important that we maintain vigilance in our offshore to be sure that the vessels that come to our waters are registered properly and that registration and the flag they carry reflect the true ownership of the vessel.

The Hon. the Speaker: Honourable senators, it being 12:30, the house stands suspended until 1:30 p.m.

May I leave the chair?

Hon. Senators: Agreed.

(The sitting of the Senate was suspended.)

• (1330)

(The sitting of the Senate was resumed.)

The Hon. the Speaker *pro tempore*: Senator Greene still has time, and Senator Downe had a question for Senator Greene. Then I will recognize Senator Meighen.

Senator Downe: I will ask a question after.

The Hon. the Speaker *pro tempore*: To Senator Greene or to Senator Meighen?

Senator Downe: I want to adjourn the debate.

Hon. Michael A. Meighen: Honourable senators, I want to add a word or two pursuant to the testimony that the Standing Senate Committee on Banking, Trade and Commerce received on the matter of Bill S-8 yesterday or the day before. I was particularly interested in the exchange between Senator Downe and Senator Greene, aided and abetted by Senator Di Nino. I am not sure that the questions Senator Downe raised, whatever the answers to them, bear directly on the advisability of concluding these treaties in the sense that tax evasion exists in all countries, and in some countries to a greater degree than others. I agree with my friend from Prince Edward Island that we have to be careful about getting into the proverbial bed with countries where tax evasion is rampant. As Senator Greene pointed out, absent the treaties such as those envisaged by Bill S-8, we will not have a means of dialogue and obtaining information on these matters, however limited that means might be.

I want to put on the record some of the testimony that we heard yesterday in response to a question on tax evasion by Senator Ringuette. Before I do, allow me to point out that, on the other side of the coin, there is the danger of too much information being improperly divulged. The witnesses told us that situation was limited. Mr. Castonguay from the Department of Finance said:

In other words, if you ask for information to enforce your tax laws that is the extent to which it can be used. To enforce your tax law you can go to court and so on, but it has to be overall for the purpose of enforcing your own tax laws and nothing more than that.

Hopefully there will be no unwarranted fishing expeditions, based on that information from Mr. Castonguay.

On tax evasion, Senator Ringuette asked:

What is the estimated tax evasion between Canada and the three countries we are looking at?

Mr. Castonguay replied as follows:

An important feature of tax treaties, other than relief of double taxation, is to prevent fiscal evasion. All of our treaties include an exchange of information article that allows the Canada Revenue Agency to go to the tax authority in the other country and obtain information relevant to the collection of taxes. When the CRA has grounds to believe that taxes due in Canada are not paid, it can ask the tax authority of the other country to seek and obtain information for the purpose of applying our tax laws.

Senator Ringuette went on to say:

What is the estimated tax evasion between Canada and these three countries?

She repeated her question. Mr. Lalonde replied:

Tax evasion is a difficult subject. As Mr. Castonguay pointed out, these treaties are designed to counter tax evasion through the exchange of tax information. By definition, to the extent that tax evasion exists in those countries, we would not be able to discover the exact number. If we knew the number and knew who was evading taxes in those countries, they would not be successful at doing it because they would be reassessed and then we would have the figures at hand.

We do not yet have a tax treaty with these countries. We do not yet have the exchange of tax information provisions. To the extent that there may have been attempts at tax evasion using accounts in these countries, these treaties will help us get at that.

Senator Ringuette said:

I will ask my question in the reverse then . . . what tax evasion was found and what measures have we taken with regard to that in the last three years?

She was referring to our other 87 tax treaties. Mr. Lalonde replied:

As you probably know, the responsibility of the Department of Finance is to develop tax policy and legislation. As you pointed out, it is the Canada Revenue Agency that administers the tax system.

Mr. Lalonde eventually agreed to ask his colleagues at the Canada Revenue Agency to furnish to the committee any information with respect to tax evasion that had been discovered, if they were willing to do so. He pointed out that he could not bind another minister, but he agreed to pass on the question.

The subject, honourable senators, has been exhaustively covered. Senator Moore, in his excellent speech, both at the beginning and the end, urged us to adopt Bill S-8. In between, I think he became sidetracked on the virtues of deficit reduction by the Liberal Party, although he forgot to mention that deficit reduction was on the back of GST which, of course, the Liberal Party did not wish to adopt initially. That is another subject we will not have to go into again today. Senator Murray has covered that area.

I ask honourable senators to give support to Bill S-8. Two of the three countries are the last two countries of the Organisation for Economic Co-operation and Development that have not yet signed. They will not answer completely Senator Downe's concern about tax evasion, but I think they will put us in an improved position. It will be a building block in Canada's transition from recession to recovery that we are now experiencing, and an important building block to that recovery. I urge honourable senators to assist in the speedy passage of Bill S-8.

Senator Downe: I thank Senator Greene for his speech and answers to all the questions that came up, some of which were even directly related to the bill. I am sure the honourable senator was surprised to realize tax evasion and tax avoidance were such popular issues in Prince Edward Island. My colleague, Senator Duffy, joined with a thoughtful question as well. Other Island senators may have a question on this issue, so I move the adjournment in my name.

(On motion of Senator Downe, debate adjourned.)

• (1340)

CONTROLLED DRUGS AND SUBSTANCES ACT

BILL TO AMEND—THIRD READING— DEBATE SUSPENDED

On the Order:

Resuming debate on the motion of the Honourable Senator Wallace, seconded by the Honourable Senator Eaton, for the 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;

And on the motion of the Honourable Senator McCoy, seconded by the Honourable Senator Campbell, that the original question be now put.

Hon. Joan Fraser: Honourable senators, I support Senator McCoy's motion for the previous question. However, as His Honour reminded us last night, this is a debatable motion, so I will use this opportunity to respond to the careful speech given last night on the main motion for third reading of this bill by Senator Wallace, and in so doing, explain why I support Senator McCoy's motion.

Senator Wallace gave a long speech, in large measure, about the amendments that were made to this bill by the Standing Senate Committee on Legal and Constitutional Affairs and endorsed

only the other day by this chamber. I believe that there may be misunderstandings in the wake of Senator Wallace's remarks, and that is why I rise. It is, in essence, to correct what I believe to be misunderstandings that may exist and some that I know exist in the public mind about what the committee did and what the Senate then correctly, in my view, endorsed.

In its consideration of Bill C-15, the Legal and Constitutional Affairs Committee grappled with three problems that tended to inform its consideration of the whole bill, the first of which is that, of course, as we have been repeatedly reminded, the drug business in Canada is a dreadful, iniquitous affair that carries terrible consequences for many Canadians. No member of this chamber, I am sure, wishes to stand in defence of criminal organizations that prey upon the most unfortunate in our society; those who are addicted to drugs. Nobody here wants to defend serious criminals committing serious offences.

However, there are problems. The first problem is that, while this bill is concerned in large measure with trafficking, trafficking itself, as I observed the other day in debate, is broadly defined in our law. Trafficking does not only mean selling large quantities of heroin or other dangerous drugs. It does not only mean selling any quantity of any drug. Trafficking means, in law, "to sell, administer, give, transfer, transport, send or deliver the substance, to sell an authorization" — that would be a permit — "to obtain the substance, or to offer to do any of the above."

In plain language, honourable senators, offering to give your brother-in-law a joint for his birthday constitutes trafficking. That is at the low end extreme of the case, but we have to bear in mind that the range of activity covered by the definition of trafficking is broad when we come to consider this bill.

A second problem that arises immediately when one contemplates Bill C-15 as it came to the committee is that in connection with the production or cultivation of marijuana plants, the bill sets up three categories. All the categories are broad, but the breadth of the first one creates difficulties. The bill creates an escalating series of mandatory minimum sentences for the production and cultivation of a certain number of plants, and the first category is more than five but fewer than 201; from six to 200. That category is broad indeed. We have been reminded frequently that someone who is growing 199 marijuana plants is probably not growing them only to have a joint in the den on Saturday night. Nobody would disagree. On the other hand, someone who is growing six plants is probably not a charter member of an international criminal organization.

The category itself is so broadly defined that it immediately created problems when it came to the imposition of mandatory minimums because the nature of the offence was so likely to be different at the low-end of the scale from what it would be at the high end of the scale. These issues were the difficulties your committee faced.

Your committee decided that it would tackle that difficulty in the following way: for simple production for trafficking, with no other aggravating factors, of between five and 200 plants, the minimum penalty would not be applied. The criminal law in all its weight would continue to exist. It would still be a criminal offence to produce marijuana for purposes of trafficking, but the

amendment would restore judicial discretion. It would restore to judges the power to determine whether somebody at the six-plant end of the range deserved to have the whole weight of the book thrown at them or whether the whole weight of the book should perhaps be reserved for people engaged in the higher end of the scale.

I stress to you, honourable senators, not only that the criminal law will continue to apply, as it now does, to people cultivating the number of plants in that category, but also that your committee retained the mandatory minimum proposed in Bill C-15 for cultivation of that number of plants, 6 to 200, if aggravating factors were present, the aggravating factors being things like endangerment of public health or safety, involvement of a minor, and use of a weapon or a trap or other dangerous device. These things are all bad in their own right and also tend to be indicators of rather more than individual, low-level, not-serious-in-criminal-terms offences. If one of those aggravating factors were present, even if someone was growing only five plants, that person would face a mandatory minimum of nine months in prison.

I suggest, honourable senators, that the committee tried to stay as much as possible within the scheme outlined by the bill while respecting some of the basic principles of our judicial and criminal system.

It has long been accepted in this country that sentences need to be proportionate. In section 718.1 of the Criminal Code, this fundamental principle is stated:

A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

The code goes on to say:

... a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender ...

It then goes on to set out some of those circumstances, including circumstances relating to Aborigines that I shall refer to in a few minutes.

Furthermore, the Interpretation Act says the following:

Every enactment is deemed remedial, and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects.

• (1350)

Those are quotations from statutes, but they are also contained in the Supreme Court decision in the *Gladue* case to which Senator Wallace referred last night.

As Senator Wallace suggested, there is no question of inviting criminals to get involved in the business of producing 200 marijuana plants or less and not fearing imprisonment. Judges can — and, I am persuaded, would — impose prison terms for criminals engaged at the high end of that scale, but not for ordinary people at the low end of the scale. That, I agree, is unlikely.

I would suggest that no member of the committee had what Senator Wallace described as a preoccupation “about wanting to spare convicted marijuana growers who intend to traffick their product from serving time in jail.” In light of my earlier remarks, I hope senators understand that this was not the position of the committee.

In reference to another amendment, the one about records of offences or imprisonment in the previous 10 years, Senator Wallace seemed to express surprise that the amendment referred to an offender “serving a term of imprisonment” for one year or more. That particular phrase was in the bill to begin with. The amendment did not change that language in the bill; that is the government’s language. What the amendment did was specify that the term in question had to have been for one year or more.

Now we come to the matter of Aboriginal offenders. Surely there can be no more serious question for members of this chamber to consider. As we know, the Criminal Code now requires judges, when levying sentences, to take into account “all available sanctions other than imprisonment that are reasonable in the circumstances . . . with particular attention to the circumstances of aboriginal offenders.” There have been numerous court decisions on this language, including, but not only, the *Gladue* case.

It may be worth quoting a little bit from *Gladue* that Senator Wallace did not. Let me start with a passage where the Supreme Court, after a long survey of the facts and the statistics and the findings of commissions and the findings of academic studies said:

These findings cry out for recognition of the magnitude and gravity of the problem —

— of the condition of Aboriginals in our justice system —

— and for responses to alleviate it. The figures are stark and reflect what may fairly be termed a crisis in the Canadian criminal justice system. The drastic overrepresentation of aboriginal peoples within both the Canadian prison population and the criminal justice system reveals a sad and pressing social problem.

That was written 10 years ago, honourable senators, and let me tell you, the problem is worse today.

Existing measures in the Criminal Code clearly have not solved the problem. However, Bill C-15, as it came to us, would have eliminated even that protection for Aboriginals and what the Supreme Court has termed their unique circumstances. Bill C-15 would have overridden that protection in the Criminal Code. Your committee heard devastating evidence to the effect that the circumstances of Aboriginals very often — not in every single case — are unique in Canada. One-size-fits-all does not work and is not just when it comes to sentencing Aboriginals.

We heard, for example, from a lawyer who practices in Iqaluit who asked us to imagine the case of a young man in a remote Inuit community who commits a drug-related offence, but there is

no court out there. There may not even be a police station out there. Instead, what happens is what has happened in Aboriginal communities for 10,000 years in the North; the community handles it.

The Hon. the Speaker: I regret to advise the honourable senator that her allotted 15 minutes have expired.

An Hon. Senator: Five more minutes?

The Hon. the Speaker: Is it agreed?

Hon. Senators: Agreed.

Senator Fraser: Thank you, honourable senators.

The community handles it to the satisfaction of all. Everyone believes that justice has been done, and the little community moves on and mends the fabric of its life. Five or eight months later, a judge flies in with all of the attendant court clerks and lawyers.

Senator Rompkey: Perhaps interpreters as well, perhaps not.

Senator Fraser: The judge says to this young man: Well, I do not care if the community justice system has agreed that this matter is settled. I have to send him away for six months, and away may well mean South, thousands of miles from home, where there will not be interpretation and where there will not be programs to help. Neither he nor his community will benefit from that — quite the contrary.

Your committee, therefore, brings in an amendment that would go some way to restoring the protection that now exists in the Criminal Code. That amendment states that a court would not be required to impose a minimum term of imprisonment the offender is Aboriginal — could, but would not be required to — if the sentence would be excessively harsh because of the offender’s circumstances and if another sanction is reasonable and available in the circumstances.

Honourable senators, this is not as broad a protection. This is arguably a substantially narrower protection than is now available in the Criminal Code. However, it is a vastly better protection than simply saying everyone, no matter their unique circumstances, will get slapped with these minimum penalties. That was the position your committee took.

It was not a position of giving anyone a free ride. It was not the creation of a new double standard in justice. It was an attempt to reflect what not only our law but our courts up to the highest level have said over and over again: In Canada, justice takes into account the circumstances of the case. Your committee attempted to say, in each case under this bill, if the crime is serious, it will receive a serious penalty. If it is less serious, the judge, who is the best person on the spot able to assess the circumstances, will be able to do so. Your committee acted in the view that that would be the best way to serve justice and the Canadian community. Your committee did not believe, and I do not believe any senator believes, that any of this is being soft on crime.

(Debate suspended.)

• (1400)

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before proceeding further with this item, I would like to draw your attention to the presence in the gallery of His Excellency the Minister of Foreign Affairs of the Federal Republic of Nigeria, Chief Ojo Maduekwe, who is accompanied by His Excellency the High Commissioner for Nigeria, Professor Hagher.

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

CONTROLLED DRUGS AND SUBSTANCES ACT

BILL TO AMEND—THIRD READING— DEBATE SUSPENDED

On the Order:

Resuming debate on the motion of the Honourable Senator Wallace, seconded by the Honourable Senator Eaton, for the 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;

And on the motion of the Honourable Senator McCoy, seconded by the Honourable Senator Campbell, that the original question be now put.

Hon. Larry W. Campbell: Honourable senators, about every 20 years in this country a sage comes along and helps us to better understand what we are doing. In the 1970s the sage's name was Dean Gerald Le Dain. In the 1990s, his name was J. Vincent Cain, my boss and chief coroner for the province of British Columbia, and in the 2000s, it was Senator Pierre Claude Nolin.

Each of these people came from a specific point of view. Two of them were from law and one of them was a chief superintendent in the Royal Canadian Mounted Police before becoming chief coroner. Amazingly, all of them came to the same conclusion on the subject of marijuana.

Now, I should make a disclaimer here: I have never smoked marijuana. I have always wondered what would happen if I had liked marijuana better than red wine.

On the issue of marijuana, all of these people were consistent in their views. I would like you to listen to this and think about today: There is a public opinion on marijuana that is more liberal than it was 10 years ago. There is a tendency to think that marijuana use is more widespread and that marijuana is more available than it used to be. There is a tendency to think that marijuana is not a dangerous drug. The concern about organized crime is significant. Support for medicinal use of marijuana is strong. There is a tendency to favour decriminalization or, to a lesser degree, legalization. People criticize enforcement of the legislation in regard to simple possession of marijuana, and there is a concern for our youth and children.

This was written in the Nolin report, which was seven years ago, which I have paraphrased somewhat. If I take honourable senators back to the Cain report of 1994, or I take you back to the 1970s to the Le Dain Commission, we see exactly the same thing, and that is the perception does not equal the reality.

I support many of the provisions of this bill. In fact, if I had my way, they would be a lot tougher. In this bill we spell out amphetamines that we add to the list. In fact, we should be taking care of the precursors — those chemicals that make the amphetamines — rather than just change the molecules we outlaw the precursors. It is being brought into Canada by the ton. We are the world's producer of ecstasy because we get the precursors here. In the United States, it is illegal. I would support that and I would support a harsh sentence for whoever gets caught with it.

We are focusing entirely in the wrong way when we sentence people to jail for marijuana in the numbers that we see here. We could have, as a committee, got rid of the minimum sentencing, but we did not. We took a look and asked whether there is actually a level where we can say this is for trafficking or this is for exportation. The fact of the matter is no.

Where I come from, 30 plants is personal. Someplace else in the country, 30 plants is a lot of marijuana. How do you go about setting the number on that? As a former nark, you do not set the number, you set the evidence. You watch, you gather information and then you act.

Unfortunately, policing is not done like that any more. There are not enough resources, too much going on, you are not a cop any more, you are a social worker, you are a mental health worker, for any number of reasons, but that is how you determine what the crime is, not by the number of plants.

Therefore, I really believe that what we have done with regard to this act is certainly in keeping with the tenor of the act, the way it was meant to go, but allowing some flexibility at that bottom end. I can tell you, if I go before a judge in British Columbia and I have 200 plants and I have been watching this place and I have been taking people off as they went away and I have money and I have guns, that guy will go to jail and he is going to jail for a lot longer than six months, but I have to have the evidence to prove that.

Forget getting into marijuana as a herb, marijuana for medicine, I am not even going there, I am just saying on a straight, legal term.

I would like to put in context one thing that Chief Coroner Vince Cain said in his report. I was in North Vietnam at one time and I was taken to a prison and shown it by my guide. He was in the Viet Cong and he told me the prison was built by the French to hold all of the "terrorist revolutionaries" so they could not foment revolution. They brought General Giap and they brought Ho and all these revolutionaries from all over North Vietnam and South Vietnam and put them in this prison. I will always remember this guide saying to me, "They thought they were building a prison and they created a university." That is where the revolution started and that is how Vietnam got to where it was.

When you take some kid, who is 18 or 19 years old, and put him in jail for six months for marijuana, I guarantee when he comes out of there he will know a lot more than just marijuana. He will know that he can sell coke, crack, or heroin and make a lot more money with a lot less risk. He will not need a big barn or a house; it comes in small packages.

He also learns in there that he needs friends. Who are the friends? They are the Red Scorpions and they are the United Nations Gang. These are a bunch of psychopaths who got out of the high school and suddenly found each other in British Columbia. You read about them. They kill each other with great regularity, and tragically sometimes they kill citizens. In jail is where they get these guys. They need protection, they need help and they get help, because when they come out of there, they are bona fide criminals.

I have the greatest respect for Senator Wallace. I sit beside him in committee. He is a gentleman. He works hard. I have to tell you that I have 58 witnesses here — I believe there were more — and while six are neutral, well over half of them are in support of no minimum sentencing.

To be fair, if we take the far end of this off, and the far end of that off, on both sides, we could be coming closer, but the places where they come from and what they say is truly amazing.

I would like to quote the Canadian Association of Crown Counsels. They are hardly left wing. They say that minimum sentences will reduce the number of guilty pleas and increase the trial rate. They are aware of recent cases where judges have said prosecutorial discretion in establishing a minimum sentence violates section 7 of the Charter. These cases are appealed and the issue is a live one.

I am trying to stay with the ones who are in the middle rather than the ones who were a little over the top.

• (1410)

Senator Comeau: We appreciate that.

Senator Campbell: Thank you. We had witnesses from Washington State who advised us that minimum sentencing did nothing except overload the prisons to the point where they are now getting rid of minimum sentencing. The “three strikes and you are out” rule has almost killed them. In the United States building prisons is a growth industry.

For those in business, imagine this. You build a Holiday Inn and do not have to worry about anyone coming to visit you. The courts send them regularly; you are always full and always building more prisons.

It is not a good bed and breakfast.

I urge senators to really look at these amendments. They do nothing to stop the growing of marijuana. In fact, they are a detriment.

Another person who has my greatest respect is Senator Keon. He advised yesterday on another subject that the Canadian Medical Association spoke out on. The health officers of Canada

spoke on this bill. There are probably not 80,000 of them but they are fairly significant in our communities and they simply do not support this legislation. They say it goes contrary to public health.

I urge honourable senators to look at this. I urge you to think about it, to think of the consequences. For British Columbia it could be \$30 million a year. I see someone querying that figure. Almost all the sentences are “a deuce less a day” — less than two years — so they go to provincial facilities.

Senator Wallace is right that he had complete support across Canada from the attorneys general and solicitors general. I believe that support is waning, and I will tell you why. They have now woken up and realize that they have a big hole in their budget. They went to Minister Van Loan and said we will need help here. Minister Van Loan turned them down.

There is a review section in this bill. I predict that when we review this in two years it will not have done that much, but in five years we will see a major effect on the provinces and their penal systems. It will be a huge problem for them.

I will finish with a quotation that goes more to my British Columbia background. The headline says:

California’s got the marijuana munchies.

Tom Ammiano, who is the state senator for the California Assembly’s Public Safety Committee, said that they would like to legalize marijuana:

By doing so, we can enact smart public policy that will bring much-needed revenue into the state and improve public safety by utilizing our limited law enforcement resources more wisely. The move toward regulation is simply common sense

I say to you that this is just one more in a long line; Le Dain, Nolin, Cain. We should be listening. I urge you to support this bill.

Hon. Hector Daniel Lang: Honourable senators, I would like to make a few comments on amendments to the bill that is before us. I would like to correct the record from of the chairman of the committee who kept referring to the report as “from your committee.” The report was a majority report. There was not total support of the report. I want to correct the record.

Honourable senators, there are a couple of points that are very important and must be considered in light of what has taken place. It is noteworthy that the initial bill brought forward by Senator Wallace had the overwhelming support of members of the House of Commons. I point that out for a couple of reasons. First, I do not believe that it is the job of the Senate to thwart the will of the House of Commons when there is such overwhelming support from the elected members of this country.

There is another point I want to make about the fact that this bill was so overwhelmingly supported. That is the fact that there is a problem in this country. There is a huge problem in this country. I have listened carefully to honourable senators speak on the bill. No one has spoken about the human tragedy, the scourge throughout this country, because of the use of drugs and/or alcohol, but largely drugs.

[Senator Campbell]

I come from an area of this country that is relatively remote. I do not come from downtown Vancouver. I come from a region that has a number of small communities that might have 500 or 1,000 people. To see the misuse and drug abuse that happens in some of these communities is a human tragedy. The families affected, the friends of those families and the final outcome for these human beings on that path is tragic.

Honourable senators, every day in the morning and in the evening I walk to work. This is the first time in my life I have ever had a job where I could walk to work. Three blocks from these chambers — sometimes in the morning, but always in the evening — I see drug deals going down. I see people homeless. I see people who had fathers and mothers who worried about them and they are on the street and taking drugs. They are being abused by drugs. It starts with the trafficker. It starts with that individual, him or her, out there who is prepared to exploit their fellow being for money. That is where it starts.

This is a bill about traffickers. This is a bill about people who are not nice. In some case, these individuals, especially in the smaller communities, will get their sisters on drugs so they can make money.

My friend, Senator Campbell from Vancouver, talks about 30 years of history. Let us look back at 30 years of history. What do we have? We have drug wars in Vancouver, right next door to Senator Campbell. We have drug wars in Montreal where people shoot each other, although we do have a gun registry. We have gun wars in Toronto where innocent people are killed. At the same time I ask, where is the deterrent?

With the amendments that have been put to us, a drug trafficker can possess up to \$350,000 worth of drugs and not fall under the mandatory sentencing.

I do not know the regions honourable senators represent, necessarily. In most cases I have never visited the home communities of honourable senators or the communities in the regions they represent. However, I know my area and I know that there is a serious problem. I can say this: A deterrent is there for a number of reasons. A deterrent is there for those who might think about trafficking and it is enough to scare them into not trafficking.

• (1420)

Second, if that individual chooses to go in that direction and exploit the young men and women in their community, they will face a mandatory sentence if we pass the bill without amendment. In many cases, maybe that is the only recourse. Maybe that is the way to get traffickers out of the community.

We all talk about rehabilitation. I have heard the song and dance since this bill arrived in the Senate about the poor individual who is trafficking. However, does it ever occur to honourable senators that these are not necessarily nice people? Maybe, just maybe, traffickers should be put away for a good period of time.

The point of mandatory sentences is because of the laxity of sentencing in the past in our courts. The general public looks at that and laughs at the court system. The court system is for

judges, lawyers and social workers. Is it to administer justice? In many cases, speaking at least from my part of the world, the public looks at that and asks how a court could arrive at such a judgment. The system is lax and there is no deterrent put forward and no responsibility put back onto the individual who has wronged their community and their fellow man.

I want to address the amendment as it relates to First Nations. I represent an area that includes First Nations and non-First Nations communities. They are intermarried, they go to the curling rink together and they play hockey together. Generally, I must say we have a pretty nice community. I do not understand why a known trafficker who is found guilty and who happens to be a member of a First Nation is treated in a different manner than an individual who perhaps was trafficking with him. I do not know how we administer law like that. How do we administer justice if we have two sets of laws? Those are the practical issues that we face, especially in these small communities.

To my good friend Senator Watt, I appreciate the issues he has raised as far as Aboriginal communities are concerned. I do not think there is a senator in this house who is not concerned about what is taking place in those communities. However, I do not see the logic in how, in a First Nations community, that trafficker would be treated differently than someone trafficking 20 miles down the road. I submit that the young people in that First Nations community are just as important to all of us as those 20 miles down the road, if they happen to be a different community. I am saying that a trafficker is a trafficker and they have to be dealt with in the same manner.

Some Hon. Senators: Hear, hear!

Senator Campbell: Will the honourable senator take a question?

The Hon. the Speaker *pro tempore*: Will Senator Lang take a question?

Senator Lang: Yes.

Senator Campbell: I believe there is a point of order.

Hon. Joan Fraser: This is a small point of order, Your Honour. I would like to draw to the attention of Senator Lang rule 96(2), which states:

A report of any select committee shall contain the conclusions agreed to by the majority.

In the Senate, a committee report is a report of the committee. We have all had the experience in committee of voting with the minority, but then we have to accept that the report is a report of the committee.

Upon consideration, however, this is a point of clarification, not of order, Your Honour.

Senator Campbell: I have a couple of questions for the honourable senator. He spoke about the cost of drugs and alcohol. Does he have an idea what those figures are, how much it costs for drugs, alcohol and tobacco?

Senator Lang: I have to say to the honourable senator that I do not know where he is going with the question. When I am walking down Rideau Street, I never ask what they are charging; I just keep walking.

Senator Campbell: I am amazed that the honourable senator thinks this is funny.

Senator Lang: I did not think it was funny.

Senator Campbell: I will give the honourable senator a hint on the costs. With regard to legal drugs, the cost of alcohol is \$7.5 billion and \$9.6 billion for tobacco. The cost is \$1.4 billion for illegal drugs; it is way down the charts and does not compare to legal drugs.

Second, does the honourable senator know why we were appointed to the Senate? It is an honest question. The honourable senator said that he did not come here to take on the other place when there is a majority. I am just asking if he realizes that we are the place of sober second thought, where we do not care what they say on the other side. We have to look at bills and examine them. I have voted against our government's bills in the Senate. I have done that.

Senator Cools: How many times?

Senator Campbell: Whenever I thought it was necessary.

In my experience, the majority of traffickers that I caught were themselves addicted, and they became addicted because they had been abused or because they made a stupid mistake as a kid or because they were kicked out of their house. The kids you see on the street who are mentally ill, that is why they are there. I have never met an addict who says, "Damn, am I ever glad I am addicted."

Senator Lang: Honourable senators, I would like to make a couple of points. First, the honourable senator talked about the \$1.4 billion cost for illegal drugs. I would challenge that, because I do not know the source of those figures, whether they are taken from the Canada Revenue Agency or elsewhere. However, I think that citing figures like that is questionable. Even \$1.5 billion is a lot of money, at least where I come from, although maybe not where Senator Campbell comes from.

Senator Cordy: Oh!

Senator Lang: Would the honourable senator like to speak?

I feel strongly about this issue because I see the tragedy in my communities. Honourable senators, yes, I know why I was appointed to this chamber. Maybe it is because I bring a different point of view than the side opposite. Maybe it is time we started to deal with this problem.

Hon. Consiglio Di Nino: Honourable senators, I come from a city that used to take pride in itself, where not that many years ago one could walk around in the middle of the night and not be afraid. "Toronto the Good" was its name. That is no longer the case.

Not long ago there was a situation where seven people were killed, butchered. One of them happened to be the son of people I know. This all had to do with drug wars.

I would like to correct my friend Senator Lang about the issue of which comes first. I believe one of the provisions of this bill deals with growers. I think the growers come first. I do not want to pick an argument with the honourable senator on this point, but I say that because the growers are our neighbours — nice, law-abiding people. They grow 200 plants or maybe 50. They process the plants and give them to the drug pushers. I want to catch them, too. I want to put them behind bars, because the problem really starts with growing. I wonder if the honourable senator agrees with me on that point.

• (1430)

The Hon. the Speaker *pro tempore*: Senator Lang, do you ask for permission for more time?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: Five minutes, Senator Lang.

Senator Lang: Thank you, honourable senators. I think the honourable senator's question has a lot of validity. The drug situation throughout the country, from sea to sea, is so prevalent that I agree that the grower is part of the problem because that is where it starts. There are other areas of drugs as well. Senator Campbell spoke about them. If we sat down, there are a lot of areas to agree on, in particular, when the honourable senator talks about amphetamines, ecstasy, and what happens with that kind of drug use. I would say, yes, it is something that is part of it.

I do not think any honourable senator wants to sound like they want to keep people in jail and throw away the key, but the fact is that we have no real deterrents. That is the reality. This bill is a step in that direction.

I hearken back to Senator Campbell's comments because I appreciate what he has to say. In a number of years, we will be able to review where we are, to see if some of the drug trafficking has diminished, and to see if this legislation has been seen as a deterrent to those who would become involved with drug trafficking. If the legislation is not a deterrent, maybe we should take another approach, or a harsher approach, or a far harsher approach, so that these people exploiting their fellow citizens realize they are not allowed to do that and that it is unacceptable to society.

Again, the basis of my whole argument and my position here is how these young people are affected. They include our brothers, sisters, daughters, and sons. The ultimate end of this trafficking is not pretty.

Hon. Anne C. Cools: I have a question for Senator Lang.

The Hon. the Speaker *pro tempore*: There is time left for Senator Lang to answer a question.

Senator Cools: Honourable senators, Senator Lang has spoken and has put important points on the record. One of them, obviously, is the fact that he cares about the issues. I believe that. I also believe that most of us here care as well. We all know that the phenomenon of drugs is both a frightening one and a large one.

My question to Senator Lang is in respect of some of his statements. He made two extremely strong statements. He said that the justice system is a laughing matter. He said that most Canadians laugh at it and that it is something for judges, lawyers and social workers. That is a strong statement. If he is a supporter of the government, then he should ask himself this: If that is the situation, the status quo, then why does this government allow that situation to be the case? Why does the government not look at taking serious steps to stop the justice system from being something for judges, lawyers and social workers, and from being a laughing matter?

I will tell you honestly, honourable senators, that this government has not undertaken a serious study, either on the penitentiaries, the sentencing processes, the plea bargaining systems, or the paroling systems for some time. The honourable senator would be far more convincing if he would have the government bring forward some of the studies than to make these outlandish statements about laughing matters. That is the first point.

Second, in addition to that statement, the honourable senator has said that there are no deterrents. With the entire system and the billions that are spent, there are no deterrents? What makes the honourable senator think that minimum sentences will be a deterrent? If nothing else has succeeded, why will this legislation succeed?

Senator Tardif: Good question.

Senator Cools: Senator Lang has said that everything else is a total failure. According to me, this is one more. To follow the honourable senator's logic, this will be one more in the series of all the preceding failures.

Senator Lang: Honourable senators, there are a couple of things. I want to relay a real story here to tell you how I see, and how I saw, the court system working.

I am not a lawyer. I do not go to court; I have no reason to go. However, I know where they are located. One evening, I had my vehicle stolen from my back yard at four o'clock or five o'clock in the morning. First, I felt that violation. It was a violation that someone had come into my home when I was asleep and had taken my vehicle from me, which was only 10 feet away from my door. Two days later, we found my vehicle. Not only was it found, but it was totally wrecked. Whoever had stolen it had taken a sledgehammer and crowbar to it, had broken all the windows, and then proceeded to put sugar in the gas tank.

Honourable senators, I was understandably upset. I had never really had direct contact with the justice system. However, I had reason to believe that juveniles may have been involved, maybe 16 or 17 years of age — I had a sense that might be the

case. I took it upon myself to go to a juvenile court to see how the process worked and to observe a number of cases in the courtroom.

I walked up the stairs into the justice system —

The Hon. the Speaker *pro tempore*: I am sorry, Senator Lang, but your time has expired. You asked for five more minutes and it has expired.

Senator Lang: Five more minutes?

The Hon. the Speaker *pro tempore*: The time is expired. On debate, Senator Carstairs.

Hon. Sharon Carstairs: Honourable senators, I walked into my classroom in 1968. I took attendance and asked: "Where's Chris?" The response was, "Oh, do you not know?" I replied, "No." I was then told, "Chris was just sentenced to two years, less a day, for simple possession of marijuana."

I repeat: possession of marijuana; two years, less a day, at 18 years of age.

Honourable senators, if you do not think that the experience changed that boy's life forever, then you do not know anything about the influence of jails on young people in this country.

That incident made me look at what we were doing to people who used a drug that I had never used — not because I am pure as the driven snow, but because I am asthmatic. The first time I took a cigarette, I thought I was going to die. I certainly was not going to attempt anything else that I had to inhale, but many of my friends did. I suggest that there are a few in this house that probably have.

An Hon. Senator: A few.

Senator Carstairs: Honourable senators, I can tell you a great many of my students have. If you have teenagers, or if you have grandchildren who are teenagers or in their early 20s, and you choose to have a frank discussion with them, I think you will find that many of them have had some contact with marijuana. They have had some contact with alcohol, too. The difference is that alcohol, for whatever reason, seems to lead to far higher addiction rates than marijuana. Indeed, there has been very little, if any, evidence that smoking marijuana either makes you addicted or leads you to any other drug.

• (1440)

What is interesting about the legislation and the changes made to that legislation by the majority members of the committee were that those were the only aspects that they touched, other than regarding our Aboriginal people, who are incarcerated in this country nine times more often than any other group, as a special case.

If I lived in an ideal world, I would not have a child smoke a cigarette. I would not have a child take a drink. I would not have a child take any other form of drug. I certainly would not have people oversubscribing to OxyContin, a perfectly legitimate legal drug prescribed by physicians that we have just learned caused 100 deaths in the province of Ontario.

We have a drug problem — there is no question about that — legal and illegal drugs, and alcohol and tobacco are legal drugs. They are drugs. Do not ever think otherwise. We choose to use them, mostly in moderation, occasionally not so much in moderation — and I would suggest we saw a little bit of that last evening. However, they are legal.

For reasons that I do not understand, we have chosen, in this country, to make marijuana illegal. There have been attempts to decriminalize it. There have even been attempts to legalize it, but we have resisted that absolutely. Why? No one has yet been able to give me a very good answer without at the same time saying we are going to also make all of these other drugs illegal.

If we are to be consistent and make alcohol and tobacco illegal, then so be it; let us make the whole spectrum of drugs illegal.

We have to recognize that young people will take risks. As you know, I recently, together with other senators in this place, tabled a report on aging. One of the issues is whether seniors can take risks. We sometimes have this desire to pack seniors in cotton batting and say we must not ever allow them to take risks; but our teenagers take risks every single day of the week. I think any kid who gets on a skateboard is living his life at risk; but certainly that kid will decide they are going to try, they will be cool, they will go out there and smoke a joint because that is what their friends do. They will pass that joint around from one to the other to the other and then, honourable senators, they become, under the Criminal Code, classified as a trafficker. They do not have to sell that drug. They do not have to get one penny for that drug. The fact that they passed it on to another person means they are a trafficker.

There must be more proof provided that they are genuinely out there trafficking than just this simple pointing and moving a joint from one person to another.

It has always deeply disturbed me to think that if I was a member of a police force who wanted to arrest a whole bunch of kids for marijuana, all I would have to do would be to take 20 cars, load them up with police officers and put them out in front of a rock concert. They could arrest as many kids as they wanted because almost every single one of them would have smoked marijuana. Do we do that? No, we do not do that. What we do is we allow a totally unbalanced position in this country. In communities that decide to be really tough on drugs, those kids get arrested, while kids in other communities do not. It is totally unbalanced. What the senators tried to do in this particular piece of legislation was to make it a little bit more balanced. They did not change anything with respect to anything other than marijuana.

Honourable senators, tobacco causes huge numbers of deaths in this country. Alcohol frequently results in violent acts that cause tremendous loss of life and injury. Statistically, marijuana does not cause very much death. Statistics tell us that. If we want to react to the statistics, so be it, but if we want to be rational and reasonable, we want to make sure that young people get the treatment they need, not the incarceration some seem to think they need. Otherwise, I suggest to you that in the long run you will create more and more tough criminals. We do not have programs in this country in any number to treat youth at risk of

drugs. There are no treatment programs of any significance, but what we will do by this bill is incarcerate more youth. Will they get treatment in jail? No, they will not, because those treatment programs do not exist. Will they get treatment on the streets? No, they will not, because those programs do not exist. Just look at the waiting list in community after community after community for anyone who wants to get drug treatment. It is not available to the vast majority of those who want it. If you are lucky enough to live in a family with some level of economic well-being, then, yes, you do get your kids into a private treatment program and you pay for it. Hallelujah, those kids may get what they need.

The vast majority of kids, and particularly Aboriginal kids, do not get the benefit of those programs. They do not get them in Winnipeg. They do not get them in Brandon. They do not get them in Portage la Prairie. They do not get them in Thompson. They do not get them in Flin Flon. They do not get them in Churchill, and they do not get them on any Aboriginal community. They simply do not exist.

• (1450)

Yes, honourable senators, I support these amendments. I would support a lot more, but I support these amendments because they are trying to do justice for the youth and young adults of this country.

[Translation]

The Hon. the Speaker *pro tempore*: Before we continue with the debate, are there any questions for Senator Carstairs?

Hon. Claude Carignan: Honourable senators, I had the opportunity to participate in the Standing Committee on Legal and Constitutional Affairs' meetings on this bill, and I would like to begin by clarifying a few points.

First I want to emphasize the fact that this bill targets trafficking and production, not possession. I think that is one of the fundamental elements of this bill: it targets trafficking and production, not possession.

People often bring up the hypothetical situation of a youth who gets sent to jail for passing a joint to a friend. This bill has nothing to do with situations like that. Have any of you ever seen a three-kilogram joint?

Senator Comeau: That would be huge!

Senator Carignan: It would indeed be a huge joint. Remember that the minimum quantity we are talking about is three kilograms, so students passing a joint around are not the target at all.

The second point to which I would like to draw your attention is the National Anti-Drug Strategy, an initiative of the government and Health Canada. This strategy combines a number of elements that focus on prevention and treatment. It allocates significant funding to prevention and treatment. Cracking down is also part of the plan. This bill concerns the crackdown part of a multi-part plan; it is a significant part of the anti-drug strategy. I think it is important to look at the whole forest, not just a single tree.

The third point I want to bring up is that we have questions about calculating the cost. I asked Senator Campbell questions about the cost calculations and the numbers he presented earlier. He confirmed that the numbers did not include loss of productivity when an individual cannot work because of drug addiction. The numbers only take mortality into account. But drug addiction does not just kill. It can completely destroy people's lives, yet the statistics do not take that into account.

I do not like to talk about billions of dollars when discussing these matters; I prefer to talk about individuals. We all know someone who has suffered the tragic consequences of drug addiction, who has had their life turned upside down by it. I will give some examples, using fictitious names, because I believe it is important to speak of real-life experiences.

Sophie, an actress, an idol of my youth, fell into the drug trap. Her career was ruined. She lost her family and her children. Today, she is unknown and unemployed, lives on social assistance and barely functions.

Marcel, a 40-year-old friend of mine, a nurse in a large hospital, decided to volunteer at a detoxification centre. Then he decided to experiment just to see what it was all about. He became addicted. One year later, he was homeless in Montreal. His life has been completely destroyed. He is not in the statistics: he is not included in Senator Campbell's figures.

In my opinion, these are things that we must seriously consider. Yesterday, we introduced a bill to protect our children, Bill C-6. Given that we protect them in childhood, is it not important that we continue to do so, enabling them to achieve their full potential based on their abilities and sense of wonder?

The other point I would like to talk about is the deterrent effect of minimum sentences. An expert in criminal law testified before the Standing Committee on Legal and Constitutional Affairs. We asked her how many of her clients know the exact sentence they are likely to get if found guilty. She burst out laughing and told us that less than two per cent of her clients would know that. How can you have a deterrent effect when no one knows what the punishment will be?

I will ask you the question, since you pass all the laws: what is the punishment for someone who is found guilty of dealing one kilogram of cocaine? Those who can tell me how many years you would be given, raise your hands. Now go out on the street and ask the same question. You will see that you will not get an answer. At present, the sentences have no deterrent effect.

However, if there is a clear sentence, one that is well-defined by the law and properly publicized, then a deterrent effect can be generated. That is not currently the case.

I have another example to share with you. A doctor came to tell us the story of someone — we will call him Peter. After going to prison and deciding he wanted to get off drugs, he went about it by committing crimes over and over in order to be sent back to prison to receive treatment. Our bill provides a treatment program, so the offender can have his sentence suspended if he

agrees to undergo drug treatment. Often, the very difficult ordeal of going to prison can become an opportunity to undergo treatment or get into a detox program. It is not true that there are no good detox centres. Jean Lapointe is here with us today and I can assure honourable senators that Maison Jean Lapointe is an excellent treatment centre that serves addicts in Montreal.

Another factor to consider is the Aboriginal population. We want to protect them, but they face additional pressures. I am from St-Eustache, which is near a region called Oka. I am sure everyone here has heard of it. In the evening, the Lake of Two Mountains becomes a highway for boats. Where are they coming from? Many are coming from the United States. Why? We have the well-known problem of cigarette smuggling. Imagine the pressure that gangs are putting on Aboriginal people to produce and traffic cigarettes, all the while telling them not to worry, because there is no minimum sentence on this side of the border. These young Aboriginal people, who are already vulnerable, will face additional pressures.

As we all know, there are no perfect measures — and I am not suggesting that this measure is perfect — but the government, this Parliament, can at least say it is doing something for our youth, and that it has a comprehensive strategy, including prevention, treatment and cracking down on the problem, that should achieve some success.

• (1500)

Obviously, we have to think about young people in all this. Certainly, there are young people who have opportunities to use drugs, but I believe we have to turn the situation around.

Here in the Senate, I sometimes hear conversations like the ones I used to hear in the university common room. The Senate is a place of wisdom where we need to set a good example so that our young people will make the right choices in life.

It is not cool to use drugs. It is cool to play sports and to follow the Olympic torch.

[English]

Senator Carstairs: Will the honourable senator accept a question?

[Translation]

Senator Carignan: Yes, of course.

[English]

Senator Carstairs: The legislation makes reference to drug courts and the rehabilitation programs that would be attached to such drug courts. Can the senator verify for me that there are no drug courts in Quebec, Atlantic Canada or northern Canada?

[Translation]

Senator Carignan: There are options other than drug courts. There are also recognized treatment centres. We received a complete list of recognized centres across Canada and in Quebec as well.

[English]

Senator Carstairs: The honourable senator made reference to the productivity of people being impacted by drug usage. Can he tell the house this afternoon what evaluation was done of those programs in Europe, particularly Switzerland, in which they have made dramatic improvements in the productivity of people by allowing those who are addicted to get the drug they need in certified centres and returning them to their occupations, returning them to their families and allowing them to lead relatively normal lives?

[Translation]

Senator Carignan: There is only one legal way to get drugs, and that is for medical treatment. We heard from a person from Portugal who said that over there, they have decriminalized marijuana, so people can still be fined for possession, but that it is no longer a crime.

When I asked how we might import the idea, witnesses advised us to be very careful and not just copy legislation from one society into another because each society is unique and has its own democratic culture and ways of achieving its goals.

Right now in Canada, we have a good balance between prevention, treatment and repression. It can be difficult to figure out the cost of lost productivity. When I asked the people who came up with the numbers about loss of productivity, they were unable to calculate it.

But there is a real cost associated with drug use. Just yesterday, an inspector from Vancouver who appeared before the Committee on National Finance said that a significant number of vehicle thefts are committed by drug addicts who want money to buy drugs. The indirect costs of crimes associated with drug use are not included in the calculations.

[English]

Senator Cools: Would the honourable senator take a question?

I congratulate the honourable senator on what he was saying. I understood him to say that the real deterrence element in the system is a minimum sentence. My understanding of the system has always been that the gravity of the sentence is always revealed in the maximum that is prescribed. That is my understanding of the system. Maybe he can tell me if that is his understanding.

To move on from that, if a maximum sentence on a charge or conviction is life imprisonment, why does the honourable senator believe that if the accused is not deterred by a maximum of life he will be deterred by a minimum of three years?

[Translation]

Senator Carignan: One of the deterrent elements is the sentence to be served. That sentence has to be publicized and the person also has to be afraid of getting caught. It is not just the publicity of the sentence, but all the elements combined that have a deterrent effect.

Everyone, repeat offenders in particular, knows that the maximum sentence is never imposed for a first offence. It is, therefore, not a deterrent. In the case of a murder, there is a minimum sentence and it is a deterrent.

Everyone knows that impaired driving is a crime. Why? Because minimum sentences are imposed and the idea that impaired driving is a criminal offence has been publicized, and that has had a deterrent effect.

Under California's three strikes law, when a person is found guilty of the same offence three times, they are given minimum prison sentences. That has been publicized and has had a deterrent effect.

The important thing is to follow clear guidelines to ensure that those who produce and traffic in drugs are afraid of getting caught and feel pressure from the long arm of the law. As far as anti-gang activity is concerned, the Conservative government has increased police staffing, and that is in addition to the anti-drug strategy. In summary, we are talking about minimum sentences, hiring more police officers, and addiction prevention and treatment.

[English]

Hon. Patrick Brazeau: Honourable senators, as an Aboriginal Canadian I have firsthand experience in dealing with the overrepresentation of Aboriginal peoples in prisons, because I was part of a task force some years ago and had the opportunity to meet many family victims across the country who were affected by drugs.

First, I must say I am 110 per cent against the amendment that would exempt Aboriginal peoples from the minimum sentences, because if we are ever going to achieve equality and demand to be treated as equals, there should not be two parallel systems of justice in this country. A criminal is a criminal.

However, let us go back a little bit and talk about overrepresentation. I do not think anyone in this chamber will disagree that there is an overrepresentation of Aboriginal peoples in our justice system.

Let us consider the facts. Under the Criminal Code of Canada, judges already have the discretion to take into account the circumstances of Aboriginal peoples if they are convicted of a crime or before sentencing, but there is still overrepresentation. What does that tell us? Maybe that tells us that Aboriginal peoples, just like other Canadians, are committing crimes, and if you commit a crime, you should be punished for it. To me, the exemption to allow discretion to judges, again, on the Aboriginal front, is a handout and not a hand up. We want a hand up and not a handout.

If we are to focus our efforts on reducing the overrepresentation of Aboriginal peoples in our justice system, it will not happen after they commit a crime or are convicted of a crime. It will happen in terms of preventive measures. It involves looking at the circumstances that Aboriginal peoples and First Nation peoples in particular live under in the Indian Act. There is little hope in some of those communities, and that situation assists in pushing individuals towards committing those acts because there is no hope. There is little to do.

• (1510)

Maybe we should look at parenting skills across Aboriginal communities. Maybe we should have more community involvement in assisting individuals who may be at risk. Offering the exemption for Aboriginal peoples after they have committed a crime will not do that.

As my honourable colleague mentioned earlier, Aboriginal peoples in First Nations communities are at risk and they are being utilized by organized crime to sell these drugs. I am a little offended — let me digress.

I am a little surprised I am hearing from honourable senators on the opposite side talking about “one joint.” Honourable senators, one joint in an Aboriginal community might be the beginning of something bigger. Drug use starts with one joint, and then progresses to prescription medication, then to cocaine, heroin, et cetera. That is the bottom line. That is the reality I have lived. There were huge drug problems, and there continues to be huge drug problems at my home reserve of Kitigan Zibi. We had to bring in the RCMP, the provincial police, the First Nations police and community leaders because it was a problem, a growing problem, and it is still a problem. Drug traffickers are targeting our young Aboriginal children to taking drugs and selling drugs because they have nothing else to do, and that is the only economy under which they can generate quick money.

I ask honourable senators to consider the impacts of this amendment. If honourable senators want to help Aboriginal kids and the Aboriginal communities, then start treating them as equals. Stop thinking that you know what is best for them. Aboriginal people know what is best for them.

Finally, I will mention this personal experience. I have seen this problem on my home reserve, as in many other reserves across the country. In the early 2000s, I lived in Gignul Non-Profit Housing in Vanier. For those who do not know what Gignul housing is, it is not-for-profit subsidized housing for low-income families, and it is in probably one of the worst neighbourhoods in the area. The Vanier area is like the small urban reserve; that is where most of the Aboriginal population living off reserve in Ottawa live, but it is not limited to them. Drugs were everywhere. I lived on the middle floor of a three-story house. There were drugs on top of me, there were drugs below me, and my wife and daughter were living with me at the time. Drugs were all over the streets. Traffickers went to Aboriginal peoples first and foremost because traffickers were their first line of hope: “We will give you hope, my Aboriginal child; do this and you will get some money.”

The amendment, therefore, does not help those kids. It will make the problem worse. We are talking about a review in two and five years. I agree with Senator Campbell that in two years we may not see the impacts, but I guarantee that if this amendment goes through, we will see negative impacts within the next five years, and I will say at that time: “I told you so.”

Hon. Dennis Glen Patterson: Honourable senators, in representing a region with 85 per cent of its population Inuit, I am happy to speak on this important issue. It is an important issue in the North. I have thought deeply about it. My good

friend, Senator Watt, who I believe is behind the amendment relating to Aboriginal people that we are discussing this afternoon, has made sure I thought about it.

With all respect to Senator Fraser, the innocent era when Northern communities lovingly took care of offenders without the necessary intervention of police, courts or jails is sadly not the North of today. It was more like that when I first came to practise Legal Aid law in the mid-1970s. It is not the North of today. I will tell honourable senators a little story.

I went to Cambridge Bay in the dead of winter, in January, about three years ago. It is a remote community on the Arctic coast. The community was reeling; three young Inuit people were shot dead in the middle of the night by a high-powered illegal rapid-fire automatic weapon. The story made the front pages of national newspapers. The victims lay on the street where they fell for three days under tarps while the community waited for the weather to clear so a police investigation team could come in. Community opinion was that drug trafficking was an element in the case.

Clyde River is a small Inuit community on Baffin Island where, under the Economic Action Plan, a new cultural school is being built as we speak. It is a traditional community that is isolated, but this past year, the local police detachment was surrounded and laid siege to by an angry mob over drugs that had been seized at the local post office. SWAT teams have to be called in all too frequently to deal with these and similar situations. The age of innocence, therefore, even in the most remote Northern communities, is all too often over. We have crystal meth and crack, even in these remote communities.

I respect Senator Watt's concerns about Aboriginal offenders being jailed disproportionately, but with the greatest respect to the committee — and I accept that we are debating the committee's report — I think the real problem underlying the debate is with our correctional facilities, especially in the North. Many honourable senators have reinforced that point. Correctional facilities in the North, if they exist, are overcrowded. There are no addiction treatment centres at all in Nunavut, although I note that the Government of Nunavut has recently committed to establishing one.

I agree with Senator Fraser that it is true that convicted Aboriginal persons are sent far away all too often; far away from home and family, culture and language. Some have described the situation as warehousing, and I do not disagree. Senator Watt visits these Inuk inmates in jails in Montreal. Their plight is sad. Our hearts go out to them.

With all respect, many people convicted in our courts are in need of healing. They do not need to be free, honourable senators. They are not helped in our communities where we are lucky to have a probation officer, let alone a mental health worker or trained counsellor. Most convicted Aboriginal people need help, and the problem is not only about addictions, although that is a big factor, especially alcohol. The people in our jails are victims of residential schools or their parents were victims of residential schools and could not be good parents because of that experience, which makes them victims. They are victims of pedophile teachers, it is sad to say, or other forms of sexual abuse.

I want to see an inquiry undertaken in this chamber or through a committee — and I have suggested this inquiry to the chair and steering committee of our Aboriginal Peoples Committee — about correctional facilities and jails for Aboriginal people.

Honourable senators, it is our correctional facilities and programs for Aboriginal people that are the underlying issues of concern. In my respectful view, the amendment respecting Aboriginal people that we are discussing is not about putting them in jail; the underlying issue is about the lack of programs and treatment, and that is the issue I think we should address. This amendment will not do anything about that issue.

Finally, we show a high degree of respect for elders in this country, but particularly in the North. In fact, I would describe Senator Watt as such a respected elder. However, I believe he would agree with me that if we were to ask elders in our communities whether they would recommend lighter sentences for our people involved in drug trafficking in our communities, even the Inuit offenders, they would say a resounding no. In fact, many of our elders are still wishing alcohol was never brought into the North, let alone drugs.

• (1520)

Thank you for the opportunity to comment on this committee report.

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

Hon. Charlie Watt: Honourable senators, I will quickly summarize what I just said. First, I would like to thank my colleagues on the Standing Senate Committee on Legal and Constitutional Affairs for adopting the amendment that I put forward.

Honourable senators, over 20 years ago I was honoured to participate in repatriation of the Constitution and my life has been fully occupied protecting Aboriginal rights, so it should not surprise anyone that I feel an obligation to consider the impact of Bill C-15 on the Inuit and other Aboriginal people.

I will start by saying I believe we should have zero tolerance for drug offences. However, I believe that sanctions against those carrying out those crimes must be equitable across our nation. Bill C-15 fails us in that regard.

The bill is discriminatory because not all offenders will have access to drug courts throughout Canada, which we have heard from the witnesses. Residents of Quebec, the Maritimes and the North will face mandatory minimum sentences, while their counterparts in Ontario and Western Canada will have options of avoiding jail time all together.

The Standing Senate Committee on Legal and Constitutional Affairs left no stone unturned during its studies of Bill C-15. As is the case with all justice legislation, we must pay particular attention to the effect it will have on Aboriginals in Canada's justice system. On this point, I would like to encourage senators to undertake a more comprehensive study of this particular subject in due time.

[Senator Patterson]

The Senate is the only institution that can protect our minorities and we have a clear constitutional responsibility to do so. We do not have suitable representation anywhere else. Repeated research and the case law, such as the Supreme Court of Canada ruling in *R v. Gladue*, clearly demonstrate and establish a bias against Aboriginal offenders in Canada's justice system. We have an obligation to examine the ways our justice system is prejudiced against Aboriginal people and how we can remedy those institutional flaws.

In light of those concerns, I want to address the impact of mandatory minimum sentences on Aboriginal offenders in the context of drug offences. Alcohol and drug addiction are a sad reality in our communities. It is the unfortunate end result of devastating hardship, which I believe my good friend on the other side has mentioned in his numbers.

Our people seek comfort in alcohol and drugs to avoid pain, poverty and despair. Issues with addiction often start right from birth. Children in our communities are facing issues such as fetal alcohol syndrome and do not have access to proper care or clinical assessments, and so the path down a very dark road begins.

Honourable senators, it has been said that Inuit have gone from "Igloos to iPods in the past 50 years." I ask you to imagine what that must be like, the tremendous challenge of adapting that the community faces. It is something that the general public of Canada does not realize or cannot understand.

We must ask ourselves if mandatory minimum sentencing will promote health and wellness amongst our peoples, or whether it will further entrench discrimination faced by Aboriginal people within our justice system.

Locking those people up without giving access to treatment is not the way to go. It will simply put them in jail with more access to drugs and without access to rehabilitation programs in a language they can understand. The detention environment faced by Aboriginal offenders is often not culturally appropriate and discrimination is often out of control within Canadian penitentiaries. This fact has been well documented, as we have heard from the witnesses, and they are very credible witnesses.

In response to the situation, judges are mandated under section 718.2(e) of the Criminal Code to look for alternatives to jail for Aboriginal offenders. In particular they are instructed to pay attention to the circumstances of Aboriginal offenders during sentencing. This was the essence of my amendment to this bill at the committee. The amendment ensures that similar consideration will be given when sentencing Aboriginal persons under the amended Controlled Drugs and Substances Act.

Honourable senators, during the committee hearings there were concerns from some Conservative senators opposed to my amendment. To them I simply state that one in five inmates in a federal and a provincial jail is Aboriginal. For women, almost one in three is Aboriginal. These numbers demonstrate that the cultural sensitivity and the judge's discretion is not a "get out of jail free card."

Although it impacts the justice system, addiction is a public health care issue. It affects society as a whole — all citizens. During the report stage of this bill earlier this week, government sponsor Senator Wallace said, “. . . the focus of this bill is on the protection and security of our citizens; those who are not involved in the drug trade; those who are not involved in illegal activity.” I say to him that people with drug addictions are also Canadian citizens requiring protection.

We need to make resources available to treat addicts. For the Aboriginal offender, judges need to recognize these needs and order rehabilitation. Without it, where are we going? There are special needs, different from other Canadian citizens. The one policy for everyone does not work. The amendment is not exclusive. This in my mind does not make an Aboriginal person a lesser citizen of Canada than others who do not face drug addiction.

• (1530)

Honourable senators, there should be no difference in the quality of protection we provide our citizens, regardless of who they are and the challenges that come with them. The comments made the other day in this place make me wonder if Aboriginal people have made the cut. Are we considered by this government to be citizens worthy of protection? That is the question I put to you.

We need a more inclusive approach with these justice bills, and I very much appreciate the support in this place of my committee colleagues in regard to my amendment. *Nakurmiik*.

Senator Brazeau: I would like to thank the honourable senator for those words. He mentioned that he believes perhaps a bigger study should be done on this very issue.

I have two questions. First, what level of discussion and engagement has he had with the chiefs of Aboriginal police across the country — for those that exist — who are frontline workers and who know about the drug problems and the impacts and effects they have on the communities and on families? Second, what level of discussion and engagement has he had with families of Aboriginal victims who have unfortunately felt the impact of drugs upon their daily lives?

Senator Watt: I have had ongoing contact and dialogue with the people I believe I represent. This is not new to me. I face this issue on a daily basis. I do not deny that drugs are available in our communities. Our leaders today are wrestling with this problem. The police are wrestling with it and trying to control the amount of drugs coming into the communities. The drugs are not produced in the North; they are produced in the South and trafficked in the North.

This is not done necessarily by the people I represent, but many times by people at the high end of the scale. This is my concern. I am not concerned about the low end because it will be captured by this bill. Regardless of what the law says, those at the low end always get caught.

Senator Brazeau: If a committee or any one of us were to look at this in a larger and broader picture, would the honourable senator not consider it safe to retract the amendments in this bill concerning an exemption for Aboriginal peoples, conduct a study,

engage the Aboriginal chiefs of police across this country and hear more about the victims? I know what happens when one assume things. However, I assume the committee heard from Aboriginal chiefs of police because hearing testimony from them would have been a very important component of reviewing the bill. If there is to be a review in two years, would it not be more prudent to retract the amendment and conduct a study to garner more information?

Senator Watt: Honourable senators, the answer is no.

Hon. Pierrette Ringuette: I have always had the greatest respect for Senator Watt. A few moments ago, I was listening carefully to what was said about the issue of Aboriginal people that is of concern in this bill.

As far as I can recall, the Aboriginal community has always requested recognition of the healing circle. The elders have a cultural and respectful way of dealing with issues of this kind. Suddenly I hear two new senators saying they do not believe in that, that they believe the southern way, the White way, is okay.

Senator Brazeau: Check the record.

The Hon. the Speaker: I must advise the house that Senator Watt's 15 minutes have expired. If Senator Watt wishes to seek an extension of time, he can so do.

An Hon. Senator: Five minutes.

The Hon. the Speaker: Senator Ringuette.

Senator Ringuette: The question was asked. I need clarification on that issue.

Senator Watt: Honourable senators, this is a good question. I do not believe my colleague on the other side who represents Nunavut, Senator Dennis Patterson, said to forget about the elders. In fact, I believe he said the opposite.

Let me elaborate. I believe Senator Carstairs indicated that the court does travel into small communities. A decision is made by the community elders, in the Inuit way, and then outside interference comes into the communities in the form of a judge, along with a prosecutor, defence counsel and so on. Before they see the victim — without even an interview — the decision has already been made on the plane. Then the disturbance in the community begins again after the healing process has already taken place. This is the problem we have in our communities.

Section 718.2(e) will be overwritten by this law, including the activities taking place in the community right now. Those will also be overridden.

Hon. Lillian Eva Dyck: I have a question of clarification for Senator Watt. I believe I heard him indicate that Bill C-15 would enact a systemic discrimination, in a sense, against Aboriginal people living in the North and in various parts of our country because of the unequal access to drug treatment.

Drug courts are available, and theoretically they should be equally available to all Canadians but are not. I think he is saying that unless we amend the bill, we will discriminate against those Aboriginal people who do not have the same access to drug treatment; is that correct?

Senator Watt: Precisely, yes. As I mentioned, the availability of rehabilitation, in any shape or form, does not exist. It will probably not exist for a long time in the North because it is very costly. Even if it becomes a reality at some point down the road, we will have further interference again from the outside world. The healing by the elders that normally takes place within the Aboriginal community will once again be overridden.

• (1540)

Hon. Carolyn Stewart Olsen: I thank Senator Watt for his impassioned statement. I am always interested in hearing from him. I am confused and I want him to clarify something for me. The honourable senator seems to focus on the people who are addicted to drugs, whilst the bill itself focuses on drug traffickers. I am not sure why we are going into —

The Hon. the Speaker: Honourable senators, I regret to advise the house that the extra five minutes for Senator Watt has expired.

Continuing debate, the Honourable Senator Martin.

Hon. Yonah Martin: I humbly rise, honourable senators, to add my voice to the debate. I feel it my duty to represent the voice of others like me from the West Coast, where, in Vancouver, there is a serious problem. Like Honourable Senator Campbell, who was my former mayor and had my vote —

Senator Keon: We all make mistakes.

An Hon. Senator: Payback time!

Senator Martin: I too have not personally had any experience with marijuana or any other drugs. However, I have many direct observations of people whose lives have been touched by drugs. I will share my experience with honourable senators and implore all of you to consider my experience as a Vancouverite.

I am concerned, like other Canadians in major urban cities who are calling for our laws to protect innocent and law-abiding citizens, who at this time feel that the scales of justice are tipped unfairly.

I taught one of the notorious Bacon brothers when he was in high school. I met a young boy of 11 years old, Trenton O'Donnell, who I spoke about, who lives on the same block as the Bacon brothers in Abbotsford, B.C. Trenton and his friends were not able to visit one another. Literally, they were under house arrest because the laws failed to protect them. The notorious brothers and these criminals were not given the sentences that they deserved.

I am a resident of East Vancouver and I worry about the safety of my daughter, who is a grade 9 student at this time. I see some of the criminal activity that takes place. Our neighbourhood is a residential area. It is not the Downtown Eastside, but it is "East Van," and we are painted with the same brush when people do not understand the distinction. However, this is a problem that is prevalent in many places in our country.

As a teacher, like Senator Carstairs and Senator Cordy, I taught high school students. Whatever they are learning as young offenders, they know the law. They know that it is a revolving door and they know where the loopholes are and how to manipulate them. My husband is a teacher in an alternate school that works with young offenders. Young offenders know the law better than anyone else.

I was called an old-school teacher because, as a Conservative at the core, I have clear conservative values about the way I teach my students and the way I raise my children, where the law is the law. The first time those rules are bent, the first time the boundaries are blurred, the children learn, and these young offenders grow up to be the hardened criminals that the Bacon brothers have become. I remember when the brothers were younger as well.

This issue is not only about the law. As a society we must take responsibility for the role that we all take in raising our children and in creating a better society.

Recently, I attended the trial of a first-time trafficker, someone that I had known well. He came to the court knowing that because of what our laws are at this time, he would receive a light sentence. He was sentenced to house arrest and community hours, and within no time he was back trafficking. He came to trial already knowing that, and he was already planning his next deal. He had come with two friends.

We talk about jails and incarceration, and I understand the challenges that exist. I want to share with honourable senators that through my conversations with Minister Stockwell Day, when he was Minister of Public Safety, and in working with police and other community groups, we know that this issue requires a multi-pronged approach. We must ensure that we fund programs, and that communities work to support what is happening in their communities, but the laws must be strong enough to protect the innocent children like Trenton and people like me.

I urge all honourable senators to take a careful look at this bill and support this bill to protect the people who deserve the law to be on their side.

Hon. Bill Rompkey: Honourable senators, I want to make some comments in support of Senator Watt's amendment. Senator Watt spoke with experience, passion and knowledge about the situation that applies in the North, which is an unequal situation.

It seems to me that we have crafted a system in the South that we have tried to apply in the North, without much flexibility, and flexibility is what is needed. Yes, we need one system across the country, but it requires flexibility in application because we are dealing with a completely different culture. I am talking about Inuit communities. I am not talking about the communities of Oka and those who are nearer to urban centres. I am talking about remote Northern communities where the nearest community is miles away and inaccessible. I am talking about, in many cases, unilingual people.

A court may or may not prosecute a certain case, weather permitting and the docket permitting. It can be days or weeks before the judge arrives in the community. In many cases, the judge will be a unilingual judge. In some cases, the judge may have interpretation services.

I had the honour of teaching the first Inuk judge in Canada. James Igloliorte, from Hopedale, Labrador, was the first Inuk judge in Canada. He is no longer on the bench. We are now back to unilingual judges again.

We are trying to apply a system with people who speak a different language. There may or may not be an interpreter present, but that unilingual judge has to depend on the person who is interpreting. The person charged also has to depend on the interpretation, which in some cases may be perfect, and in some cases may be imperfect. Does the individual charged have access to a lawyer? In many cases, the individual does not. Does the individual have access to other services?

Senator Watt spoke about the drug addiction services that exist or do not exist, and Senator Carstairs gave a good presentation on the lack of those services across the country.

• (1550)

We have taken a system in the South and have tried to transpose it to the North. Senator Carignan talked about “cut and paste.” I think he was talking about the inability to apply what was in Portugal to what we have in this country. Honourable senators, I think we are cutting and pasting. We are taking a system that we have devised and we are trying to paste it into communities that cannot respond to that system. The evidence is that all across this country we have, as Senator Carstairs said, nine times the amount of Aboriginal people in jail that we have from other cultures.

I do not think we can keep on building those jails. If a person is convicted in Naim, Labrador, there is no federal jail in my province.

Senator Cools: That is right.

Senator Rompkey: A person who is convicted in Naim, Labrador, has to go to Dorchester Penitentiary. As Senator Campbell has pointed out, that is one of the best universities that we have, where you learn how to be a better criminal—not how to be a better person, how to heal, or how to contribute, but how to be a better criminal.

Honourable senators, we should not be building more jails but more schools. If we had Aboriginal teachers who would stay, if we had curriculum in the Aboriginal language, if we had lower class sizes we could actually teach people; that is the answer to our problem, not mandatory minimum sentencing. It seems to me that we are going at it from completely the wrong end. We need to start at the other end if we are to solve this problem. The program must start in the schools. It must start with Aboriginal people controlling those schools with Aboriginal people in Aboriginal languages. That is where it must start. If we do that, I think we can solve that problem, but it will not be solved by mandatory minimum sentences. Let the judgment be in the hands of the judge.

Some Hon. Senators: Hear, hear.

Hon. Roméo Antonius Dallaire: Honourable senators, we keep talking about jails. Not many years ago, when I was commanding my regiment, we ended up doing guard duty in jails in the province of Quebec because the people who were working there were on strike. We nearly had a revolution in the regiment because the soldiers realized that the people who were in the cells had better living conditions than they had. They had more privileges and more freedom. They could do all kinds of things within the context of the jail.

An Hon. Senator: It must have been built by Liberals.

Senator Dallaire: The jails that were there and continue to be there continue to provide a process that, from what I gather, is not conducive to responding, ultimately, to what I think they want. The Conservatives want a safer country, but they are throwing people into institutions that are rendering them more dangerous.

In the military, we were able to move rehabilitation to the extent where we even got rid of our jail. We did not need it anymore because of the process of rehabilitation and respect and handling the problem without throwing them into jail.

Senator Rompkey: We dealt with that question. You cannot heal a person in jail—not with the limited services we have in this country, and particularly in the North. It cannot be done. However, there could be healing in the community. I am not that familiar with the justice system, but I know that in some cases procedures have been imposed whereby the community imposes the sentence and the community takes part in the healing process. I should not speak too much about that because I am not too familiar with it.

I do not think you can do the healing in a jail in a remote community of Inuit people who speak a different language without access to services. I do not think you can do it.

Senator Di Nino: I wonder if my honourable colleague would take a question. Senator Dallaire made a comment. I think he misspoke himself, but I want it clarified. He looked at this side and said, “It is what they want. They want a safe country.”

My question is this: Do you want a safe country? Does that side want a safe country?

Senator Jaffer: Oh, please.

Senator Di Nino: Come on.

Senator Rompkey: Yes, I want a safe country, but I think there are people in the country who do not feel safe at the present time.

Senator Cools: I want a just country.

Senator Rompkey: We have to provide for their safety.

Senator Di Nino: We totally agree.

The Hon. the Speaker: Continuing debate?

Hon. George Baker: Honourable senators, I enter the debate because I wish to make comments concerning the statements of Senator Brazeau and Senator Patterson. These two individuals are remarkable individuals in their own right. They have contributed a great deal to their respective communities. Senator Brazeau and the former premier and legal mind from the Northwest Territories and Nunavut, Senator Patterson, have made great contributions and are certainly of enormous stature.

I sat next to Senator Watt in committee. Perhaps I can shed some light on what happened, because I, too, would not want to exclude people from a punishment that everyone else receives for no good reason. For every single witness that appeared in the committee, Senator Watt would ask a question about Aboriginal people. When he got to the corrections officials and to people who knew what prisoners we have in our jails in this country, he would ask the same question, namely, "Is there an increase in the numbers of Aboriginal persons in jail?" That was the first question. His second question was this: "Do Aboriginal persons receive longer jail terms than other people?" The answer always came back "Yes." Statistics Canada provided the statistics to the committee. Officials from Corrections Canada, the correctional service, were asked this question, and Senator Watt would ask every single person "Why do they receive longer sentences? Why do they receive longer terms in jail prior to trial?"

Honourable senators, this is interesting. Senator Brazeau mentioned judges, and so on, and I will get to that in a second. This is the inquiry that Senator Watt was conducting. He knew that section 718 of the Criminal Code was enacted in 1995 to try to correct an imbalance that the Chief Justice of the Supreme Court of Canada described as systemic discrimination against Aboriginal persons in that judgment that he cited. The Senate brought in the law — I was in the House of Commons at the time — for judges to consider alternate ways of handing out punishment and of providing some assistance to Aboriginal persons rather than putting them in jail, because 60 per cent of the people in prison in Saskatchewan were Aboriginal. I repeat 60 per cent.

Senator Watt: It is 83 per cent.

Senator Baker: It is now 80 per cent. Senator Watt was asking why do you have this increase, but, more importantly, why do

Aboriginal persons serve longer jail terms than other persons? Senator Watt asked that of every single witness who had that knowledge. Is that not correct, Senator Watt?

Senator Watt: Yes, it is.

Senator Baker: You certainly did.

Senator Comeau: Leading the witness.

Senator Baker: All of the legal experts who came before the committee testified that this bill will erase section 718 of the Criminal Code, which provided the only hope for Aboriginal people to receive alternate treatment. This bill erases section 718 of the Criminal Code for Aboriginal persons. Is that not right, Senator Watt?

Senator Watt: Correct.

(Debate suspended.)

BUSINESS OF THE SENATE

The Hon. the Speaker: Order. Honourable senators, in a matter of a few seconds, it will be four o'clock, and I have the duty to exercise the adjournment.

Honourable senators, Senator Comeau wishes to speak about committees sitting on the day of our next sitting.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, with leave, I ask that we permit committees to sit on Monday, even though the Senate may then be sitting.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

(Motion agreed to.)

(The Senate adjourned until Monday, December 14, 2009, at 2 p.m.)

THE SENATE OF CANADA PROGRESS OF LEGISLATION

*(indicates the status of a bill by showing the date on which each stage has been **completed**)*

(2nd Session, 40th Parliament)

Friday, December 11, 2009

*(*Where royal assent is signified by written declaration, the Act is deemed to be assented to on the day on which the two Houses of Parliament have been notified of the declaration.)*

GOVERNMENT BILLS (SENATE)

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-2	An Act to amend the Customs Act	09/01/29	09/03/03	National Security and Defence	09/03/31	1	09/04/23	09/06/11*	10/09
S-3	An Act to amend the Energy Efficiency Act	09/01/29	09/02/24	Energy, the Environment and Natural Resources	09/03/11	0	09/03/12	09/05/14*	8/09
S-4	An Act to amend the Criminal Code (identity theft and related misconduct)	09/03/31	09/05/05	Legal and Constitutional Affairs	09/06/09	5	09/06/11	09/10/22*	28/09
S-5	An Act to amend the Criminal Code and another Act	09/04/01							
S-6	An Act to amend the Canada Elections Act (accountability with respect to political loans)	09/04/28							
S-7	An Act to amend the Constitution Act, 1867 (Senate term limits)	09/05/28							
S-8	An Act to implement conventions and protocols concluded between Canada and Colombia, Greece and Turkey for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	09/11/18	09/12/09	Banking, Trade and Commerce	09/12/10	0			

GOVERNMENT BILLS (HOUSE OF COMMONS)

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-2	An Act to implement the Free Trade Agreement between Canada and the States of the European Free Trade Association (Iceland, Liechtenstein, Norway, Switzerland), the Agreement on Agriculture between Canada and the Republic of Iceland, the Agreement on Agriculture between Canada and the Kingdom of Norway and the Agreement on Agriculture between Canada and the Swiss Confederation	09/03/31	09/04/22	Foreign Affairs and International Trade	09/04/23	0	09/04/28	09/04/29*	6/09

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-3	An Act to amend the Arctic Waters Pollution Prevention Act	09/05/05	09/05/13	Transport and Communications	09/05/28	0	09/06/02	09/06/11*	11/09
C-4	An Act respecting not-for-profit corporations and certain other corporations	09/05/05	09/06/10	Banking, Trade and Commerce	09/06/22	0 observations	09/06/23	09/06/23*	23/09
C-5	An Act to amend the Indian Oil and Gas Act	09/04/21	09/04/23	Aboriginal Peoples	09/05/05	0	09/05/06	09/05/14*	7/09
C-6	An Act respecting the safety of consumer products	09/06/16	09/10/07	Social Affairs, Science and Technology	09/12/03 Report defeated 09/12/09	17 (defeated)			
C-7	An Act to amend the Marine Liability Act and the Federal Courts Act and to make consequential amendments to other Acts	09/05/14	09/06/03	Transport and Communications	09/06/18	0 observations	09/06/22	09/06/23*	21/09
C-9	An Act to amend the Transportation of Dangerous Goods Act, 1992	09/03/26	09/04/28	Transport and Communications	09/05/07	1	09/05/13 Message from Commons-agree with Senate amendment 09/05/14	09/05/14*	9/09
C-10	An Act to implement certain provisions of the budget tabled in Parliament on January 27, 2009 and related fiscal measures	09/03/04	09/03/05	National Finance	09/03/12	0	09/03/12	09/03/12*	2/09
C-11	An Act to promote safety and security with respect to human pathogens and toxins	09/05/06	09/06/02	Social Affairs, Science and Technology	09/06/22	0 observations	09/06/23	09/06/23*	24/09
C-12	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2009 (<i>Appropriation Act No. 4, 2008-2009</i>)	09/02/12	09/02/24	—	—	—	09/02/26	09/02/26	1/09
C-14	An Act to amend the Criminal Code (organized crime and protection of justice system participants)	09/04/28	09/05/27	Legal and Constitutional Affairs	09/06/18	0	09/06/22	09/06/23*	22/09
C-15	An Act to amend the Controlled Drugs and Substances Act and to make related and consequential amendments to other Acts	09/06/09	09/09/17	Legal and Constitutional Affairs	09/12/03	4			
C-16	An Act to amend certain Acts that relate to the environment and to enact provisions respecting the enforcement of certain Acts that relate to the environment	09/05/14	09/05/27	Energy, the Environment and Natural Resources	09/06/11	0 observations	09/06/16	09/06/18	14/09
C-17	An Act to recognize Beechwood Cemetery as the national cemetery of Canada	09/03/10	09/03/12	Social Affairs, Science and Technology	09/04/02	0	09/04/02	09/04/23*	5/09
C-18	An Act to amend the Royal Canadian Mounted Police Superannuation Act, to validate certain calculations and to amend other Acts	09/05/12	09/05/28	National Finance	09/06/11	0 observations	09/06/16	09/06/18	13/09

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-21	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2009 (<i>Appropriation Act No. 5, 2008-2009</i>)	09/03/24	09/03/25	—	—	—	09/03/26	09/03/26*	3/09
C-22	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2010 (<i>Appropriation Act No. 1, 2009-2010</i>)	09/03/24	09/03/25	—	—	—	09/03/26	09/03/26*	4/09
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C-25	An Act to amend the Criminal Code (limiting credit for time spent in pre-sentencing custody)	09/06/09	09/06/16	Legal and Constitutional Affairs	09/10/08 Report defeated 09/10/20	2 (defeated)	09/10/21	09/10/22*	29/09
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C-39	An Act to amend the Judges Act	09/06/10	09/06/11	Legal and Constitutional Affairs	09/06/18	0	09/06/18	09/06/18	19/09

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-41	An Act to give effect to the Maanulth First Nations Final Agreement and to make consequential amendments to other Acts	09/06/16	09/06/17	Aboriginal Peoples	09/06/18	0	09/06/18	09/06/18	18/09
C-48	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2010 (<i>Appropriation Act No. 2, 2009-2010</i>)	09/06/22	09/06/22	—	—	—	09/06/23	09/06/23*	25/09
C-49	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2010 (<i>Appropriation Act No. 3, 2009-2010</i>)	09/06/22	09/06/22	—	—	—	09/06/23	09/06/23*	26/09
C-50	An Act to amend the Employment Insurance Act and to increase benefits	09/11/04	09/11/04	Pursuant to rule 74(1) subject-matter 09/09/30 National Finance Bill 09/11/04 National Finance	Report on Bill 09/11/05	0	09/11/05	09/11/05*	30/09
C-51	An Act to implement certain provisions of the budget tabled in Parliament on January 27, 2009 and to implement other measures	09/11/17	09/12/02	National Finance	09/12/08	2 (amends. withdrawn pursuant to Speaker's Ruling 09/12/09)	09/12/10		
C-56	An Act to amend the Employment Insurance Act and to make consequential amendments to other Acts	09/12/10		Pursuant to rule 74(1) subject-matter 09/12/02 National Finance					
C-62	An Act to amend the Excise Tax Act	09/12/09	09/12/11	National Finance					
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 (<i>Appropriation Act No. 4, 2009-2010</i>)	09/12/10							

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No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-268	An Act to amend the Criminal Code (minimum sentence for offences involving trafficking of persons under the age of eighteen years)	09/10/01							

SENATE PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-201	An Act to amend the Library and Archives of Canada Act (National Portrait Gallery) (Sen. Grafstein)	09/01/27	09/12/01	Social Affairs, Science and Technology					

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S-202	An Act to amend the Canada Elections Act (repeal of fixed election dates) (Sen. Murray, P.C.)	09/01/27							
S-203	An Act to amend the Business Development Bank of Canada Act (municipal infrastructure bonds) and to make a consequential amendment to another Act (Sen. Grafstein)	09/01/27	09/05/06	Banking, Trade and Commerce					
S-204	An Act to amend the National Capital Act (establishment and protection of Gatineau Park) (Sen. Spivak)	09/01/27							
S-205	An Act to amend the Criminal Code (suicide bombings) (Sen. Grafstein)	09/01/27	09/03/31	Legal and Constitutional Affairs	09/06/04	1	09/06/10		
S-206	An Act respecting the office of the Commissioner of the Environment and Sustainable Development (Sen. McCoy)	09/01/27							
S-207	An Act to amend the Employment Insurance Act (foreign postings) (Sen. Carstairs, P.C.)	09/01/27	Bill withdrawn pursuant to Speaker's Ruling 09/02/24						
S-208	An Act to amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	09/01/27	09/04/29	Energy, the Environment and Natural Resources	09/06/18	0	09/06/18		
S-209	An Act to amend the Criminal Code (protection of children) (Sen. Hervieux-Payette, P.C.)	09/01/27	09/06/22	Legal and Constitutional Affairs					
S-210	An Act respecting World Autism Awareness Day (Sen. Munson)	09/01/27	09/03/03	Social Affairs, Science and Technology	09/05/14	0	09/05/26		
S-211	An Act to require the Minister of the Environment to establish, in co-operation with the provinces, an agency with the power to identify and protect Canada's watersheds that will constitute sources of drinking water in the future (Sen. Grafstein)	09/01/27	09/06/10	Legal and Constitutional Affairs					
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S-214	An Act to regulate securities and to provide for a single securities commission for Canada (Sen. Grafstein)	09/01/27							
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S-219	An Act to amend the Bankruptcy and Insolvency Act (student loans) (Sen. Goldstein)	09/02/03	Bill withdrawn pursuant to Speaker's Ruling 09/05/05						
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