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THE HONOURABLE NOËL A. KINSELLA
SPEAKER

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THE SENATE

Tuesday, December 15, 2009

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

EARLY CHILDHOOD EDUCATION

Hon. Art Eggleton: Honourable senators, I rise today to make a statement on the government's response to the Standing Senate Committee on Social Affairs, Science and Technology report, *Early Childhood Education and Care: Next Steps*, which was adopted by the Senate on June 22, 2009.

Honourable senators, I am disappointed that the government did not implement the recommendations in our report. The government does not want to appoint a minister of state for children and youth, even though we have a Minister of State for Seniors and even though it would send a clear signal that Canada understands the importance of young people to its future.

The government does not want to have a permanent national advisory council on children to draw on the best minds from across the country on how best to support parents and children.

The consultation process they cite in their letter happened over two years ago, and many from the early childhood education and care community tell me that consultations are no longer happening.

The government does not want to develop a pan-Canadian framework with the provinces and territories that would recognize and respect federal, provincial and territorial leadership as essential elements of developing early childhood education. Instead, they are content with the patchwork of provincial programs that exist today.

Instead of becoming a champion for the 21st century family, the government has essentially abdicated that role to others. This is disappointing because national leadership is crucial at this time. Now more than ever, our children need the right skills and knowledge to ensure that they will manage the many challenges they are facing in school, in society and in the workforce.

In addition, as our report pointed out overwhelmingly, scientific research shows that the early years are vital to this development because that period sets the foundation for confidence and skill development, which help children to become highly literate and mathematically competent later in life.

Honourable senators, based on the government's response, I am not sure that the government understands that early learning is about much more than simply the transferring of care giving responsibility from a parent to someone else. It is about shaping our future by investing in our children and by creating a system that will help every child succeed.

In those areas where the federal government has direct responsibility, such as for Aboriginal children, the response from the government is practically silent. Sadly, the record in this area continues to be discouraging. Incidents of behavioural challenges, as well as cognitive and language delays, are more prevalent in Aboriginal communities than in other Canadian communities, and could be aided by providing quality early childhood education and care.

In closing, honourable senators, as the Honourable Margaret McCain said before the committee, "The best single investment Canada can make for social justice and the optimal development of our children is to get them off to a good early start by building a high-quality evidence-based early childhood development system."

CANADA-SOUTH KOREA RELATIONS

Hon. Yonah Martin: Honourable senators, as the international community struggles to emerge from a global recession, our Conservative government is renewing and strengthening ties with our international trading partners as a means to sustained economic recovery.

In recent weeks, we have seen our Prime Minister working at the international level to end this global recession as he represented the interests of Canadians at the APEC Economic Leader's Meeting in Singapore, the Commonwealth Heads of Government Meeting in Trinidad and Tobago, and during his visits to India, China and most recently South Korea.

Honourable senators, I had the opportunity to join Prime Minister Harper on his historic visit to South Korea. He is not the first Canadian Prime Minister to visit; former Prime Minister Brian Mulroney in 1986 and Jean Chrétien in 1997 were the first two to visit.

It is also most fitting to honour our recently departed colleague, the Honourable Marcel Prud'homme. Senator Prud'homme's role in co-establishing the Canada-Korea Interparliamentary Association with founder, the Honourable Bob Coates in the late 1970s, allowed Assistant Deputy Speaker of the House, Barry Devolin and I, to sit alongside our Prime Minister in Seoul as co-chairs of the same association some 30 years after its inception.

What is historic about our Prime Minister's recent visit is that on December 7, 2009, he became the first Canadian prime minister to address the National Assembly of the Republic of Korea. In his historic speech, the Prime Minister highlighted our past, present and future relations. Hearing our Prime Minister's address so eloquently delivered in French and English, and hearing the Speaker of the National Assembly so warmly welcome all of us in my native Korean language, was music to my ears.

Canada and the Republic of Korea share a deep friendship based on strong historical connections, direct links between our peoples and cooperation on many global issues. Prime Minister Harper used his time in South Korea to renew Canada's commitment to strengthening relations between our two nations.

In 2010, Canada and the Republic of Korea will host the G20 summit. Together, our countries are taking on a leadership role as we host the international community at the world's pre-eminent forum for economic co-operation. Prime Minister Harper and President Lee Myung-bak are already working closely together with the international community to ensure the coming year is one of economic renewal.

Honourable senators, I wish to share with you one of the most meaningful moments of the trip for me. On the morning of December 7, we visited the demilitarized zone at the 38th parallel that divides the once-united country of Korea into North and South. Inside one of the buildings, no larger than a one-car garage, in which negotiations between North and South take place, there is a table positioned horizontally in the middle of the room —

CANADIAN PARALYMPIC FOUNDATION GALA

Hon. Rod A.A. Zimmer: Honourable senators, I take this opportunity to inform you of a very successful Paralympic Foundation fundraising gala that was held on Tuesday, November 24, at the Magna Golf Club in Aurora, Ontario. This event was an elegant and intimate fundraising cocktail reception, which was hosted by the honorary chairs, Mr. Frank Stronach, chairman of the board of Magna International; the Honourable Belinda Stronach, P.C., executive vice-chairman of Magna International; and our Senator Joyce Fairbairn.

I am proud to announce that we raised almost \$200,000, which was presented to the foundation that evening. These funds will go to support Canada's Paralympic team at the 2010 Paralympic Winter Games in Vancouver to introduce Canadian children and youth with physical disabilities to the joy and freedom of grassroots sport.

Honourable senators, with my co-chair, Vim Kochar, I want to thank Frank and Belinda Stronach and Mr. Dennis Mills, president of Magna International Developments, for their outstanding corporate citizenship and for their sponsorships in addition to covering all the expenses for this special event and providing such a magnificent setting as the Magna Golf Club. In addition, I extend a special thank you to all the sponsors and donors for their generosity and the fundraising gala committee.

Finally, honourable senators, I pay special tribute to the Paralympic athletes for their attendance at the event, and we wish all of them the very best at the 2010 Paralympic Winter Games in Vancouver. We hope they will realize all of their dreams at the Olympics, for they are our true heroes. Good luck and God bless.

• (1410)

NATIONAL ANTI-DRUG STRATEGY

Hon. Carolyn Stewart Olsen: Honourable senators, today health minister Aglukkaq and Parliamentary Secretary to the Prime Minister, Pierre Poilievre, launched our government's

drugs "not4me" campaign, the youth component of our National Anti-Drug Strategy.

Our Conservative government understands the dangers of drugs and the destruction they can have on people's lives and that is why Prime Minister Harper launched our government's National Anti-Drug Strategy in 2007. This is a two-track strategy. We will be tough on dealers of drugs, but compassionate to their victims. Our focus is on prevention and treatment.

Today's announcement launches a new youth component to our National Anti-Drug Strategy. We want to educate our children about the dangers of illicit drugs and encourage them to turn their backs on these drugs. You will see television advertisements, a website, www.not4me.ca, and other social media geared to youth. We want to stop our children from using drugs.

For too long in Canada, previous governments have sent mixed messages on drugs, going back and forth between prohibition and liberalization so many times that Canadians find it difficult to know what the law actually says. That is not leadership.

The message of our Conservative government is clear: Drugs are dangerous and destructive. Since the launch of our National Anti-Drug Strategy, our government has introduced a number of measures to get tough on drugs, including legislation to tackle serious drug crimes.

Honourable senators, removing mandatory penalties aimed at drug producers severely damages the intent of the National Anti-Drug Strategy. Instead of blocking legislation that protects Canadians and, most importantly, our children, we urge all parliamentarians to work with us to implement our National Anti-Drug Strategy. Honourable senators, our children and all Canadians are counting on us.

THE HONOURABLE TOMMY BANKS, O.C.

Hon. Jim Munson: Honourable senators, as the senator of Ottawa/Rideau Canal — and I am proud of the city I now call home — beyond Parliament Hill you find natural beauty in a city ready to offer unique cultural and artistic offerings. I am especially proud of the National Arts Centre and was glad to remind honourable senators about its fortieth anniversary. Week after week the National Arts Centre represents music, dance and theatre, and Ottawa residents fill the seats to enjoy the shows.

Recently there was a show that I hope none of you missed. It was a celebration of one of Canada's musical heroes, Oscar Peterson. The man leading the orchestra was none other than our own Senator Tommy Banks. He directed, he played and he even made a couple of jokes. It was a great evening with jazz greats Oliver Jones and singer Raneé Lee. The audience was also treated to a new young talent, a 15-year-old named Nikki Yanofsky who could belt out an Ella Fitzgerald song like a pro.

The audience was enthralled. There were at least three standing ovations. It was a show like no other.

I have learned, Senator Banks, in the last six years to respect you for your great work ethic, your values and your integrity. Now I can add another layer of respect for a jazz musician par excellence. Congratulations, Senator Banks; senator, legislator, thinker and jazzman.

Keep on boppin', keep on swingin'; we love you for it, and I'm not kiddin'.

FEDERAL ACCOUNTABILITY ACT

Hon. Donald H. Oliver: Honourable senators, I rise today to commemorate the third anniversary of the Federal Accountability Act, which was granted Royal Assent on December 12, 2006.

The Conservative government and Prime Minister Harper introduced this bill in April 2006. With this bill the government introduced specific measures to strengthen accountability and increase transparency and oversight in government operations. It is one of Prime Minister Harper's most significant laws since taking office almost four years ago.

I was honoured to sponsor the bill when it came to the Senate, and I was privileged to chair the Standing Senate Committee on Legal and Constitutional Affairs that dealt with this important statute. Our committee carefully studied the proposed legislation and provided one of the most thorough and exhaustive reviews ever of a government bill.

This bill introduced more transparency and accountability in both government and Parliament. As Prime Minister Harper said:

... we are creating a new culture of accountability that will change forever the way business is done in Ottawa.

There were provisions in the Federal Accountability Act to strengthen the laws about lobbying. On November 16, the Honourable Vic Toews, President of the Treasury Board, restated the Government of Canada's overall lobbying reform and belief in accountability.

Honourable senators, the issue is this: Crown corporations, agencies and shared governance organizations should not be hiring consultant lobbyists to help them lobby the federal government. Since 1995, 27 organizations have done so. Now the Harper government wants this to stop.

As a result, a letter was sent to chief executives of 90 organizations reminding them that this has been a government guideline since 1985 and they should not seek outside consultants to lobby the government.

According to Privy Council Clerk Wayne Wouters, the government believes that accountability and the public interest are best served when its relationship with these organizations is conducted by way of candid and direct communications, without the use of paid consultant lobbyists.

As Minister Toews said, agencies within the federal government sector need to examine all their spending to ensure taxpayers receive value for their money. The use of consultant lobbyists for

communicating and lobbying the federal government is an unnecessary and inappropriate use of federal funds.

Honourable senators, Canadians expect their government to run as effectively and economically as possible. As such, the Government of Canada is focused on delivering the best possible service to Canadians, and it wishes to do so without unnecessary spending, especially during an economic downturn when public expenditures need to be used more prudently.

ROUTINE PROCEEDINGS

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY GOVERNMENT SCIENCE AND TECHNOLOGY STRATEGY

Hon. Art Eggleton: Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(a), I give notice that later this day I will move:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report on issues relating to the federal government's strategy on Science and Technology (S&T): *Mobilizing Science and Technology to Canada's Advantage*; and

That the committee report to the Senate no later than June 30, 2011.

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

Some Hon. Senators: No.

The Hon. the Speaker: Honourable senators, leave is not granted.

Senator Comeau: The next day.

The Hon. the Speaker: This is a notice of motion to be taken up at the next sitting of the Senate.

QUESTION PERIOD

ENVIRONMENT

CLIMATE CHANGE POLICY

Hon. Grant Mitchell: Honourable senators, the Minister of the Environment has been saying a couple of things for some time. He says he has this really good target of 20 per cent reductions in greenhouse gas emissions from 2006 levels by 2020. He has also said — and this is the part I like — that he has a clear plan for climate change action.

Some Hon. Senators: Hear, hear!

Senator Mitchell: If my colleagues across the way are so happy about that, then they will be very concerned about my next statement — as concerned as I am — which is that now we find cabinet members, including the Minister of the Environment have been considering cabinet documents that argue for lower emission targets; lower than the 20 per cent.

• (1420)

Could the Leader of the Government in the Senate please confirm for us that at least he has come back to a 20 per cent reduction from 2006 levels by 2020? Could she tell us why we should believe that?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): Honourable senators, I could ask Senator Mitchell why he would believe anything he hears on the CBC.

I obviously do not know where this story came from. It is just another rumour that flies around this town, and I will not respond to rumours. The government has been clearly committed to a 20 per cent reduction by the year 2020.

Senator Mockler: Get your facts right!

Senator Mitchell: Back to the point then: If the government is clearly committed to a 20 per cent reduction by 2020, could the leader please give us the plan that the Minister of the Environment said is so clear that itemizes, one would hope, all the steps that need to be taken to get that done? Is there anything the leader can actually table in the Senate at this time or in the next couple of days? We should be here for a few, anyway.

An Hon. Senator: Maybe a couple of weeks.

Senator LeBreton: Honourable senators, I have answered Senator Mitchell's questions. Obviously we have a strong delegation in Copenhagen, led by Michael Martin. The Minister of the Environment is there, along with many prominent Canadians, people like Galen Weston and the new Canadian Ambassador to the United States, Gary Doer. We have many people in Copenhagen.

I will say again that our policy, as stated many times by the Minister of the Environment, is to work closely with the United States due to the integrated nature of our economics and our continental energy market. For example, last week we released draft regulations to limit greenhouse gas emissions from new vehicles beginning with the 2011 model year, which will help create a common North American approach.

It is in our interest to have an agreement in Copenhagen where we have skilled negotiators. Minister Prentice is doing a wonderful job of putting forward Canada's view, and Canada is prepared to accept its fair share of responsibility and to do its fair share.

What we will not do is sign an agreement that we have no intention of not living up to. That was the easy way. The previous government just signed agreements so everyone would think they

were wonderful, even though they knew when they signed that they had no intention of living up to the agreement. We will not do that.

Senator Mitchell: Every time I hear — I want to say “an answer,” but that was not an answer — a statement like that, I am reminded of how effective the government is at spinning the climate change and the environment file. I have often thought that if we could just harness that spin, we would actually have an alternative source of energy.

Some Hon. Senators: Oh, oh.

Senator Mitchell: I am just trying to lighten things up here because that is the way I am.

One of the things in these documents that went to cabinet is the proposal that somehow targets would be lower for oil and gas than they would for every other industry in the country. Can the leader tell us how her government can possibly justify making a special case for one industry over all the other industries across this country? Can she confirm whether the people in her cabinet are thinking about that or not thinking about that?

Senator Fox: They are not thinking.

Senator LeBreton: Honourable senators, I just answered that question. I will not comment on something that was on the CBC, which amounts to rumour based on a so-called “leaked document.” Senator Mitchell has made a nice try, but I will not comment on an imaginary document that the CBC is pushing around.

[Translation]

Hon. Dennis Dawson: Honourable senators, my question is for the Leader of the Government in the Senate. Who are we supposed to believe in Copenhagen? Do we believe the Prime Minister's official spokesperson, who arrived at the conference before the Prime Minister to set up a “war room” and spin the party's position against environmentalists — like Steven Guilbeault or provinces like Quebec — or do we believe Steven Guilbeault of Équiterre, a longtime environmental defender in Quebec, Canada and the world?

Steven Guilbeault called for Mr. Soudas to apologize, which would not be the first time. Honourable senators will recall that Mr. Soudas had to apologize to Michael Ignatieff last year, because he had misled Canadians, and his own leader, in the international media. We learned this morning that Steven Guilbeault was not behind the Copenhagen hoax, but it was an American lobby group, the Yes Men. Does Mr. Soudas acknowledge that he made a mistake?

[English]

Can the honourable minister assure this house that the government will apologize publicly to Steven Guilbeault, even on CBC and CTV?

Senator LeBreton: First, honourable senators, it is interesting that the Liberal Party is putting out press releases and commenting on various staff members of the government, but I would rather think that the Liberal Party should do a little

self-reflection and consider the completely offensive website photo they had depicting the Prime Minister in a very serious circumstance. Do not give us lectures on who should apologize to whom.

Senator Dawson: It must be true because I read it even in the *National Post* this morning.

We are talking about the official spokesperson for the Prime Minister of Canada. After a disastrous week in Copenhagen, will the government apologize as well to the Canadian people for its lack of environmental leadership affecting, once again, Canada's reputation on the world stage? Please, madam minister, do not be a "yes man" to Dimitri.

Senator LeBreton: Canada has not had a disastrous week at Copenhagen. We have been properly represented by Michael Martin, the head of our delegation. The minister is there, as I mentioned in previous answers.

As for the Fossil Awards, the minister is giving out his own "hot air awards." I could suggest about 50 people he could give them to right here.

As Minister Prentice and I have stated, we are working in Copenhagen in an effort to come to an agreement. The government will not sign on to an agreement to which we have no intention of committing ourselves, unlike the previous government.

Canada, as we know, is responsible for 2 per cent of the world's emissions. As the Prime Minister and the Minister of the Environment has said many times — and Canadians understand and support this — we will not and cannot enter into an agreement that is not in cooperation with the United States, or unless the major emitters, like China, India, Brazil and the United States, sign on. No Canadian believes that we should sign an agreement unless we have the agreement of those countries.

Senator Dawson: Honourable senators, whether we have 2 per cent, 10 per cent or 20 per cent of world emissions, Canadians are used to leadership on behalf of Canada in world affairs. We have had a small role and many fights, but we always had leadership.

Can the minister assure us that over the next few days she will try to bring a little dignity back to Canada's delegation and ensure that she does not listen only to the friends of the Conservative Party but to Canadians as well?

Senator LeBreton: We are listening to Canadians. For the last year our focus has been on the economy, as it will continue to be in the coming year.

Talking about leadership, that is quite a mouthful coming from Senator Dawson. The Liberal government, under the leadership of Jean Chrétien, signed the Kyoto Protocol and admitted almost immediately — thanks to Eddie Goldenberg and his book — that they had no intention of living up to the commitments. Our emissions grew between 26 and 30 per cent.

That was an easy route for Mr. Chrétien to take, of course. He could say whatever he wanted to say and everyone would think it was wonderful. I suppose that would be an easy way out. Obviously, he took the easy way out, but this government will not do that. We will not sign an agreement unless we can live up to our commitments. The minister and the Prime Minister have been clear on that.

• (1430)

Of course, because our economy is so integrated with that of the United States, we need an integrated policy with them.

That is leadership; going there and stating the interests of our country and our economy. As we are situated on the colder half of the North American continent, it would be folly to enter into an agreement that was not harmonized with the United States.

Hon. Tommy Banks: Honourable senators, I have a short supplementary question for the leader. Does she remember the phrase "a made-in-Canada undertaking" with respect to climate change?

Senator LeBreton: That is brilliant, because "made-in-Canada" takes into account that the Canadian economy, which is our primary focus, is integrated with that of the United States, and only a fool would suggest that we sign on to any environmental agreement that did not take into consideration what the United States is doing. In Kyoto, Prime Minister Chrétien signed an agreement that the United States did not even sign. However, that was okay for them then.

I repeat that we will not enter into an agreement that we cannot live up to, unlike the previous government, which signed on to the Kyoto Protocol and had no intention of fulfilling its commitments. They only had two goals in mind; to embarrass the former president and to get out of Kyoto — get out of Dodge, as they say.

The fact is that our emissions increased. The previous government had no plan to live up to the Kyoto agreement and no intention of so doing.

On whom do we rely for that information? None other than Eddie Goldenberg.

Senator Banks: The answer to my question was "yes."

PUBLIC SAFETY

APPEARANCE OF MINISTER AT LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE

Hon. Joan Fraser: Honourable senators, maybe the leader will find this question easier to answer. Can she tell us why the Minister of Public Safety, the Honourable Peter Van Loan, has adopted a policy of refusing to appear before the Standing Senate Committee on Legal and Constitutional Affairs?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): Since Senator Fraser thinks that I have difficulty answering questions and therefore makes them as easy as possible, the simple answer to the question is that I do not have a clue.

Some Hon. Senators: Hear, hear!

Senator Fraser: I thank the leader for that splendidly frank and straightforward answer. I will give her some of the evidence on which I base the question.

When the committee was studying Bill C-25, the two-for-one credit for remand bill, it became immediately apparent that that bill would have a significant impact on the prison system. One estimate from Statistics Canada was that it would increase the prison population by 11 per cent. We wanted to know whether the prison system would be able to handle this. The head of the Correctional Service of Canada said that the numbers were with the minister in a document provided to him for cabinet. The Minister of Justice, who sponsored the bill, said that we had to find that out from the Minister of Public Safety. After numerous requests from the committee, the minister's response was that he would be "unavailable for the foreseeable future."

Then we turned our attention to Bill C-15 which, because it contains mandatory minimums, also has implications for the correctional system. Once again, when Minister Nicholson was asked for specific numbers, he said that would probably be more accurately directed to the Minister of Public Safety.

The committee offered to make itself available at any time on any day convenient to the minister. We trusted that our leaderships would ask the Senate to give us leave to sit at any time to hear from Mr. Van Loan in order to make it easy for him to appear. He never even responded to the request.

Bill C-26 is now before us, the auto theft bill, which has significant implications for the Canada Border Services Agency, and once again Mr. Nicholson tells us he cannot speak for public safety. Mr. Van Loan said that he is "not available to appear before the committee," which means that three times running the committee has been asked to pass legislation without understanding its full implications.

My question is: Why?

Senator LeBreton: My answer is the same as I just gave, but I will take the question seriously and inquire as to why the schedule of the Minister of Public Safety has not allowed him the opportunity to appear.

As the honourable senator knows with regard to the situation with prisons, the government quite rightly put the rights of victims ahead of the rights of criminals. We have very definite opinions on sentencing and the length of sentences because we believe that victims should count more than criminals.

Senator Fraser: That was not exactly the point, honourable senators. No one disputes the government's right to believe that mandatory minimum sentences are the appropriate way to go. However, in Canada it has usually been considered possible for

the government to address the consequences on more than one front of legislation it proposes and to keep Parliament informed about the likely consequences of that legislation.

Will the leader ascertain for us why, despite the committee's extraordinary efforts to accommodate him, the minister has found it impossible to keep this house of Parliament informed about the consequences of what he wants us to do?

Senator LeBreton: As I indicated, I will be happy to ascertain why the minister's schedule has not permitted him to appear before the committee.

Hon. James S. Cowan (Leader of the Opposition): Does the Leader of the Government in the Senate still subscribe to the phrase that she used so often when she sat on this side of the house, "no minister, no bill"?

Senator LeBreton: The bills to which Senator Fraser was referring were bills of the Minister of Justice.

Hon. Jane Cordy: That certainly was not the case in the Social Affairs Committee, but I digress.

NATIONAL DEFENCE

TRANSFERRED DETAINEES

Hon. Jane Cordy: Honourable senators, we are fortunate in Canada to have outstanding men and women in our military serving Canadians around the world. Our Canadian military is in Afghanistan because we believe in democracy, human rights and equality for women. Canadians do not believe in corruption and Canadians do not believe in torture. However, the question we must ask is this: Were the detainees who were handed over to the Afghan authorities tortured or abused? We must ask ourselves: Did senior government officials ignore the signs and what they were told by people like Richard Colvin and organizations such as the International Red Cross?

Will Minister MacKay and Prime Minister Harper obey the will of the majority of MPs who voted in the House of Commons to have the government release all documentation in order to determine exactly what the government knew about the Afghan detainees and when? Will the government release all documentation, unedited and unredacted, to the committee members dealing with Afghanistan so that they can do their job?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): I thank the honourable senator for that question, which I answered yesterday. Officials are following the laws passed in Parliament. The officials have and will continue to provide all legally available information. Redactions are done by independent, non-partisan officials of the Department of Justice, whose only objective is the accurate application of the law.

We do have laws with regard to privacy and national security. Surely the honourable senator is not suggesting that we in this Parliament break our own laws.

• (1440)

Senator Mitchell: You did.

Senator Cordy: I am suggesting that members of the House of Commons and members of the Senate should be given the information they need.

The United Kingdom, the Netherlands, New Zealand and the United States have all dealt openly with the issue of detainee transfers. Instead, in Canada, when Richard Colvin appeared before a parliamentary committee, the government's response was to attempt to discredit him and to attack his character.

It has been revealed that the International Red Cross warned of the torture and we know that General Natynczyk stated that there is incriminating evidence backing up the testimony of Richard Colvin.

We also know that a senior military officer with NATO's International Security Assistance Force — ISAF — said that Canada was stonewalling on providing basic information on the number of captured Afghans.

It is ironic that this is happening on the third anniversary of the Federal Accountability Act. It is truly unfortunate.

Can the Leader of the Government explain why the lack of openness, why the lack of transparency, why the lack of accountability to the Canadian people? What is the good of the Federal Accountability Act if the government is not accountable? Honourable senators, a cloud of secrecy is not good for democracy.

Senator LeBreton: That was more of a speech than a question, fixated as they are on Taliban prisoners and Omar Khadr.

Chief of the Defence Staff Natynczyk made a statement and corrected it the next day because information had just come to him. Try to square this circle: General Natynczyk receives the information, he corrects the record, yet the honourable senator expects Minister MacKay to know this information before the Chief of the Defence Staff.

All the documents that were made available to the committee were vetted through the Department of Justice officials — no political leader, no minister, no one in the various offices. It was handled by the Department of Justice, bearing in mind that we have security concerns and security laws, and privacy concerns and privacy laws. We are following the law. The law was passed by the Parliament of Canada and the government has followed it.

The honourable senator keeps referring to the testimony of Mr. Colvin, but for every word of Mr. Colvin's testimony, there were hundreds of pieces of testimony with the opposite view. However, as is the honourable senator's wont, she focuses in on Mr. Colvin's testimony and dismisses the testimony of many others. These people include Mr. Mulroney, the former Chief of the Defence Staff Rick Hillier, the present Chief of the Defence Staff Natynczyk, Justice officials and Correctional Service of Canada officials.

The story goes back several years and it is the same story. I invite honourable senators to read the story from two and a half years ago. It is exactly the same story. As a result of information at that time, we changed the system as a government. We created the situation whereby Canadian officials could check on prisoners at any time. This was not the case in the previous government. Of course, we could go back even further to the time when a member of this chamber was Minister of National Defence and the activities that happened back then, but I will not go there.

The situation in Afghanistan is not easy, as I said yesterday. The Canadian military, our NGOs, our government officials, CIDA officials, Foreign Affairs officials and Correctional Service of Canada officials are all working to better the situation in Afghanistan, but it is not an easy situation. The Afghanistan government is in the early stages of trying to rebuild and we are there to assist them. We are not there to run their institutions.

HEALTH

ABORIGINAL DIABETES INITIATIVE

Hon. Catherine S. Callbeck: Honourable senators, my question is to the Leader of the Government in the Senate. On November 17, I asked the leader about the future funding for Health Canada's Aboriginal Diabetes Initiative, which was ending on November 30. The leader took the question as notice. Has the leader spoken to the Minister of Health about the funding of this initiative since I asked the question and it was taken as notice over a month ago?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): I thank the honourable senator for the question. There are quite a few delayed answers today; yours, unfortunately, is not one of them. When I take a question as notice, I refer it to the minister and the departmental officials. I will attempt to find out how long it will be before they will have a chance to respond.

[Translation]

LA FRANCOPHONIE

QUEBEC DECLARATION

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate.

Today and tomorrow, Minister Josée Verner will chair the 25th Ministerial Conference of La Francophonie in Paris. During the conference, representatives of member states of the International Organization of La Francophonie will decide on priority areas for multilateral francophone action and discuss matters including the implementation of the declaration adopted at the October 2008 Quebec Summit.

Can the government leader tell us how the government plans to implement the Quebec Summit declaration?

[English]

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): I thank the honourable senator for the question. I will use this opportunity to put on the record that it was under a Conservative government that Canada joined the Francophonie.

With regard to Senator Tardif's specific question, I will take it as notice.

[Translation]

Senator Tardif: Honourable senators, allow me to read the fifth article of the declaration.

Convinced of the need to work together within a united Francophonie to provide, through targeted action, added value to peace, the rule of law, cooperation and sustainable development.

Madam Leader, one of the International Organization of La Francophonie's sustainable development strategies focuses on supporting access to energy and promoting renewable energy by strengthening national sustainable development strategies and encouraging the participation of developing and least developed countries in the multilateral regulation process.

The 2010-13 strategy will be put to a vote during the Ministerial Conference of La Francophonie today and tomorrow.

Did Minister Verner work with the Minister of the Environment prior to the conference? What does the Canadian government have to offer in terms of a sustainable development strategy during this conference?

[English]

Senator LeBreton: Honourable senators, I suppose like Senator Fraser, Senator Tardif thinks that I cannot think or read.

Minister Verner is representing the government. I can simply say that, once she has responded on behalf of the government, I will be happy to provide the honourable senator with her response.

[Translation]

ANSWERS TO ORDER PAPER QUESTIONS TABLED

CANADIAN HERITAGE AND OFFICIAL LANGUAGES—FINANCIAL CONTRIBUTION TO FOUR HUNDREDTH ANNIVERSARY OF THE FOUNDING OF QUEBEC CITY

Hon. Gerald J. Comeau (Deputy Leader of the Government) tabled the answer to Question No. 33 on the Order Paper—by Senator Downe.

HEALTH—FUNDING FOR THE NATIONAL MICROBIOLOGY LABORATORY IN WINNIPEG

Hon. Gerald J. Comeau (Deputy Leader of the Government) tabled the answer to Question No. 34 on the Order Paper—by Senator Mitchell.

INDIAN AFFAIRS AND NORTHERN DEVELOPMENT— APPOINTMENT OF FEDERAL NEGOTIATOR

Hon. Gerald J. Comeau (Deputy Leader of the Government) tabled the answer to Question No. 39 on the Order Paper—by Senator Carstairs.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour to present delayed answers to oral questions raised by Senator Segal on September 17, 2009, concerning National Defence, measures taken to ensure Canadian Forces personnel receive the H1N1 flu vaccine; and by Senator Grafstein on November 24, 2009, and December 9, 2009, concerning the latest statistics on child poverty and government programs to address child poverty.

HEALTH

H1N1 FLU VACCINE

(Response to question raised by Hon. Hugh Segal on November 17, 2009)

The Voluntary H1N1 Vaccination Program commenced on 26th Oct. 09 and as of 6th Dec. 09, over 49,000 CF members were vaccinated.

In general, Regular Force/Primary Reserve CF members and deployed Government of Canada (primarily DND) employees are offered vaccination through Canadian Forces Health Services, including those deployed to Afghanistan. In some cases, Canadian Forces and National Defence personnel receive vaccinations through a host nation or a Department of Foreign Affairs and International Trade medical clinic. Moreover, the vaccine is offered to all public service and contracted personnel related to the Canadian Forces Health Services system. In cases of Canadian Forces personnel in remote locations, vaccination is offered in concert with public health authorities.

Broadly speaking, all Canadian Forces members are encouraged to take a wide variety of preventative measures, including accepting the voluntary H1N1 vaccination offered through the Canadian Forces medical system. A communications plan is in place to inform, educate, and engage every member of the Department of National Defence and the Canadian Forces with factual information on H1N1.

INDUSTRY FINANCE

STATISTICS CANADA DATA ON POVERTY— POVERTY LINE

(Response to questions raised by Hon. Jeremiah S. Grafstein on November 24 and December 9, 2009)

Poverty rates are obtained from a yearly Statistics Canada survey and are released through their annual publication *Income in Canada*. An 18-month analysis period is required between when the information is gathered and when it becomes available. As a result, 2008 and 2009 results will not be available for some time. The latest figures show that from 2006 to 2007, the national child poverty rate declined from 11.4% to 9.5% (representing 637,000 children).

Regarding the senator's question about government programs to help relieve child poverty, there are a number of programs in place for low-income families. In addition to the Canada Social Transfer, a federal block transfer to provinces and territories in support of post-secondary education, social assistance and social services, and programs for children, there are benefits for children already in place. The federal government provides over \$13 billion in benefits for families with children through the Canada Child Tax Benefit, including the National Child Benefit Supplement, the Universal Child Care Benefit and the new child tax credit.

Canada's Economic Action Plan put forth in Budget 2009 is making significant new investments to help low-income families with children which should help mitigate some of the effects of the economic downturn. For 2009-2010, these include:

- \$230 million in increased payments under the National Child Benefit Supplement and the Canada Child Tax Benefit;
- an additional \$580 million in the Working Income Tax Benefit to make work more rewarding;
- \$2.1 billion over 2 years in affordable and adequate housing, including investments for social housing to support low-income families; and
- \$163 million to improve First Nations and Inuit health, and child and family services;

We note the recent release of the Standing Senate Committee on Social Affairs, Science and Technology Subcommittee on Cities report *In From the Margins: A Call to Action on Poverty, Housing and Homelessness* which will be examined in greater detail.

• (1450)

[English]

POINT OF ORDER

Hon. Joan Fraser: Honourable senators, I rise on a point of order. A moment ago I heard the Leader of the Government suggest — and, presumably, she was basing this on something she thought she heard me say — that I think she “cannot think or read,” I believe was her phrase.

Let the record show that I said no such thing, that indeed I think no such thing. The Leader of the Government in the Senate, demonstrably, can think and read. I do not always agree with what she thinks, but that is a separate issue. It would be not only stupid for me to make such an allegation but also grossly unparliamentary. I did not make it.

The Hon. the Speaker: Honourable senators, the record is now clear. This follows in the tradition of the great philosopher René Descartes who had something to say about being and thinking.

[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 wish to inform the Senate that when we proceed to Government Business, the Senate will address the items in the following order: third reading of Bill C-6; followed by second reading of Bill C-64; third reading of Bill C-62; second reading of bill C-56; second reading of Bill S-8; second reading of Bill C-27; second reading of Bill C-36; consideration of Motion No. 40, according to notice given, for later this day; followed by other items according to the order in which they appear on the Order Paper.

[English]

There were notes that I had. They are meaningless.

CANADA CONSUMER PRODUCT SAFETY BILL

THIRD READING

On the Order:

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

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

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

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

(b) in clause 20,

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

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

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

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

(c) in clause 21,

(i) on page 12,

(A) by deleting lines 16 to 35, and

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

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

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

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

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

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

(e) in clause 36, on page 18,

(i) by replacing line 18 with the following:

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

(ii) by replacing line 23 with the following:

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

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

(a) in clause 15, on page 9,

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

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

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

“relates if

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

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

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

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

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

“violation has a defence by reason”.

An Hon. Senator: Question!

Hon. A. Raynell Andreychuk: Honourable senators, I have had the benefit of looking at the testimony presented to the Social Affairs Committee. Like Senator Furey, I was not on the committee, but felt this was an important bill and have followed it closely. I also have received many emails and letters with opinions on this bill.

I wanted to enter into the debate on a number of points. Since this is a chamber for debate, I hope that some of my comments will resonate with my colleagues and give them some time to reflect on where we should go with this bill and with the amendments.

I was disappointed last week to hear comparisons of our legislation here in Canada with tyrannical and repressive regimes. I do not believe that anyone, on reflection, would believe that Bill C-6 should be viewed that way. I hope that all senators take into account that Bill C-6 is an honest attempt, both by the Government of Canada and by the House of Commons, to address a serious issue.

We live under the rule of law. Therefore, when we deal with rights, it is important to understand that they are not absolute rights. Whether they are the absolute rights of privacy or the absolute rights of safety and security, these rights come into contact and sometimes conflict with each other. We must understand that not one right trumps another right; in fact, we try to achieve a balance.

Perhaps the most difficult piece of legislation that we as senators had to deal with was the anti-terrorism law. We remember that the government brought in measures — but within the rule of law, as is the case with Bill C-6 — to change how we address the Criminal Code and issues of security and safety. I recall the minister at the time, Anne McLellan, who had the extremely difficult task of trying to pass the anti-terrorism legislation, saying that she took seriously her responsibility to protect the safety and security of Canadian citizens, but she understood that there were rights. However, from time to time, the balance changes; the needs change. Therefore, certain rights that we had become accustomed to were being infringed upon for the benefit of the safety and security of citizens.

In that case, my concern was not that there would be intrusions — although I regretted the fact that there would be — but that the least intrusive mechanisms would be used.

One of the questions put was whether the legislation complied with the Canadian Charter of Rights and Freedoms? The minister replied that she and her officials believed that the bill complied with the Canadian Charter of Rights and Freedoms and that they had done their due diligence. In my opinion, I thought that answer was wrong. However, the minister was right to point out that they do not give a guarantee. They give their best shot, using the experts that they have.

The bill passed, honourable senators, and certain provisions were tested in the courts. Some of those provisions were found wanting and needed to be changed, while others withstood the judicial test.

It seems to me that the amendment proposed by Senator Furey is attempting to get at a perfect bill where there would be no intrusion on privacy in addressing safety and security. If I am over stating it, I am sure Senator Furey will correct me. That is what I heard, namely that there is a point at which we should not intrude into privacy and that the guarantee that somehow there will be compliance with the Charter of Rights and Freedoms is found to be wanting.

Honourable senators, I think the answers that the minister gave on anti-terrorism still apply. To say that we have not moved into the homes of citizens is not to know our history. We have allowed peace officers to move into homes when there has been imminent danger. For example, with respect to gun control, if there are reasonable and probable grounds that guns are not being locked up, the authorities can move in. In fact, we passed an act in 2004 to amend the Public Safety Act. There were a whole host of amendments to a number of bills where the government and, more particularly, ministers were allowed to take action to ensure safety and security and took away or modified some of our other rights. Again, that was a bill that I worried about. However, time has proven that the risk we took was minimal to our citizens and

their rights and that safety and security has been maximized. We are on the right road. In passing those laws, perhaps they have become preventive measures. Everyone knew what the rules were and they did not move further.

I approach Senator Furey's amendment in the same way. We are not going into people's homes. We are balancing security and safety against privacy. I think Senator Furey would agree with me that this entrance is done with a warrant. He may not like the conditions to obtain the warrant; he may have wanted them to be tougher. Nonetheless, this is not a simple entrance into homes. One must obtain a warrant before one can proceed, and one must meet conditions or tests which I would say are higher than they were in the Public Safety Act. In the Public Safety Act, the minister could act when he or she believed, and there were no conditions on that belief. There had to be the honest belief of the minister. No conditions or preconditions were set out. In this bill, the conditions are set out to receive the warrant.

Another issue troubled me, having worked in the judicial system and in northern and rural communities. I have a great respect for Justices of the Peace. They do their jobs diligently, and they have to live with the consequences of the issuance of those warrants within their communities. Why have we utilized Justices of the Peace? We cannot have a judge available in all these isolated communities, so we use a complex mix of people who have authorities to act on our behalf. I, for one, believe that the system has worked well and served us well. In fact, we have moved to strengthen our Justices, at both the provincial and federal levels.

• (1500)

My greatest concern is the concern put forward by Senator Keon and the Canadian Medical Association. There are 18,000 notations of children being brought to emergency rooms because of product-related issues — 18,000 children who are in some jeopardy.

Honourable senators, this chamber passed the report entitled *Children: The Silenced Citizens*, which related to the Convention on the Rights of the Child. We have been pushing this government and previous governments for full compliance of this convention. Sadly, that has not happened. I continue my efforts, whether it is with Prime Minister Harper, or as it was with Prime Ministers Martin or Chrétien, to have full compliance.

If one looks at the *Children: The Silenced Citizens* report, we said that children are the most disadvantaged citizens. They do not vote; they do not have the lobbies; and, in some cases, they do not have the maturation. Therefore, the international convention is more important than ever when we look at this situation.

Article 6 of the Convention on the Rights of the Child, in paragraph 2, states: "State Parties shall," — and it says "shall," — "ensure to the maximum extent possible the survival and the development of the child."

Surely these children deserve to have the balance of justice weighed in their favour as we look at the balance of an adult possibly having to reconsider a warrant. The adult's rights are not taken away fully. The rights are subject to warrant. If that warrant is not issued appropriately, there are remedies. However, what remedy is there for a child who could die or who could be

maimed or injured? Therefore, I think that we in this chamber, when we are balancing rights, should balance those rights in favour of children, with the minimum risk for adults.

I believe that if we look at the issue in that way, we can look at the Canadian Medical Association reports and say that we need to do due diligence here. I am pleased that the opposition has raised the issues of the warrant and the invasion of privacy so that the government will not move precipitously. It will weigh that it should not move in unless it is absolutely necessary. As well, the teaching tools will be there for the Justices of the Peace, the police and all the medical people.

When the end result is that this legislation, as it is, could help a child, my vote goes for the child.

Some Hon. Senators: Hear, hear!

Senator Andreychuk: I am mindful of the opinion of Senator Keon, who has worked for years in this field, but also to Carolyn Bennett, from the House of Commons. She was instrumental in helping us in our examination of the rights of the child. She is involved in public health and knows the risks and difficulties for children, and she said this bill was a good bill.

Some Hon. Senators: Hear, hear!

Hon. George J. Furey: Honourable senators, I thank Senator Andreychuk for her comments. I begin by saying that the safety of our children and the privacy and sanctity of our homes are not mutually exclusive.

I turn senators' attention to the purpose of this bill. The purpose of this bill is not to go into homes and take children away; the purpose is not to go into homes and take children out of unsafe environments. That is not the purpose of this bill. The purpose of this bill and what the department is trying to accomplish — which I laud, and I hope they do accomplish and I encourage them to accomplish — is to go into homes where people are using their homes as a screen for producing, storing and selling unsafe products. That is what we are getting at. That does not make the protection of our children something that has to be mutually exclusive.

Some Hon. Senators: Hear, hear!

Senator Furey: If we say to the department, "When you changed the old act and you took out 'for sale' and you now say that any inspector can come into any home in Canada" — any home in Canada — we are moving away from what the purpose of that whole piece of legislation is, which is to stop those people who are producing unsafe products, not just for children but for society at large. That is what we are trying to stop. When we tangle the issue up with the safety of our children, we are not doing justice to what we are trying to achieve by changing this piece of legislation. We want to protect the safety of children and we want to honour the sanctity and privacy of our homes.

The way to do this, which we have told the department, is not to use such a low standard of going to a Justice of the Peace and saying that all you have to do is to tell me that you want to enter a home and show that someone is not compliant with an act.

Non-compliance with an act, in this particular piece of legislation, can be something as simple as the labelling on a doll, a frying pan or a toy for a child. That is not what we are getting at here. What we are asking the department to look at, change and accept is that one cannot just willy-nilly walk into people's homes and then say one is doing it for the safety of their children.

There are all kinds of separate laws, aside from this particular piece of legislation, that are meant, as the honourable senator well knows, to protect children. God bless the people who implement those laws, because they have a difficult job. However, what we are getting at is stopping people who are using their homes to store, manufacture and sell unsafe products, not the everyday home of every Canadian who walks into Wal-Mart, buys a consumer product and comes home to find an inspector on his doorstep. That is what we want to change, and I think the honourable senator should get behind that change.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: Senator Andreychuk's time has expired. She is asking for five minutes.

Senator Andreychuk: Honourable senators, I am not sure what part of that intervention I am supposed to answer. If one looks at the problem of the protection of children, we have often removed the child, and the child loses the family and the home. What we are saying is that we want safe environments for children.

While I appreciate that the honourable senator may think that going by a warrant is willy-nilly, I do not concur. I believe those people who issue warrants take their jobs seriously, and the conditionality to the warrant cannot be a simple thing. They weigh the evidence. There must be evidence before them before they can move. I believe that the people who will be handed this responsibility will tread lightly in this field. Warrants are not easy to obtain. Warrants are not easily dealt with anywhere, as those who have worked in the system as long as I have will agree.

I believe the warrants will be exercised appropriately. Where warrants are not exercised appropriately, or if we think the threshold is too low, then we can come back and look at this legislation again. In fact, we should look at this legislation in the way we did with anti-terrorism legislation and many others. We never let a piece of legislation lie fallow; we always follow it through. That is the success of the Senate. We are here; we re-examine legislation; we have a corporate memory; and we monitor and dog legislation to ensure that the meaning and relevance of the act continues. By doing so, we can start on the road to ensure the safety of these products that come from around the world. Many parents do not know what they have stored, and that is the dilemma. We must approach this entire area differently than we did 50 years ago.

• (1510)

Hon. Hugh Segal: Would Senator Andreychuk take a procedural question?

We have seen the Department of Justice over the years, in good faith, assure various governments and committees of this place that something was within the Constitution and it was absolutely Charter proof. We have also seen, ever since the Chrétien

administration brought in the law after 9/11 and a series of other laws by governments of different affiliations, the courts slap down those laws.

The honourable senator has far more experience in this than I do. I believe that part of the difficulty — rests with the attorneys from the Department of Justice. When they appear before our committee and we ask them to share their opinions, they tell us that they are not advisers to the committee; they are advisers to the government.

I think many of the difficulties that are being engaged on this very well-intentioned piece of legislation might have been manageable if we had some of that clarity.

Could the honourable senator share her view, as a very distinguished former judge and member of this place, as to whether those procedures should be revised so that legislators in this place can do their job on a best-informed basis?

Senator Andreychuk: I thank the honourable senator for the question. I see shades of the anti-terrorism situation again. We do want to get at that opinion, and there are some valid reasons why they are advisers to the government and why those opinions should stay private. Perhaps after 25 years of the Charter, it would be time to revisit how to best approach that issue.

I am confident that our able press, opposition leaders, political parties, NGOs and lobby groups looked closely at this legislation. The finest minds can apply themselves. If those minds within the Department of Justice, or whomever else the government seeks, cannot withstand the test, our remedy, is to go to the courts.

I agree with the honourable senator; I would be delighted to have a study on the issue of how the government seeks its assurances under the Charter of Rights and Freedoms. It may be time for a more transparent change.

Senator Fraser: What a good idea.

The Hon. the Speaker: Debate?

An Hon. Senator: Question!

The Hon. the Speaker: We are on debate. Just to remind honourable senators, 15 minutes is the time allotted by the *Rules of the Senate* to speak. The house, by unanimous consent, has allowed an extra five minutes. Twenty minutes has been exhausted. I must call further debate, and I see an honourable senator rising, so I am recognizing Senator Carignan on debate.

[Translation]

Hon. Claude Carignan: Honourable senators, like you, I have received many emails suggesting that some clauses of this bill might be unconstitutional.

I was rather surprised by the reasons given and, partly out of professional habit, having practised public law for 20 years, I looked a little more closely at the bill and I read the testimony given before the committee.

I noted the testimony of Ms. Fuselli of Safe Kids Canada, who identified product non-compliance as the main cause of death in youth under 20. She also informed us that, in 2005, the deaths of 720 youth under 20 were attributable to product non-compliance, as were 30,000 hospitalizations and 18,000 emergency room visits.

Therefore, I believe that the bill is of vital importance to the protection of the public health of Canadians, especially youth.

In the emails we received, some people quoted a constitutional lawyer, Shawn Buckley. That was the first I had heard of him. I looked into who this Mr. Buckley was and discovered that he is a major player at the Natural Health Products Protection Association and has written thousands of emails. His testimony piqued my curiosity. I wanted to understand his reasoning for declaring this unconstitutional and see whether it was consistent with Supreme Court rulings. I was surprised to see that he did not quote the Supreme Court very often — except for an important ruling, *Jarvis*, in 2002 — and the quote he used was open to interpretation.

I investigated further. I remembered the case of *Comité paritaire de l'industrie de la chemise v. Potash*, which took me back to the early days of my practice and the Collective Agreement Decrees Act, which made a distinction between an administrative inspection and a search. The key here is the confusion for a number of senators between an administrative inspection and a search. An administrative inspection is essential in enforcing the law and ensuring that it is respected. That is the case for the Income Tax Act. That is the case for this bill. That is the case for certain consumer laws and environmental protection laws. Impromptu, unannounced monitoring visits are essential in enforcing, protecting or applying the law. That is what the Supreme Court has recognized.

The other aspect has to do with reasonable expectations. Protection works in relation to the reasonable expectations a person has with respect to their private property or their private life, and their commercial expectations if they own a business or are an employer. In that case, these reasonable expectations are minimal because we have to expect that the government will intrude in our private life in order to ensure compliance with the law.

I will quote a few Supreme Court rulings, the *Potash* ruling of 1994 in particular, where Justice La Forest responds indirectly to Senator Furey. He says:

The possibility that certain inspections may take place at the home of the employer or of the employees, when it coincides with their workplace, does not make the inspection powers less reasonable.

Why? Because the expectations are that if you decide to set up your workplace in your home, then you give up that private part of your residence.

The Supreme Court also says:

With respect to visits to a workplace for administrative purposes, the powers conferred by the disputed provision imply only a minimum and very circumscribed intrusion in a context in which employers have a lower expectation of

privacy. It is of the very nature of an administrative inspection in a regulated industry that it takes place when there are no reasonable grounds to believe that a particular offence has been committed.

So, even if there are no grounds to believe that an offence has been committed, that is the very nature of an administrative inspection. And that is what Bill C-6 allows.

Finally, the American legal system's rule — now virtually abandoned — requiring a warrant for an administrative inspection is not desirable here. Does this mean that parliamentarians on the other side are beginning to follow the American model?

In addition, the quotation from Lucie Angers talks about the importance of administrative inspections:

An inspection is characterized by a visit to determine whether there is compliance with a given statute. The basic intent is not to uncover a breach of the Act: the purpose is rather to protect the public.

• (1520)

On the other hand, if the inspector enters the establishment because he has reasonable grounds to believe that there has been a breach of the Act, this is no longer an inspection but a search, as the intent is then essentially to see if those reasonable grounds are justified and to seize anything which may serve as proof of the offence.

Therefore, if an inspector has reasonable and probable grounds to believe that an offence has been committed, and he wants to collect evidence to convince the court, it becomes a search, which still requires a warrant, in accordance with section 8 of the Canadian Charter of Rights and Freedoms.

If it is an administrative inspection and there are no reasonable and probable grounds to believe that an offence has been committed, but the inspector wants to ensure compliance, that is an administrative inspection and is considered constitutional. The bill therefore complies with the Constitution.

I would also like to read other excerpts, in particular this one from page 8 of a judgment, which states:

While regulatory statutes incidentally provide for offences, they are enacted primarily to encourage compliance. It may be that in the course of inspections those responsible for enforcing a statute will uncover facts that point to a violation, but this possibility does not alter the underlying purpose behind the exercise of the powers of inspection.

It goes on to say:

In view of the important purpose of regulatory legislation, the need for powers of inspection and the lower expectations of privacy, a proper balance between the interests of society and the rights of individuals does not require, in addition to the legislative authority, a system of prior authorization.

An inspector cannot request a warrant to inspect a residence out of which a business is being operated — even if he has gone beyond what jurisprudence requires; that has been anticipated here — because it has not been proven that an offence has been committed. The goal is to ensure compliance. And one way to ensure this compliance is to make unannounced visits.

I would also like to quote the *Jarvis* ruling of 2002, which is interesting. It deals with the same issues as Bill C-6, including the power to enter a residence with permission and to obtain a warrant from a justice of the peace if the person refuses.

Sections 231.1 and following of the Income Tax Act have been cut and pasted into Bill C-6. In 1990, the Supreme Court, in *McKinlay*, confirmed the validity of this power and reconfirmed it in 2002. The sections are identical. Section 231.1 states:

... subject to subsection (2), enter into any premises or place where any business is carried on, any property is kept, anything is done in connection with any business or any books or records are or should be kept . . .

And in subsection (2) we find:

Where any premises or place referred to in paragraph (1) (c) is a dwelling-house, an authorized person may not enter that dwelling-house without the consent of the occupant except under the authority of a warrant under subsection (3).

To ensure that citizens pay their taxes, the Income Tax Act provides for the very same power. Honourable senators, if it is important for the government to collect its taxes and have the same authority to enter private homes, is it not just as important to protect thousands of Canadian youth? The answer is yes.

I would also like to quote a few passages from *McKinlay*. We find on page 18, and this is again a quote from a Supreme Court ruling and not Senator Claude Carignan speaking:

Not all seizures violate s. 8 of the *Charter*; only unreasonable ones. Put another way, an individual is accorded only a reasonable expectation of privacy. At some point the individual's interest in privacy must give way to the broader state interest in having the information or document disclosed.

And on page 20:

For the most part, there is no requirement that these powers be exercised on belief or suspicion of non-compliance. Rather, they are based on the common sense assumption that the threat of unannounced inspection may be the most effective way to induce compliance.

Therefore, what the Supreme Court is saying is that it is important to keep up these administrative inspections because the possibility of an inspector arriving at any time is a guarantee that there will be compliance with the Consumer Product Safety Act.

This way of detecting violations meets an important public objective. Inspections designed to ensure workplace and building safety, air safety, fire protection, environmental and food quality, compliance with health standards and so on are commonly authorized by law without any explanation of the reasons for this intrusion into people's privacy.

Honourable senators, we are discussing not just how Bill C-6 will be enforced, but also how to protect laws that protect the public interest in all areas, whether we are talking about building safety, municipal zoning, product safety or environmental protection. We have heard the arguments that were made in support of requiring reasonable and probable cause and that could be put forward one day.

Without these impromptu visits requiring reasonable and probable cause in each case, how can we enforce the law and protect the public?

Other arguments pertained to the rule of law. For 20 years, I have argued in court and cited cases of abuse of power by a government, a public servant or the state. Any person who holds power is capable of abusing it one day, and public servants are no exception. A public servant is capable of abusing any given power at some point. But under the rule of law — the real rule of law, not as it is described by Mr. Buckley — the real rule of law in constitutional law, the courts will always be there to monitor and punish abuses. And in 20 years, I have never seen a judge hesitate to punish an abuse of the law.

[English]

The Hon. the Speaker: Continuing debate. Is Senator Baker rising to speak in the debate?

Hon. George Baker: No, on a question, Your Honour.

The Hon. the Speaker: Honourable senators, Senator Carignan would have to ask for five more minutes. He is asking. Is the house agreed?

Hon. Senators: Agreed.

Senator Baker: Honourable senators, I certainly do show some deference to the honourable senator who had an illustrious career in case law, over the past 25 years prior to becoming a senator. I also show deference to the speaker before him as having had a remarkable career as a judge and of establishing the first family court in her province. We should all congratulate her on that.

However, I would like to ask the honourable senator a simple question. He cited instances that one could, I suppose, suggest are precedents for this particular piece of legislation.

• (1530)

The honourable senator mentioned *Potash*, a decision of the Supreme Court of Canada, but in that judgment would he not admit that that judgment of the Supreme Court had the words “when a home has been given up to a business”? When the

senator mentioned *Jarvis*, and that line of cases, the *B.C. Securities Commission v. Branch* and then *Jarvis*, was it not about a section of the Income Tax Act that says, “when a business is being conducted in a dwelling house”?

Would he further not admit that this legislation concerns no such condition whatsoever? Would he not admit that it only says “a dwelling house,” that the grounds that are listed in the warrant have nothing to do with a suspicion or reasonable belief that an offence has taken place? Would he not admit that this warrant would allow an inspector to walk into someone's house at three o'clock in the morning, parade everyone out into the hall while he or she conducts a search, and that could be called a police state?

An Hon. Senator: That is what you will get.

[Translation]

Senator Carignan: I have a lot of respect for Senator Baker, which is why I will repeat my introduction for him. There seems to be some confusion between an administrative inspection and a search. The purpose of an administrative inspection is to ensure compliance with the law. Officials may not be certain that an offence has occurred, but may suspect the presence of products or manufacturing activities that are subject to the law and that they would like to inspect.

That is why clause 21(1) of Bill C-6 says the following:

If the place mentioned in subsection 20(1) is a dwelling-house, an inspector may not enter it without the consent of the occupant except under the authority of a warrant issued under subsection (2).

Subclause (2) in Bill C-6 adds the following:

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

Subclause (2) also requires that entry to the dwelling-house must be necessary for the purposes referred to in that subsection and that entry to the dwelling-house must have been refused or that there be reasonable grounds to believe that it will be refused or to believe that consent to entry cannot be obtained from the occupant. There must be grounds to believe that manufacturing or business is being carried out at that location.

That is exactly like the Income Tax Act, which states the following in subsection 231.1:

(2) Where any premises or place referred to in paragraph 231.1(1)(c) is a dwelling-house, an authorized person may not enter that dwelling-house without the consent of the occupant except under the authority of a warrant under subsection 231.1(3).

Subsection 231.3 goes on to say that:

A judge may, on ex parte application by the Minister, issue a warrant in writing authorizing any person named therein to enter and search any building, receptacle or place for any document or thing that may afford evidence as to the commission of an offence under this Act and to seize the

[Senator Carignan]

document or thing and, as soon as practicable, bring it before, or make a report in respect of it to, the judge or, where the judge is unable to act, another judge of the same court to be dealt with by the judge in accordance with this section.

The Income Tax Act does not talk about believing a person to be guilty of tax fraud or about believing on reasonable grounds that I have proof of an offence under the Income Tax Act.

This is exactly the same bill that has been reviewed and passed by a number of parliaments from 1986 to this day.

[English]

Senator Baker: Would the honourable senator not admit though that this is not strictly administrative law? This is half criminal law. If evidence is so found, it states in this bill that you can get up to seven years in prison for an offence, derivative from an inspection that is made. Whereas yes, you could have in administrative circumstances certain rights, but this is half-criminal and half-administrative.

[Translation]

Senator Carignan: I invite Senator Baker to read the *Jarvis* ruling, which determines what they call “crossing the Rubicon,” the moment when someone thinks an offence has been committed and goes to look for evidence proving that offence. They need a search warrant and that will be the case under any law, because of clause 8.

Since this bill is identical to the Income Tax Act, it is certainly good for protecting young Canadians.

[English]

Hon. Lillian Eva Dyck: As a member of the Standing Senate Committee on Social Affairs, Science and Technology, I would like to enter the debate. This is an important bill and I listened carefully to what Senator Keon said. Of course, when we hear about injuries to children it breaks all of our hearts and. Senator Andreychuk as well as Senator Carignan continued along that theme today.

Honourable senators, I looked carefully at the numbers in the report from the Public Health Agency of Canada, which comes from the Canadian Hospitals Injury Reporting and Prevention Program, and they are correct, they admit thousands of Canadian children up to 20 years of age who are injured. There were 29,142 emergency room visits, but only 290 of those, 1 per cent, were considered serious.

I am putting this in context. Every serious injury is important, but the risk is relatively small. I have asked my niece, who is a new mother of a five-month-old child, whether she had gone to the emergency room. I am sure every mother in this room has had an emergency room visit with her small children.

An Hon. Senator: And lots of fathers.

Senator Dyck: She had, but it was not serious.

We can raise issues, we can say they are important, but we should keep it within context. Of those injuries, 11,000 were due to falls from bunk beds; baby walkers have been banned; 3,600 were due to motor vehicle or traffic-related incidents, and so on. Therefore, the risk is small. We should not have any accidents, but in any society, kids will have accidents and hurt themselves. This bill will probably help in some ways, but one thing we have not discussed is consumer product alerts.

How did my niece know that she did not want to buy a Stork Craft baby crib? It was because she heard about it in the news. She saw all the reports in the newspaper. She said, “I am not stupid enough to buy one of those cribs. I know they are dangerous.” She does not need Health Canada to rush in there and take all those products off the market because she has heard the news already.

Citizens are intelligent. We should do all we can to get those dangerous products off the market, but we should not have overreaching powers that endanger everyone and take away the rights of the individual citizen.

I am all for protecting children, I am all for protecting adults, but let us not go overboard. Let us not claim we are at great risk. Even Shawn Buckley, a witness at the committee asked if it is necessary for the government to have such a serious overarching reach into our homes and into our private offices.

In the case of something like anti-terrorism law, I could understand the need, because there is a serious and imminent danger, but if we are delayed by a few hours it is not putting children at such a risk that they will be dying off like flies.

We all very much want to protect consumers, but I do not think we need to take the measures that are taken in this bill.

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to speak on Bill C-6, an act respecting the safety of consumer products. I want to congratulate Senators Martin, Day and Eggleton, and the Standing Senate Committee on Social Affairs, Science and Technology for all the hard work it has done on our behalf.

• (1540)

We have all received hundreds of emails and letters. I have not received one email in support of Bill C-6. I do not believe this is about protection of children versus protection of our rights. I believe it is about protecting both.

I have read the emails and responded to them, and I have listened to all honourable senators very carefully. Do we really want to fill our jails with saleswomen who have sold a child seat with a design flaw? This proposed legislation would effectively criminalize accountability or lack thereof and surely make doing business harder. Do we really want people's homes and businesses searched without a warrant and without probable evidence of a criminal offence? That is where Bill C-6, as drafted, will take Canadians.

Honourable senators, I know that we all take our responsibilities seriously, and I respect all of our rights. We have listened carefully to our colleague Senator Furey. I know that, whether we admit it or not, we were touched by what he

said. I would like to take this opportunity to thank him for the work he has put into this bill and for what he has done to change our minds. Some of us will accept what he said and some of us will not. It depends upon the lens through which we are looking at the matter, and I respect that.

However, today I want to speak about people's rights and how every right matters, and about the responsibility we all have as senators. I was a refugee and was fortunate to come to this country, because my Parliament in Uganda did not protect each person's rights. In 1962, Uganda, my country of birth, gained independence from the British. My father won an election and became a member of Parliament. At that time, Ugandan society was functioning well. We had rights and our courts were very effective. We had a strong Parliament. It was like a tapestry with all the threads sewn together. As a society, we thought we were well protected.

Then one thread unraveled. One government minister disappeared. Parliament did not defend him. Then another thread unraveled. Our mayor was killed by being hanged in the square and having his genitals cut off. We all looked, but none of us defended him. Parliament did not defend him. We saw our rights being taken away by the executive, and Parliament did not protect us. None of us were defended by Parliament. Then our very popular chief justice was taken away from the courthouse, and Parliament did not defend him.

Many threads began to unravel. At that time, we were helped greatly by the Israeli government and Israeli people, who had done much work in our country and helped to develop it. They were thrown out. Parliament was then practically non-existent. More threads were being unraveled.

One day, honourable senators, the army arrived at our house to take my father away. To this day, I do not know how he escaped, but I am glad to say that he did. No one defended my father, and more threads were unraveled.

In 1972, 80,000 Ugandan-Asians were thrown out of the country. Luckily, many of us were given asylum in this great country of ours. By that time, Parliament was non-existent and we lived under the terrible dictatorship of Idi Amin. Parliament could no longer protect us.

Honourable senators, I stand before you today to say that we belong to the greatest institution in the world. In 1962, if anyone had said that Ugandans would become refugees, we would have said, "This is Uganda; it cannot happen in Uganda." I know that many of you today are saying that this is Canada, that it cannot happen in Canada, but I urge you to think about this. If you let one thread unravel and not defend our rights, then who will? I urge you all to think carefully when you let one thread unravel.

Senator LeBreton: Like Trudeau with the War Measures Act.

Senator Cowan: Why do you not get up and talk instead of heckling?

The Hon. the Speaker: Order!

Senator Cowan: Recognize her. She wants to speak.

The Hon. the Speaker: Order!

Senator Jaffer: I urge all honourable senators to think carefully when we let one thread unravel. Before we know it, the whole fabric of society will be eroded.

Honourable senators, I often read this saying, which I call a prayer, because I am very much aware of what happened to us. I know you all know this saying:

First they came for the communists, and I did not speak out — because I was not a communist;

Then they came for the trade unionists, and I did not speak out — because I was not a trade unionist;

Then they came for the Jews, and I did not speak out — because I was not a Jew;

Then they came for me — and there was no one left to speak out for me.

When Ugandan-Asians were thrown out, there was no one left to speak for us. I ask you, honourable senators, to think about this very carefully. Every single right matters, and we cannot allow our rights to become eroded.

Some Hon. Senators: Hear, hear!

Hon. Kelvin Kenneth Ogilvie: Would the honourable senator accept a question?

Senator Jaffer: Yes.

Senator Ogilvie: Senator Jaffer spoke of draconian times that we all recognize must have been very traumatic. Indeed, one of her colleagues previously conveyed the idea of inspectors carrying out random invasions of privacy and gave a rather dramatic sense of what he thought, and perhaps you think, this bill contains.

In fact, subclause 20(1) of the bill, which deals with inspections, reads:

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

Subclause 21(1) reads:

If the place mentioned in subsection 20(1) is a dwelling-house, an inspector may not enter it without the consent of the occupant except under the authority of a warrant issued. . . .

Could the honourable senator explain how this language comes remotely close to the vision that she and a previous speaker have attempted to convey to the house with regard to this bill?

Senator Jaffer: I thank the senator for the question. I was attempting to convey that it starts with the unraveling of one thread. I absolutely agree that we live in the best country in the world, and our rights are protected here. If we let one thread unravel, before we know it, many of our rights will be eroded and we will wonder why we do not have the same protection we previously had. Why do we want to erode our rights?

Hon. Hector Daniel Lang: Would the honourable senator accept another question?

Senator Jaffer: Yes.

Senator Lang: Could the senator verify for the house that this subclause does state that a warrant is required if a dwelling is to be inspected?

• (1550)

Senator Jaffer: Honourable senators, I do not have the bill before me, but it is my understanding that a warrant issued by a justice of the peace is required. With such a serious thing, we should have protections. I am also a lawyer and I know how fast and easy it is to get a warrant in our present system. Why do we want to erode that system?

The Hon. the Speaker: Is there further debate?

Are honourable senators ready for the question?

It has been moved by the Honourable Senator Martin, seconded by the Honourable Senator Lang, that Bill C-6, An Act respecting the safety of consumer products, be read the third time, and, on amendment by the Honourable Senator Furey, seconded by the Honourable Senator Moore, that Bill C-6 be not now read a third time — shall I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker: And then further on amendment by the Honourable Senator Banks, seconded by the Honourable Senator Day, that the bill be not now read a third time but that it be further amended —

Hon. Senators: Dispense.

The Hon. the Speaker: Honourable senators, the first question I will put before the house is the motion on amendment by the Honourable Senator Banks, seconded by the Honourable Senator Day. I will read that one.

It is moved by the Honourable Senator Banks, seconded by the Honourable Senator Day, that Bill C-6 be not now read a third time but that it be amended:

(a) in clause 15, on page 9,

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

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

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

“relates if

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

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

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

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

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

“violation has a defence by reason”.

Honourable senators, those in favour of the motion in amendment will please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion in amendment will please say “nay.”

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: Call in the senators.

Do the whips have advice as to the time?

Hon. Terry Stratton: We propose a thirty-minute bell.

The Hon. the Speaker: Honourable senators, the vote will take place at 4:20 p.m.

May I leave the chair?

Hon. Senators: Agreed.

• (1620)

Motion in amendment agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Baker	Kenny
Banks	Lapointe
Callbeck	Losier-Cool
Campbell	Lovelace Nicholas
Carstairs	Mahovich
Cools	Massicotte
Cordy	McCoy
Cowan	Merchant
Dallaire	Mitchell
Dawson	Moore
Day	Munson
Downe	Pépin
Dyck	Peterson
Eggleton	Poulin
Fairbairn	Poy
Fox	Ringuette
Fraser	Robichaud
Furey	Rompkey
Grafstein	Stollery
Hervieux-Payette	Tardif
Hubley	Watt
Jaffer	Zimmer—45
Joyal	

NAYS
THE HONOURABLE SENATORS

Andreychuk	MacDonald
Brazeau	Manning
Brown	Martin
Carignan	Meighen
Champagne	Mockler
Comeau	Nancy Ruth
Demers	Nolin
Di Nino	Ogilvie
Duffy	Oliver
Eaton	Patterson
Finley	Plett
Fortin-Duplessis	Raine
Frum	Rivard
Gerstein	Rivest
Greene	Segal
Housakos	Seidman
Johnson	Stewart Olsen
Keon	Stratton
Kinsella	Tkachuk
Lang	Wallace
LeBreton	Wallin—42

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: Honourable senators, moving to the next amendment:

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

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

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

(b) in clause 20,

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

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

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

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

(c) in clause 21,

(i) on page 12,

(A) by deleting lines 16 to 35, and

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

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

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

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

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

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

(e) in clause 36, on page 18,

(i) by replacing line 18 with the following:

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

(ii) by replacing line 23 with the following:

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

The Hon. the Speaker: All those in favour of the motion in amendment, please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion in amendment, please say “nay.”

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

And two honourable senators having risen:

The Hon. the Speaker: Call in the senators.

Do the whips have advice as to the time?

Senator Stratton: A 30-minute bell, please.

The Hon. the Speaker: The senators are called in for a vote at five o’clock.

Do honourable senators agree that the vote will take place at five minutes before five?

Hon. Senators: Agreed.

The Hon. the Speaker: May I leave the chair?

Hon. Senators: Agreed.

• (1650)

Motion in amendment agreed to on the following division:

YEAS THE HONOURABLE SENATORS

Baker	Joyal
Banks	Kenny
Callbeck	Lapointe
Campbell	Losier-Cool
Carstairs	Lovelace Nicholas
Cools	Mahovlich
Cordy	Massicotte
Cowan	McCoy
Dallaire	Merchant
Dawson	Mitchell
Day	Moore
Downe	Munson
Dyck	Pépin
Eggleton	Peterson
Fairbairn	Poulin
Fox	Poy
Fraser	Ringuette
Furey	Robichaud
Grafstein	Rompkey
Harb	Stollery
Hervieux-Payette	Tardif
Hubley	Watt
Jaffer	Zimmer—46

NAYS THE HONOURABLE SENATORS

Andreychuk	MacDonald
Brazeau	Manning
Brown	Martin
Carignan	Meighen
Champagne	Mockler
Comeau	Nancy Ruth
Demers	Nolin
Di Nino	Ogilvie
Duffy	Oliver
Eaton	Patterson
Finley	Plett
Fortin-Duplessis	Raine
Frum	Rivard
Gerstein	Rivest
Greene	Seidman
Housakos	Stewart Olsen
Johnson	Stratton
Keon	Tkachuk
Kinsella	Wallace
Lang	Wallin—41
LeBreton	

ABSTENTIONS THE HONOURABLE SENATORS

Nil.

• (1700)

The Hon. the Speaker: Honourable senators, the question before the house is that Bill C-6 be read a third time, as amended on the motion.

Hon. Senators: Agreed.

The Hon. the Speaker: All those in favour of the motion please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion please say “nay.”

Some Hon. Senators: Nay.

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

An Hon. Senator: On division.

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

FAIRNESS FOR THE SELF-EMPLOYED BILL**BILL TO AMEND—SECOND READING**

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator MacDonald, for the second reading of Bill C-56, An Act to amend the Employment Insurance Act and to make consequential amendments to other Acts.

Hon. Sharon Carstairs: Honourable senators, let me begin by saying that I am in favour of this bill and do not intend to vote against it. However, I need to take the opportunity this evening, very briefly, to explain that there are some problems with the compassionate leave program of the Employment Insurance Act. That problem, which exists in the EI Act, has been transferred over to Bill C-56.

The compassionate care benefit was introduced by legislation in 2003 and it took effect in January 2004. Its purpose — and a valid and good purpose it was since we all supported it — was that it provide some time for people to take leave to look after a family member who was dying. The purpose of the benefit was to allow the use EI benefits to do that. The benefit is an eight-week benefit, with a two-week waiting period. In essence, one gets six weeks of EI benefit in order to care for a loved one.

Unfortunately this provision is not working as it was originally envisaged. First, there is very poor knowledge of these provisions. Many families do not know about it. Many hospitals and social workers do not know about it. Many people, therefore, have not taken advantage of this particular provision. That is clear because every successive year there has been less in the way of money needed to be put aside to pay for this particular benefit.

The second issue, honourable senators, that is difficult for many families is the shortness of the benefit. We know, for example, among dying Canadians that there are impossible definitions for someone to be able to say when death will occur. Indeed, evidence now shows that doctors are misjudging the length of time that a person may have left by a considerable amount.

Families, thinking they have six months and wanting to use the benefit towards the very end of that person's life, do not opt to accept those benefits because they think they have more time. The reality is that the death occurs very quickly. That, too, has been a factor in why people have not taken it up.

It is also a factor that the six-week period is simply not enough.

When the average Canadian is ill and could take advantage of EI benefit — we cannot as senators — they can use 20 weeks of sickness benefits. When we originally envisaged this legislation, and I certainly was a champion of this legislation, we had hoped it would be longer than the six-week benefit. However, we knew in the first instance that we needed to get our foot in the door, and so we accepted the limitation of the six weeks plus the two-week waiting period.

Honourable senators, we know that six weeks is not adequate to care for someone who is gravely ill.

The third difficulty with the bill — and one that I think was never, ever anticipated — was the problem with the definition. The definition in Bill C-56 — which is the same as in the EI Act — says there must be a significant risk of death within the next 26 weeks. It is the “significant risk of death” which causes so many problems. It is not a problem with older people; however, it is a problem with children.

Parents of children are the very ones who need this compassionate benefit the most. Quite frankly, however, they will not admit that there is a significant risk of death within the next 26 weeks. They will not admit that there is a significant risk of death of their child at all. I think we would all do the same if it was one of our children. We would not want to admit that a child was dying.

Interestingly enough, even the pediatricians and the pediatric oncologists, will not discuss that possibility with their patients' families.

Therefore, honourable senators, at some point in time we will have to amend the EI legislation so that it uses such words as “life-threatening illness” or a “critical illness” or a “gravely ill” person, or something of that nature, which would make this legislation more acceptable for people to take it up.

Honourable senators, this bill will now go to committee. As I indicated, I have no intention of moving an amendment, but I wanted to alert all honourable senators to the difficulties that presently exist with the compassionate care benefit, through no fault of anyone. We thought we were doing the right thing. We thought the definitions were the right thing. In fact, it was a panel of doctors, including a pediatrician, that came up with the definition of “significant risk of death within 26 weeks.”

The reality, however, is it is not working.

I hope we can all work together to ensure that, as time passes, we enrich this benefit, we change the definition and make it possible for people to be with members of their family who are facing death.

Hon. Consiglio Di Nino: Honourable senators, I have no disagreement with the comments made by Senator Carstairs. I think we all know the passion and commitment she has had, particularly to the palliative care issue, throughout her time in this chamber. She has discussed with me her concerns, and I think we will try to address them at committee. Therefore I move, honourable senators, that this bill be referred to the Standing Senate Committee on National Finance.

The Hon. the Speaker: In the fullness of time, first we will deal with the question before the house, which is second reading.

Are honourable senators ready for the question?

Senator Carstairs: 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 the third time?

Hon. Consiglio Di Nino: Honourable senators, I move that the bill be referred to the Standing Senate Committee on National Finance.

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

• (1710)

[Translation]

APPROPRIATION BILL NO. 4, 2009-10

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Gerstein, seconded by the Honourable Senator Wallin, for the second reading of Bill C-64, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2010.

Hon. Pierrette Ringuette: Honourable senators, I would like to point out a few items in Bill C-64 on Supplementary Estimates (B) that all senators ought to be familiar with.

First, we heard testimony from representatives of Indian and Northern Affairs Canada. They indicated that the new program on promoting elementary and secondary education, implemented a few years ago, was effective. We congratulated them on that.

However, as far as the post-secondary education program is concerned, they indicated that for the past five years, the program has not received any increase in funding.

Why not inject supplementary funding? If the elementary and secondary education programs are effective, a greater proportion of the Aboriginal population will need an effective post-secondary education program. We should be congratulating them on all that, but unfortunately, for the past five years, no increase has been granted to the post-secondary education program.

We also heard testimony from officials at CIDA who told us that \$50 million had been granted to repair a dam in Afghanistan. Honourable senators, that money was allocated without calling for tenders.

Here is an organization within the federal government that, because its projects are outside the country, do not comply with Treasury Board guidelines with respect to calls for tenders. I think closer attention needs to be paid to this matter.

[English]

I would also like to stress that the discussions concerning Bill C-6 and Bill C-15 in the last few days have been interesting because in the supplementary estimates four departments have

had their operations cut: the Department of Justice Canada, the Canada Border Services Agency, the Canadian Security Intelligence Service and the Public Service Human Resources Management Agency of Canada.

How can the government pretend that all these justice bills will be effective for the population of Canada when the policing mechanism and border services are cut? How can the government pretend that proper policing will be done? It is already lacking, and yet various departments are being cut.

I would also like to bring to the attention of honourable senators the fact that in yesterday's Question Period it was stated that the federal government has not invested any money in the Canadian financial sector. I want to quote from a presentation by an official from the Financial Sector Policy Branch of the Department of Finance Canada. It says the following: "These measures took the form of a commitment to provide up to \$75 billion in long-term funding for financial institutions. Of that \$75 billion, as of the end of October, \$52 billion has already been provided in regards to home mortgages, and another \$12 billion in regards to auto leasing, and that is not to say that the Bank of Canada has also provided \$30 billion in liquidity."

In relation to the answers that were provided in this chamber, there are some corrections to be made.

I would also like to quote the following from the same official of the Department of Finance: "These timely measures to support financial stability and access to financing have helped to alleviate market uncertainty and facilitate a reduction in consumer lending rates."

Well, is that not a joke? We all know about that. Many taxpayer dollars, actually over \$94 billion, were provided to financial institutions without any relief to interest rates across the country.

Since I have to go to a meeting of the Standing Senate Committee on National Finance, I would like to leave senators with a few thoughts. With regard to the national debt, as of October 2009, each Canadian owes \$14,755. Our federal debt grew by \$5.8 billion in 2008-09 and is slated to grow over \$56 billion in 2009-10 and will continue to grow for years to come.

Senator Segal: No question.

Senator Ringuette: In just the next two years, all the debt repayment of the past eight years will be wiped out. How is that for fiscal management?

Yes, I should say Merry Christmas to all of you. Everyone owes over \$14,000, and this government is not paying a lot of attention to the working poor and low-income Canadians. It is a darn shame that only the financial institutions seem to be getting the attention of this government.

• (1720)

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

(Motion agreed to and bill read second time.)

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

Hon. Gerald J. Comeau (Deputy Leader of the Government): With leave, later this day.

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

Hon. Senators: Agreed.

(On motion of Senator Comeau, bill placed on the Orders of the Day for third reading later this day.)

PROVINCIAL CHOICE TAX FRAMEWORK BILL

BILL TO AMEND—THIRD READING

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

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

Some Hon. Senators: Question.

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

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

TAX CONVENTIONS IMPLEMENTATION BILL, 2009

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Greene, seconded by the Honourable Senator MacDonald, for the 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.

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

Some Hon. Senators: Question.

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

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

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. Tommy Banks: Honourable senators, even though I have never been in their position, I think I understand the frustration that is sometimes experienced by police officers and other officers of the Crown in enforcing legislation. I know that they intend to do good when they are performing their duties, but it is a question of how we go about it. There is no doubt that this legislation is urgently needed in order to do exactly what it says it will, and I will vote for this bill in principle.

However, as with Bill C-6, there is a question in my mind about how we go about it. Senator Andreychuk referred to this earlier when she was talking about finding that magic balance between the interests of the state and the interests of individuals. Where the fulcrum is placed on that seesaw determines in what kind of country we live. There are countries in which the weight is way over on the side of the interests of the state, which override and sometimes trample on the interests of individuals, and we know of those places. I presume that there must be some place in the world where the interests of individuals trample the interests of the state, although I do not know where that is.

We in this country have always prided ourselves on finding the right place to put that fulcrum and the basis of that fulcrum is the Constitution and the Charter of Rights. We work very hard to ensure that it is placed where there is a reasonable balance, given the circumstances, between the interests of the state, that is, all of us, and the interests of individuals.

I will vote in favour of this bill at second reading because the principle is right and I want it to be sent to committee. However, I again want to point out, as I did with Bill C-6 at second reading, that the committee that studies it, which I presume will be the Transport Committee, should address. I commend senators' attention to page 21 of Bill C-27, which deals with spam.

On page 21, clause 19(1) says:

On an *ex parte* application, a justice of the peace may issue a warrant authorizing a person who is designated for the purpose of this section . . .

I presume that is designated by the minister.

We expect that police officers can get warrants to go into people's houses, and under Bill C-6, we now expect inspectors to be able to do that also. We know that Fisheries officers, game wardens and certain other people can as well. Those are people who we presume, by virtue of their title and appellation, have some knowledge, experience and training with respect to exercising constabulary powers. This is a constabulary power, but the bill just says a "person who is designated for the purpose of this section" can be authorized to get a warrant to go into anyone's house. This does not refer to a police officer, a peace officer, a game warden, a Fisheries officer or anyone with experience, but just a person — a telephone operator, a plumber or any person without designation.

It goes on to say that that person can ask to obtain from a justice a warrant, "to enter a place if the justice is satisfied by information on oath that," — and then we see the conditions for the issuance of a warrant to go into a house.

I draw to your attention that there is nothing in this clause that talks about a reasonable suspicion that something wrong is being done in that house. There is no suggestion that this person has to satisfy the justice that he or she thinks that there is something in that house that is in contravention of this act or some act, or that breaks some law or that violates something. It is just for the purpose of entry into a place that is necessary to verify compliance with this act. The person says to the justice, "I want to go into that house to see whether there is compliance with this act." He or she need not think there is not; he or she needs simply to want to have a look to determine whether any of sections 6 to 9 have been contravened. They need not think that any of sections 6 to 9 may have been contravened and reveal why they think so. They need only to want to go into that house and check whether those sections have been contravened, regardless of what else they might find. This is fishing. This is a legalized fishing expedition.

• (1730)

For that reason, as I said with respect to Bill C-6, which was the same except that this is more egregious, if we were to pass this bill, which is urgently necessary, without amending this clause of the bill, it will find its way to a court, and a court will say that this is contrary to the charter and the Constitution.

I call that to the attention of senators who will serve on the committee to which this bill will be sent. I hope they will pay particular attention to that clause.

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

An Hon. Senator: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Oliver, seconded by the Honourable Senator Di Nino, that Bill C-27 be read the second time.

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 the third time?

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

FAIRNESS FOR THE SELF-EMPLOYED BILL

BILL TO AMEND—FOURTEENTH REPORT
OF NATIONAL FINANCE COMMITTEE PRESENTED

Leave having been given to revert to Presentation of Reports from Standing or Special Committees:

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

Tuesday, December 15, 2009

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

FOURTEENTH REPORT

Your committee, to which was referred Bill C-56, An Act to amend the Employment Insurance Act and to make consequential amendments to other Acts, has, in obedience to its order of reference of December 15, 2009, examined the said bill and now reports the same without amendment.

Your committee has also made certain observations, which are appended to this report.

Respectfully submitted,

JOSEPH A. DAY
Chair

(For text of observations, see today's Journals of the Senate, p. 1679.)

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

Hon. Consiglio Di Nino: With leave, now.

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

Hon. Senators: Agreed.

THIRD READING

Hon. Consiglio Nino: Honourable senators, I move that this bill be read the third time now.

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

Hon. Catherine S. Callbeck: Honourable senators, we support Bill C-56, which will provide maternity, parental, sickness and compassionate care benefits for any eligible self-employed person who chooses to opt in and pay the premiums.

We have made several observations. The first one concerns the shortfall. Department officials appeared as witnesses and indicated that by the year 2014 the expenditures of the program will be greater than the revenues by \$78 million. That shortfall will have to come out of the EI fund, which means that EI premiums will have to be increased, or the money will have to come from the government to the Canada Employment Insurance Financing Board to cover any shortfall.

The second observation is in regard to Quebec. Under this Bill C-56, Quebec self-employed workers are entitled to sickness and compassionate care only. They will continue to have parental benefits provided by the Quebec government.

The committee heard from an expert witness who indicated that he felt the premium for Quebec, at \$1.36, as compared to \$1.73 for the rest of Canada, was too high, considering that people from Quebec were only getting the sickness and compassionate care.

The committee has suggested that the government set up a working group to examine the premium rate for self-employed Quebecers to determine if the rate is fair.

The third observation concerns compassionate care. Senator Carstairs spoke on that subject eloquently not very long ago. The program is not working. One reason is because the definition states that there must be significant risk of death within 26 weeks. Physicians and parents of children find it very difficult to admit that. When we amend the EI legislation down the road, we feel that that should be amended to "gravely ill" or similar wording.

Another observation the committee made was that this legislation provides for six weeks of compassionate care, which is simply not long enough. Under the EI Act, the sickness benefit is 20 weeks. We feel that time should be lengthened in compassionate care as well. When there is a review of the legislation, that should be studied seriously.

Senator Di Nino: Honourable senators, I want to express my thanks to the committee, which did a thorough job of analyzing this legislation. The observations that have been explained by our colleague Senator Callbeck were issues that all of us felt should be highlighted for reference to the government and perhaps reflected in future legislation.

This legislation consists of amendments to the Employment Insurance Act to provide certain benefits to self-employed Canadians who, at this particular time, are not able to access them. These benefits, other than those that deal with the cost to Quebecers because of a possible duplication of benefits, basically mirror what exists today in the Employment Insurance Act for the others.

I do not believe there is any opposition to this bill across this country. It is long overdue. I expressed my admiration and respect to Canadians who work for themselves. Through my many years in the financial services sector, I was extremely impressed with their work ethic, dedication and the long hours they had to put in.

This change is long overdue and hopefully my colleagues will support it.

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

An Hon. Senator: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Di Nino, seconded by the Honourable Senator Oliver, that Bill C-56, an Act to amend the Employment Insurance Act and to make consequential amendments to other Acts, be read the third time.

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

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

• (1740)

APPROPRIATION BILL NO. 4, 2009-10

THIRD READING

Hon. Gerald J. Comeau (Deputy Leader of the Government) moved third reading of Bill C-64, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2010.

Hon. Joseph A. Day: Honourable senators, I do not like to spend \$5 billion without at least standing up and acknowledging the fact that we are doing so. The supply bill that flows from this Supplementary Estimates (B) is for approximately that amount of money.

We have discussed the terms and the various provisions covered by this Supplementary Estimates (B) and the bill that flows from them. Throughout the year, we will continue to look at certain items that appear in the supplementary estimates. We were unable to deal with items such as AECL and Public-Private Partnership Canada Inc..

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

An Hon. Senator: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Comeau, seconded by the Honourable Senator Wallace that Bill C-64 be read a third time.

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

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

FINANCIAL ADMINISTRATION ACT**BILL TO AMEND—SECOND READING—
DEBATE CONTINUED**

On the Order:

Resuming debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Banks, for the second reading of Bill S-221, An Act to amend the Financial Administration Act (borrowing of money).

Hon. Tommy Banks: Honourable senators, I have a question for the Honourable Senator Comeau. I note that this item is at the fourteenth day. I wonder whether it is the honourable senator's plan to speak on it now or at the next sitting, because I am concerned that this item not leave the Order Paper.

Hon. Gerald J. Comeau (Deputy Leader of the Government): I note that the honourable senator did not express that concern on the previous bill that was held by the Honourable Senator Hervieux-Payette, Item No. 19 on the Order Paper, which is at day 14 as well. Given the honourable senator's concerns on this item, I am more than pleased to speak to No. 20, which is at day 14 as well.

Honourable senators, I have not finished preparing my remarks. At the earliest opportunity, I will do so. Therefore, I adjourn the debate for the balance of my time.

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

(On motion of Senator Comeau, debate adjourned.)

NATIONAL DAY OF SERVICE BILL**SECOND READING—DEBATE ADJOURNED**

On the Order:

Resuming debate on the motion of the Honourable Senator Wallin, for the Honourable Senator Tkachuk, seconded by the Honourable Senator Nolin, for the second reading of Bill S-240, An Act respecting a national day of service to honour the courage and sacrifice of Canadians in the face of terrorism, particularly the events of September 11, 2001.

Hon. Jeremiah S. Grafstein: Honourable senators, I would like to speak briefly to Item No. 21 on the Order Paper, Senator Wallin's bill, which is at its fifteenth day. This item stands in my name. There is a history to my activities following 9/11 in which Senator Wallin participated. Perhaps I might explain that history briefly and suggest something to the Senate.

Shortly after 9/11, we were concerned that the Canadian government had not attended New York City at Ground Zero. We urged parliamentarians on both sides to do so and there was no response. As a result, a group of us in Toronto, led by myself, my wife, and others, met in my house and decided that we would organize a small meeting of Canadians in response to Mayor Giuliani's request to the United Nations. Mayor Giuliani said that if people wanted to help New York, they could do that by

visiting the city and spending money there. He said that would help the city get back on its feet. So a group of us got together, the Fitzgeralds, the Cohons, the Brattys, the Nugents, the Bevederes, the O'bournes, Esther Farlinger and others and hoped to get 1,000 or so Canadians to join us. It was a voluntary effort; no government provided any money.

I promoted the idea but the idea originated from a good friend of mine, an outstanding producer, Gabor Apor, who said that if we were going to do something for New York City we should not do it in Toronto but in New York City itself. When Mayor Giuliani issued this call, we joined together. A number of us met in my home and we put together some money to organize taking, we hoped, 1,000 Torontonians to New York. Shortly after that, people from across the country began assisting us. Senator Hervieux-Payette, the folks at Bombardier, Jean Lapierre and others, led a group from Montreal. It moved from coast to coast to coast. We finally ended up in New York City at a place called the Roseland Ballroom, which held 3,500 people. We expected that we would barely fill the hall. To ensure that we had an event there, we contacted Pamela Wallin and asked her to be the MC of a volunteer show produced by Gabor, which she kindly agreed to do.

The Roseland Ballroom is on 53rd Street and we had Canadians lined up right up to Central Park on both sides of the street. As one of the organizers, I was concerned because these people had come from across Canada and we were not able to fit them into the hall. I walked up and down the street and begged their forgiveness. Everyone said, "No; we are happy to be here." There was not a concern by any Canadian other than to come and join this particular event.

The ballroom held 3,500. We got kids from Variety Village driven up from Toronto to be part of the audience. We met with the fire chief and police officials from New York City. We gave them a fire truck raised from the volunteer money. Constables in Toronto had raised \$110,000 selling T-shirts at \$10 each and they did not trust anyone to give the money to the police officers except me. I said, "No. You come, too." They were on the stage as well. We were joined by Mayor Giuliani, who presented us with a proclamation declaring that day "Canada Loves New York Day." We also got a letter from President Bush commending us for our efforts.

• (1750)

At the end of all this, instead of 3,500 people, it was estimated by the New York Police that close to 30,000 Canadians came across the border to take part in this event. We closed down 53rd Street and put up big screens. Some 8,000 people saw the event from the outside and 3,500 from the inside, and another 15,000 to 18,000 just wandered around the streets of New York.

Finally, late the night before, Mr. Chrétien contacted us; he came and walked the streets, too. My one request of the federal government — and they obliged — was for two RCMP officers to be present. It was one of our proudest moments. We lit up Times Square with our commercial produced by Norman Jewison and we lit up the Empire State Building for one day, not in red, white and blue but in red and white.

This was the largest invasion of Canadians since the War of 1812. We won the War of 1812, by the way, despite what my American colleagues say. I have this debate whenever I go to

Congress. There are paintings in Congress with captions describing how they beat us on Lake Erie in 1813. It is not so. We won the War of 1812 and, quite frankly, we inundated the United States and New York that day.

At the end of the event, there was not a dry eye in the room. Senator Wallin was there and she was great. Mayor Giuliani turned to me and said, “Senator, this is the most moving event since 9/11.” I said, “Mayor, with all due respect, you’re full of crap. This is not the most moving event since 9/11. This is a moving event, but you have seen more emotional events than this.” He said, “No. This is real politics. I can get 25,000 people to show up at Madison Square Garden or the ballpark any day. What you did, senator, was to bring 30,000 Canadians to New York at their own expense. That is real politics.” I said, “Mayor, wrong again. Let me tell you something about Canada.” I leave honourable senators with this thought: “If you show Canadians how to do the right thing, get out of the way; they will surprise you every time.”

That event had little to do with me or with Pamela Wallin or others who organized it; it had to do with the great generosity of Canadians who came from coast to coast to coast to demonstrate an act of friendship with the United States when they were in need.

I want to commend Senator Wallin for bringing this resolution forward. Twenty-eight innocent Canadians lost their lives during 9/11. Members of every religion, including Muslim, Jewish, Christian and Baha’i, lost their lives. This was an act of indiscriminate terrorism, where innocent people of all faiths lost their lives. I want to support Senator Wallin in this effort and I commend her for bringing this measure forward.

Hon. Senators: Hear, hear!

Hon. Hugh Segal: Honourable senators, the “heartsiness” of our good friend Senator Grafstein on this issue is reflective of the remarkable contribution he has made to this country, and in this place, for many decades. Because of his strong support of this proposition and the leadership he has shown, it would be a fitting tribute if we might reflect on letting this motion pass unanimously this evening. The motion does not stand in my name but in Senator Wallin’s name. She is, as honourable senators know, a desperately modest individual. She has the right to — and she will, I hope — get up and say a final word, because the motion was put by her. However, I would hope that colleagues might give that some serious consideration.

Hon. Pamela Wallin: Thank you, Senator Segal and Senator Grafstein.

The Hon. the Speaker: I am sorry. I did not see Senator Carstairs on her feet.

Do you wish to speak, Senator Carstairs?

Hon. Sharon Carstairs: Honourable senators, I would absolutely agree with Senator Segal if this were, in fact, a motion. However, this is not a motion; it is a bill. As a bill, it needs to go to a committee. If we could unanimously pass the bill tonight to send it to committee, that would give me a great deal of

pleasure. However, to go all the way through the third-reading phase, I am sorry, honourable senators, but I believe that bills need to go to committee.

Senator Wallin: I appreciate Senator Carstairs’ remarks. We would be happy to recommend that this bill go forward to the Standing Senate Committee on National Security and Defence.

The Hon. the Speaker *pro tempore*: Senator Wallin, if you speak now, it will close the debate.

Do any other senators wish to speak on second reading?

Hon. Claudette Tardif (Deputy Leader of the Opposition): I had understood that some of my colleagues did want to speak to this bill. Therefore, I would like to take the adjournment.

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

Hon. Senators: Agreed.

(On motion of Senator Tardif, debated adjourned.)

CRIMINAL CODE

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Martin, seconded by the Honourable Senator Neufeld, for the second reading of Bill C-268, An Act to amend the Criminal Code (minimum sentence for offences involving trafficking of persons under the age of eighteen years).

Hon. Anne C. Cools: Honourable senators, I rise to speak to second reading debate on Bill C-268, an Act to amend the Criminal Code (minimum sentence for offences involved in trafficking of persons under the age of eighteen years).

This bill was created by Manitoba member of Parliament Joy Smith and by Benjamin Perrin, Assistant Professor of Law at the University of British Columbia and a self-described expert on human trafficking. This bill proposes a new offence, trafficking of a person under the age of 18 years, and also a new mandatory minimum of five years.

Honourable senators, the member of Parliament from Manitoba, Joy Smith, requested a meeting with me. I met with her on October 27, 2009. At that time I informed her that I intended to support and vote for Bill C-268 at second reading. I added that, like many senators, I am firmly opposed to any attempt to defeat a private member’s bill, especially prior to its second reading. I have expressed this view on the floor of this house many times. I support debate, and I believe there should be more, not less, political debate on these questions. I respect and admire the work and dedication by private members in bringing a bill before the houses.

Honourable senators, for some successive years I have endeavoured to heal broken families and broken people. As Canada's front-runner and a pioneer in innovative services for families afflicted by violence — that is, by family violence — I worked with women, children and men wounded in the most intimate and vulnerable of human relationships. I speak of spouse-to-spouse, parent-to-child and child-to-parent violence.

I initiated and assisted in many children's aid society apprehensions of children at serious risk from their parents and guardians. Mine was the labour of love, driven by my belief in the power of love and the healing of love in mending human brokenness and psychic injury. Honourable senators, I sincerely believe that human brokenness and woundedness are the cause of most social problems, including psychopathy, crime, teenage prostitution, and so on.

Honourable senators, there are many like myself in the world. We created a lot of the language around domestic violence, battered women and so on. I would like to mention my English friend Erin Pizzey, who, in London, England, founded the first battered women's shelter in the world. She is a little older than I, but I call her my soul sister. She wrote the first popular book on domestic violence, called *Scream Quietly or the Neighbours Will Hear*.

It was my intervention work with families that grounded Mr. Pierre Elliott Trudeau's interest in and esteem for me. I also served on the National Parole Board as a temporary member, from 1980 to 1984. I personally interviewed many inmates charged with every conceivable offence and I was involved in making decisions about parole for them. I read hundreds of psychiatric reports and an equal number of judgments.

Here in the Senate, for many years, I worked on divorce, marriage breakdown and upholding the need of children for relationships with both parents. I have upheld the entitlement of children to the emotional and financial support of both their parents, their mothers and their fathers.

• (1800)

On the marriage question, I had upheld marriage as a voluntary union between a man and a woman. I defended marriage as the best place in which to procreate and raise children.

Therefore it can be said, honourable senators, that I have done my work for a lifetime, healing human beings at very close and intimate levels. As a result, I think I know something about the causes and motivations of human beings and the causes of social deviance and crime.

The Hon. the Speaker pro tempore: Honourable senators, it being six o'clock, is there any arrangement to not see the clock?

Hon. Gerald J. Comeau (Deputy Leader of the Government): I am sure that if Her Honour were to seek the views of honourable senators, we would all be in agreement that we not see the clock.

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

Hon. Senators: Agreed.

Senator Cools: Honourable senators, I have witnessed in my time many shibboleths, many ideologies and much orthodoxy. I have been shocked by the influences of ideologies and ideologues in law making and statute creation. I have studied the plethora of wrongful convictions and wrongful prosecutions and the use of false accusations in judicial proceedings. These miscarriages of justice have been so abundant in the last many years that they should give us pause and make us think deeply about their causes.

Honourable senators, I have always opposed ideology-based public policy. I consider it to be flawed and bad public policy, which has been extremely reckless with children's lives. We must uphold children and their needs.

Honourable senators, the famous Psalm 127, *Nisi Dominus*, informs us that:

Children are a gift from the Lord; they are a real blessing.

We owe them a lot, honourable senators.

All of us senators here are members of, in Sir Edward Coke's words, the High Court of Parliament. As senators and members of this, the High Court of Parliament, we are charged under Her Majesty's *parens patriae* doctrine with the high duty of upholding, protecting and providing for children. This is a paternal jurisdiction granted by Her Majesty to our Superior Court judges, not as part of their inherent jurisdiction as judges but rather as the inheritors of the law of equity which was delegated to them from the Lord Chancellor and the Lord Chancellor's courts, known as the Courts of Chancery and the Courts of Equity. Our inferior courts in this country do not possess this equity jurisdiction over children.

Honourable senators, the reason I am delving into this is because I have heard a lot said about the justice system and about children. Our Speaker, the Honourable Senator Kinsella, has a special role to play in these matters because he is the natural equivalent, in this place, to the Lord Chancellor. I wanted to put some of this on the record because it is rare in any court case for the *parens patriae* doctrine to be raised. I thought it would be nice, since we were talking about protecting children.

Our inferior courts do not possess this equity jurisdiction over children. They rely on the particular provincial statutes that constitute them to obtain their powers over children, and only those powers expressly given by those particular provincial statutes.

Honourable senators, it is not well known, but when Sir Wilfrid Laurier brought forth the old Juvenile Delinquents Act in 1908, he was making a good attempt, quite frankly, to seize and bring in to the cognizance of the federal system the phenomenon of children. There is no area needing more study because the provinces have appropriated most matters that concern children.

The *parens patriae* commands the justices to uphold the protection of the children. We have heard a lot about Bill C-268, but we have heard very little about the reasons it is thought that new offences should be created and why the old ones do not work. I am doing my little bit of work here to put some of this out for discussion.

Honourable senators, these principles about protecting children are expressly enacted in the Criminal Code in Part XXIII, which, as we know, is that part of the Criminal Code called “sentencing.” The whole part deals with the phenomenon of sentencing. Section 718 of Part XXIII — and Senator Baker quotes this often — articulates the principles to which judges must adhere when pronouncing sentences.

Entitled “Purpose and Principles of Sentencing,” and under its sub-heading “Objectives — offences against children,” section 718.01 states:

When a court imposes a sentence for an offence that involved the abuse of a person under the age of eighteen years, it shall give primary consideration to the objectives of denunciation and deterrence of such conduct.

Something like this merits study. I am hoping that the committee, when this bill gets there, will look at it.

In addition, under the heading “Other sentencing principles,” which describe aggravating circumstances as a factor in sentencing, section 718.2 (a)(ii.1) states:

. . . evidence that the offender, in committing the offence, abused a person under the age of eighteen years, . . .

I can see Senator Dyck paying careful attention because these are sections of the act that need our attention. All we know is that we have been hearing, by rumour, that this bill is urgently needed, but no one has told us anything to that effect.

Honourable senators, it is clear that the Criminal Code addresses the principles for judges in pronouncing sentences when children are involved. Superior Court judges possess this paternal jurisdiction. I did a lot of study on paternal jurisdiction, especially relating to matters of divorce. At some point in time, we must devise ways that children can have representatives in these cases. I believe that is the jurisdiction that we have to look to. Lawyers who were trained a long time ago might remember the phenomenon of proctors representing children.

Honourable senators, we are told indirectly — actually, we have only heard rumours — that this bill is absolutely necessary and urgently required. No one will tell us why. This is a private member’s bill, not a government bill brought to us by the Minister of Justice under ministerial responsibility. The Minister of Justice, I notice, has not made this bill his own and has not released to the sponsor the whole phenomenon of his departmental staff, which is what a minister is supposed to do when he chooses to support a private member’s bill.

In addition, no one will tell us why this new proposed Criminal Code offence is needed.

Another thing that worries me with this bill is that the advocates of the bill speak of trafficking and sexual exploitation as though they are one and the same thing. To my mind, there are distinct differences between trafficking and also trafficking for sexual exploitation, but there is the distinct phenomenon of trafficking. We must look at that in the committee.

In recent times, we have been told that the total and complete panacea for every problem is to legislate mandatory minimum sentences.

• (1810)

I do not believe that mandatory minimum sentences will cure either the problems of the criminal justice system or the social problems that cause these offences. This is a deep matter, and these are deep questions that need serious attention from government and, I would admit, deep study in this place.

Honourable senators, the term “mandatory minimum sentence” has become a mantra repeated ad infinitum. It is a shibboleth; it is an orthodoxy. It is also the latest political fad, the latest quick fix implemented without serious study or serious evidence being put before us.

For some years now, I have been concerned that governments seem intent not only to prescribe the laws that guide judicial decisions on sentencing but also seem now to be prescribing the decisions and the sentences themselves. That is a very serious matter, honourable senators, and this intrusion has been happening for quite some time.

The Hon. the Speaker *pro tempore*: Honourable Senator Cools’ time has expired.

Are you asking for more time, Senator Cools?

Senator Cools: Yes, for five minutes, please.

The Hon. the Speaker *pro tempore*: Is that agreed?

Some Hon. Senators: Agreed.

Senator Cools: This invasion of the judicial role is in need of careful study. I am concerned that judicial discretion in sentencing, which is exercised publicly in open court, will be transferred from judges to prosecutors and policemen in the mostly private process that is called plea bargaining. The thing about a discretionary system is that it is pushed around from place to place.

It is well known, honourable senators, that when constitutional relationships between the judiciary, the houses of Parliament and the government are disturbed, judges will speak in public places on these questions, which is happening more and more. I have read statements made on the matter of minimum sentences.

Honourable senators, I believe that we should seek to discern the views of the judges themselves. I hope that the committee will look at this matter and invite witnesses to answer the many questions that have been glossed over but which are fundamental, especially when a new criminal offence is being created.

Honourable senators, I support this bill. However, it has serious deficiencies in its drafting. Undoubtedly, these problems will be addressed during committee study. I must say that I am pleased that the question of sexual offences against children has been put before us. This house must take the necessary steps to ensure that Canada has a good and sufficient Criminal Code in respect of children. We must protect children, particularly those children who are at risk to be victims of crime.

Sexual offences against and with children are especially abhorrent. It is a terrible thing when children are robbed of their childhood and of their innocence for the sexual gratification of unscrupulous adults. These offenders and their crimes are especially obnoxious. As a matter of fact, these crimes offend all of our sensibilities. Furthermore, these children will carry these scars and wounds for their lifetimes. I have worked with many of them and I have known of many of their suicides.

I believe that we need to do much more than we are doing for these young people at risk. These matters need serious study in the committee, particularly the phenomenon of adults who need sexual gratification from children. It frightens us all, but it is time that we study it, because it shows up again and again in the literature. We think of it as “this incident” and “that case,” but it is time for us to look at the heart of darkness that it is.

Honourable senators, in closing, I wish to advocate for what Montesquieu called certainty in sentencing. To quote Sir William Blackstone from his famous *Commentaries on the Laws of England* from the 1700s, in Book IV edited by George Sharswood, Blackstone, speaking about Montesquieu, said:

It is the sentiment of an ingenious writer, who seems to have well studied the springs of human action, that crimes are more effectually prevented by the *certainty* than by the *severity* of punishment. For the excessive severity of law (says Montesquieu) hinders their execution.

Anyone experienced in the criminal justice system can tell you that is as true today as it was in Blackstone's or Montesquieu's time. As a matter of fact, there is a famous example in the old literature where the death penalty was prevalent for everything. When the reform movement started to attempt to change that, they observed that, for example, robbery with murder carried the same penalty, that being death, as robbery alone. The result was pretty clear: When there were robberies, there were more murders.

There is much literature on this subject. We must understand that many of these reforms are relatively recent. Even in Canada, in old documents like the Archambault report on penitentiaries you see mention of children —

The Hon. the Speaker *pro tempore*: I am sorry, Senator Cools, but your time has expired.

Senator Cools: Can I finish the sentence?

Certainty of punishment is achieved when the component parts of the Constitution work together based on well-established principles towards justice and towards the certain and just punishment for offenders who have harmed children. We must

examine the consequences of abusive power in the criminal justice system by those who enforce and prosecute. They are causes for why the systems have gone so far.

Honourable senators, we serve the children of this land best when we uphold the words of St. Paul in the book of Philippians where Paul exhorts us to do that which is honourable and just and true.

I close by quoting Psalm 127 in its entirety from the *Good News Bible*:

If the Lord does not build the house, the work of the builders is useless; if the Lord does not protect the city, it does no good for the sentries to stand guard.

It is useless to work so hard for a living, getting up early and going to bed late.

For the Lord provides for those he loves, while they are asleep.

Children are a gift from the Lord; they are a real blessing.

The sons a man has when he is young are like arrows in a soldier's hand.

Happy is the man who has many such arrows.

He will never be defeated when he meets his enemies in the place of judgment.

I thank honourable senators for their attention. Again, these are very serious questions that have been put before us.

(On motion of Senator Carstairs, debate adjourned.)

VICTIMS OF HUMAN TRAFFICKING PROTECTION ACT

BILL TO AMEND—FOURTH REPORT OF HUMAN RIGHTS COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Andreychuk, seconded by the Honourable Senator Wallace, for the adoption of the fourth report of the Standing Senate Committee on Human Rights (Bill S-223, An Act to amend the Immigration and Refugee Protection Act and to enact certain other measures in order to provide assistance and protection to victims of human trafficking, with amendments), presented in the Senate on December 8, 2009.

Hon. Sharon Carstairs: Honourable senators, Senator Cools indicated to me that she would not be speaking to this item.

Senator Cools: I am happy to yield the floor.

Senator Carstairs: I want to say a few words, and I want to thank a great number of people, including the members of the Standing Committee on Human Rights, who dealt with this bill speedily. I also wish to thank Senator Comeau, who was

instrumental in brokering a series of meetings between me and the staff of the Minister of Immigration. As a result, the staff of the minister and I came to some agreement on this bill.

This legislation was originally introduced by Senator Phalen, and when he retired I agreed to take it over.

• (1820)

Honourable senators, this bill succeeds in bringing the attention of the Department of Immigration and, more particularly, the act that covers refugee protection in this country, to those persons who are victims of trafficking. It ensures that they will receive appropriate support from government officials when they need it. This is important to everyone because none of us in this chamber, in any way, will support anything but the most severe penalties for those who assist in human trafficking. There is a recognition that we have an obligation to the victims of trafficking.

There are two fundamental changes that the department wished to see in this bill and that were indeed made in this bill. The first has to do with the issue of providing services to the victims of trafficking. The original bill contained some very specific things that the federal government should do. The federal government argued that these were the purview of the provinces and that it should not step on provincial jurisdictional authority. I agreed, therefore, that we would remove those provisions from the bill, and those amendments were made in committee and form part of this support.

However, I want the officials of the Department of Immigration to recognize that there are still some things they can do. They can still provide sensitivity training for officers who will come into contact with victims of trafficking. They can also provide education in the sense of having the knowledge to recommend provincial programs that these victims may look to for the supports they need. While we agree that they should not step on the jurisdiction of the provinces, there is nothing to prevent an immigration officer at the border, recognizing that he is dealing with a victim of human trafficking, from making recommendations about provincial supports that are available and helping them make contact in order to achieve those provincial supports.

The second provision, which caused me great concern, is that the immigration officer has the right to withdraw the permit that recognizes that this person is in fact a victim of trafficking. One would assume that the permit would not be removed unless there was good evidence that this person was not a victim and may in fact be part of the problem. The legislation itself says that it can be cancelled for any reason.

My only recommendation is that the minister monitor those decisions as carefully as he or she — he in this case, but perhaps she in the future — is able so that no immigration officer is permitted to act without ensuring that there are very serious grounds for withdrawing that permit. In withdrawing the permit, the officer takes the protection away from this particular individual. If there are victims of trafficking, I sincerely believe no immigration officer will take those permits away. He will only take them away if he is convinced that this person is not who they purport to be.

Honourable senators, I wish to thank all of those who worked so positively together: the committee member; the Senate as a whole for referring this bill to committee; Senator Comeau, who made those meetings possible; and the Minister of Immigration himself, who saw a bill that could target a particular issue and decided that we can make positive changes to make this happen.

With those remarks, I urge honourable senators to adopt this report and, if possible, to give third reading to Bill S-223 today.

The Hon. the Speaker *pro tempore*: Further debate?

Hon. Mobina S.B. Jaffer: Honourable senators, I also rise today to speak on Bill C-223, to provide assistance and protection to victims of trafficking in persons.

At this time, I want to recognize the yeoman work Senator Phalen has done to bring this bill to this chamber. When Senator Phalen first drafted the bill, he was very careful to speak to many people. He spoke to victims of trafficking. He spoke to individuals and groups who help victims of trafficking. He spoke to advocates who help victims of trafficking. I know he had numerous conversations with various immigration officials to understand how temporary resident permits are to be used and how to assist victims of trafficking. I know he attended many conferences across Canada on the issue of trafficking, as I often accompanied him.

Honourable senators, Senator Phalen is very committed to the issue of victims of trafficking who are foreign nationals in our country, and I salute him for his work.

I would also at this time like to thank Senator Carstairs for bringing her considerable expertise and experience to shepherd this bill through the committee and the chamber. She gave life to a bill for protection to victims of trafficking in persons once Senator Phalen retired. I thank her for her work.

Senator Carstairs has worked diligently with the Minister of Immigration, and both of them have agreed to amend the bill that was originally introduced in this chamber. The Human Rights Committee has accepted these amendments.

Honourable senators, we have set up a fairly new system in our country to help victims of trafficking who are foreign nationals. There is still much work to be done. We were advised in the committee that only 18 foreign national women have so far applied for protection. We all know that there are many more women and children who have been trafficked into our country from other countries, so we all have a lot of work to do to build trust for women to seek help and to escape the degrading life they have been forced to live in our country. As we know, often they are brought to this country under false pretenses.

One amendment — Senator Carstairs touched on it as well — gave me great concern. I am referring to proposed sections 24.1(1) and 24.2(1). The wording as it now stands, as amended, is that the “victim of trafficking protection permit . . . may be cancelled at any time.” I am concerned as to the arbitrariness of the cancellation. I would like, therefore, that notice be given in this chamber that we will have to look at this amendment. Originally, I would have liked the amendment to say that the temporary permit shall only be cancelled if warranted.

At clause-by-clause consideration of the bill, Department of Justice and Department of Immigration officials again appeared before the committee. They assured us that there is a system of procedural fairness in place for the cancellation of the temporary resident permit. They filed a letter with us, and I would like that to be read into the record today.

The question I asked was in reference to the cancellation of the temporary resident permit, whether the department would consider wording such as “cancel for reason.” The department said, “The wording proposed by the government for the cancellation of the victim of trafficking protection permit is consistent with the current wording in the Immigration and Refugee Protection Act for the temporary resident permit. According to section 24 of IRPA, a temporary resident permit may be cancelled at any time. As such, including the language ‘cancelled for reason’ would create inconsistency within the Immigration Act. In addition, the language ‘cancelled for reason’ is not found elsewhere in the Immigration Act and has not been previously defined through guidelines or case law. The concern that an officer may cancel a victim protection permit arbitrarily is unfounded.” He goes on to explain what the Supreme Court has stated.

Basically, the department has assured the committee that, in addition, there will be a system of procedural fairness in place for the cancellation of the temporary resident permit. The same procedure will be applied to the victim of trafficking protection permit.

Honourable senators, with this assurance, I also ask that you support this bill, as amended.

The Hon. the Speaker *pro tempore*: Continuing debate.

Senator Carstairs: Question.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

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

• (1830)

THIRD READING

Hon. Sharon Carstairs: With leave, now, honourable senators.

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

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: Honourable senators, it is moved by the Honourable Senator Carstairs, seconded by the Honourable Senator Grafstein, that Bill S-223 be read the third time now. Is it your pleasure, honourable senators, to adopt the motion?

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

THE SENATE

MOTION TO URGE GOVERNMENT TO ENGAGE IN CONSULTATIONS ON SENATE REFORM— ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Segal, seconded by the Honourable Senator Brown:

That the Senate embrace the need to consult widely with Canadians to democratize the process of determining the composition and future of the Upper Chamber by urging the Government to:

- (a) invite all provincial and territorial governments in writing to assist immediately in the selection of Senators for appointment by democratic means, whether by holding elections to fill Senate vacancies that might occur in their province or territory or through some other means chosen by them;
- (b) institute a separate and specific national referendum on the future of the Senate, affording voters the chance to choose abolition, status quo, or an elected Upper Chamber; and
- (c) pursue the above initiatives independently of any legislation that it may introduce in this Parliament for reforming the existing term and method of appointment of Senators;

And on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Wallin, that the original question be now put.

Hon. Hugh Segal: Honourable senators, this motion has been adjourned by my friends opposite for some time. It is a core issue. It is at seven days, but seven days can last six weeks. We know how that works.

I wonder whether Senator Tardif, in her sense of openness and frankness, would give us some sense of when she hopes to participate in this debate, the male lifespan being about 82 years.

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, I thank my honourable colleague. This is an issue that requires a lot of thought and research, and I will be spending the Christmas holidays and other time reflecting.

(Order stands.)

The Hon. the Speaker: Honourable senators, is it agreed that the house would suspend to the call of the chair with a 15 minute bell?

Hon. Senators: Agreed.

The Hon. the Speaker: If that is agreed, it would be agreeable to the chair if any honourable senator had an opportunity to come by to his quarters to allow for an opportunity to say Season's greetings.

We stand suspended to the call of the chair and a 15-minute bell.

(The sitting of the Senate was suspended.)

• (1910)

(The sitting was resumed.)

[Translation]

ROYAL ASSENT

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

December 15, 2009

Mr. Speaker:

I have the honour to inform you that the Honourable Louis LeBel, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy of the Governor General, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 15th day of December, 2009, at 6:35 p.m.

Yours sincerely,

Sheila-Marie Cook
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bills assented to Tuesday, December 15, 2009:

An Act to implement certain provisions of the budget tabled in Parliament on January 27, 2009 and to implement other measures (*Bill C-51, Chapter 31, 2009*)

An Act to amend the Excise Tax Act (*Bill C-62, Chapter 32, 2009*)

An Act to amend the Employment Insurance Act and to make consequential amendments to other Acts (*Bill C-56, Chapter 33, 2009*)

An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2010 (*Bill C-64, Chapter 34, 2009*)

[English]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, with leave of the Senate, I move:

That the Standing Committee on Internal Economy, Budgets and Administration be empowered pursuant to rule 95(3)(a) to sit today after the Senate has adjourned, even though the Senate may then be adjourned for a period exceeding one week.

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

Hon. Senators: Agreed.

The Hon. the Speaker: So ordered.

(Motion agreed to.)

[Translation]

ADJOURNMENT

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

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

That when the Senate adjourns today, it do stand adjourned until Tuesday, January 26, 2010, at 2 p.m.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[English]

BUSINESS OF THE SENATE

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, one of the wonderful things about being the person who moves the adjournment motion, followed by the Speaker who puts the motion, is that it gives me a chance to, on behalf of all senators, thank everyone who makes this place run so smoothly and makes us look better than we probably we think we are.

I would like to thank the table officers for the great work they do.

I wish to thank the stenographers and those who prepare the debates and journals and so on for helping us correct words that sometimes do not come out the way we would like them to come out.

Also, to all those who serve to make this place run so smoothly: maintenance staff, security staff, the pages and all those whom I may have missed, for which I apologize, we thank all of you.

Merry Christmas and happy holidays to all.

To all senators on both sides, I wish you some quality days with your family and friends. I think you have all earned it.

Hon. Senators: Hear, hear!

Senator Comeau: With that, I move the adjournment of the Senate.

The Hon. the Speaker: It is moved by the Honourable Senator Comeau, seconded by the Honourable Senator Stratton, that the Senate do now adjourn.

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

Hon. Senators: Agreed.

(The Senate adjourned to Tuesday, January 26, 2010, at 2 p.m.)

The Second Session of the Fortieth Parliament was prorogued by proclamation on Wednesday, December 30, 2009.

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)

Tuesday, December 15, 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	09/12/15		

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) + 7 at 3rd	09/12/15		
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	09/12/14		
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
C-24	An Act to implement the Free Trade Agreement between Canada and the Republic of Peru, the Agreement on the Environment between Canada and the Republic of Peru and the Agreement on Labour Cooperation between Canada and the Republic of Peru	09/06/04	09/06/09	Foreign Affairs and International Trade	09/06/16	0 observations	09/06/17	09/06/18	16/09
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
C-26	An Act to amend the Criminal Code (auto theft and trafficking in property obtained by crime)	09/06/16	09/10/29	Legal and Constitutional Affairs					
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	09/12/01	09/12/15	Transport and Communications					
C-28	An Act to amend the Cree-Naskapi (of Quebec) Act	09/05/27	09/06/04	Aboriginal Peoples	09/06/09	0	09/06/10	09/06/11*	12/09
C-29	An Act to increase the availability of agricultural loans and to repeal the Farm Improvement Loans Act	09/05/27	09/06/09	Agriculture and Forestry	09/06/11	0	09/06/16	09/06/18	15/09
C-32	An Act to amend the Tobacco Act	09/06/17	09/09/16	Social Affairs, Science and Technology	09/10/01	0	09/10/06	09/10/08*	27/09
C-33	An Act to amend the War Veterans Allowance Act	09/06/04	09/06/09	National Security and Defence	09/06/17	0	09/06/18	09/06/18	20/09
C-36	An Act to amend the Criminal Code	09/11/26							
C-38	An Act to amend the Canada National Parks Act to enlarge Nahanni National Park Reserve of Canada	09/06/17	09/06/17	Energy, the Environment and Natural Resources	09/06/18	0	09/06/18	09/06/18	17/09
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	09/12/15*	31/09
C-56	An Act to amend the Employment Insurance Act and to make consequential amendments to other Acts	09/12/10	09/12/15	Pursuant to rule 74(1) subject-matter 09/12/02 National Finance Bill 09/12/15 National Finance	Report on Bill 09/12/15	0 observations	09/12/15	09/12/15*	33/09
C-62	An Act to amend the Excise Tax Act	09/12/09	09/12/11	National Finance	09/12/14	0 observations	09/12/15	09/12/15*	32/09
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	09/12/15	—	—	—	09/12/15	09/12/15*	34/09

COMMONS PUBLIC BILLS

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	1st	2nd	Committee	Report	Amend	3rd	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					
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. Herveux-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					
S-212	An Act to amend the Canadian Environmental Protection Act, 1999 (Sen. Banks)	09/01/27	09/10/29	Energy, the Environment and Natural Resources					
S-213	An Act to amend the Income Tax Act (carbon offset tax credit) (Sen. Mitchell)	09/01/27							
S-214	An Act to regulate securities and to provide for a single securities commission for Canada (Sen. Grafstein)	09/01/27							

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-215	An Act to amend the Constitution Act, 1867 (Property qualifications of Senators) (Sen. Banks)	09/01/27	09/03/24	Legal and Constitutional Affairs					
S-216	An Act to amend the Federal Sustainable Development Act and the Auditor General Act (Involvement of Parliament) (Sen. Banks)	09/01/27	09/03/11	Energy, the Environment and Natural Resources	09/04/02	0	09/04/23		
S-217	An Act respecting a National Philanthropy Day (Sen. Grafstein)	09/01/27	09/05/05	Social Affairs, Science and Technology	09/05/14	2	09/06/02		
S-218	An Act to amend the Parliamentary Employment and Staff Relations Act (Sen. Joyal, P.C.)	09/01/29							
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						
S-220	An Act respecting commercial electronic messages (Sen. Goldstein)	09/02/03	09/04/02	Transport and Communications					
S-221	An Act to amend the Financial Administration Act (borrowing of money) (Sen. Murray, P.C.)	09/02/04							
S-222	An Act to amend the International Boundary Waters Treaty Act (bulk water removal) (Sen. Murray, P.C.)	09/02/04		Subject matter 09/06/17 Energy, the Environment and Natural Resources					
S-223	An Act to amend the Immigration and Refugee Protection Act and to enact certain other measures in order to provide assistance and protection to victims of human trafficking (Sen. Phalen)	09/02/04	09/09/29	Human Rights	09/12/08	10	09/12/15		
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S-225	An Act to amend the Citizenship Act (oath of citizenship) (Sen. Segal)	09/02/10							
S-226	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	09/02/11	09/09/29	Legal and Constitutional Affairs					
S-227	An Act to amend the Income Tax Act and the Excise Tax Act (tax relief for Nunavik) (Sen. Watt)	09/02/11	09/06/16	National Finance					
S-228	An Act to amend the Financial Administration Act and the Bank of Canada Act (quarterly financial reports) (Sen. Segal)	09/03/03	Dropped from Order Paper pursuant to rule 27(3) 09/11/04						
S-229	An Act to amend the Fisheries Act (commercial seal fishing) (Sen. Harb)	09/03/03							

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
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S-231	An Act to amend the Investment Canada Act (human rights violations) (Sen. Goldstein)	09/03/31							
S-232	An Act to amend the Patent Act (drugs for international humanitarian purposes) and to make a consequential amendment to another Act (Sen. Goldstein)	09/03/31	09/06/16	Banking, Trade and Commerce					
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S-234	An Act to amend the Canada Pension Plan (retroactivity of retirement and survivor's pensions) (Sen. Callbeck)	09/05/06							
S-235	An Act to provide the means to rationalize the governance of Canadian businesses during the period of national emergency resulting from the global financial crisis that is undermining Canada's economic stability (Sen. Hervieux-Payette, P.C.)	09/05/12							
S-236	An Act to amend the Canada Elections Act (election expenses) (Sen. Dawson)	09/05/26							
S-237	An Act for the advancement of the aboriginal languages of Canada and to recognize and respect aboriginal language rights (Sen. Joyal, P.C.)	09/05/28							
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No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.

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