CANADA

Debates of the Senate

3rd SESSION • 40th PARLIAMENT • VOLUME 147 • NUMBER 39

OFFICIAL REPORT
(HANSARD)

Wednesday, June 16, 2010

THE HONOURABLE NOËL A. KINSELLA
SPEAKER

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

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Publications Centre: David Reeves, National Press Building, Room 926, Tel. 613-947-0609

Published by the Senate
Available from PWGSC – Publishing and Depository Services, Ottawa, Ontario K1A 0S5.
Also available on the Internet: http://www.parl.gc.ca

THE SENATE

Wednesday, June 16, 2010

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

Prayers.

SENATORS' STATEMENTS

TRIBUTES

THE HONOURABLE P. MICHAEL PITFIELD, P.C.

The Hon. the Speaker: Honourable senators, I received notice earlier today from the Leader of the Government who requests, pursuant to rule 22(10), that the time provided for the consideration of Senators' Statements be extended today for the purpose of paying tribute to the Honourable Senator Pitfield, who resigned from the Senate on June 1, 2010.

I remind honourable senators that, pursuant to our rules, each senator will be allowed only three minutes, and they may speak only once. However, is it agreed that we continue our tributes to Senator Pitfield under Senators' Statements?

Hon. Senators: Agreed.

The Hon. the Speaker: We will, therefore, have 30 minutes in total. Any time remaining after tributes will be used for other statements.

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, today we bid farewell to a colleague, the Honourable Senator Michael Pitfield, after almost 28 years of service in the Senate of Canada.

In announcing his decision to retire early from this place, the senator stated, in part:

> I believe that service to our nation is the highest privilege that a Canadian can undertake.

Our former colleague has lived these words from a young age and devoted his professional work to this belief. All honourable senators are aware of Senator Pitfield's long career, which began in 1959 when he went to work for the Honourable Davie Fulton, Minister of Justice under Prime Minister John George Diefenbaker. Only 16 years later, in 1975, he became the youngest-ever Clerk of the Privy Council and Secretary to the Cabinet upon appointment by Prime Minister Pierre Elliott Trudeau.

The former Prime Minister named Michael Pitfield to this place, the Senate, in 1982, where he has sat as an independent for almost three decades. The senator was active in the work of the Senate committees, perhaps most notably as Chair of the Special Committee of the Senate on the Canadian Security Intelligence Service, which was instrumental in the establishment of the Canadian Security Intelligence Service, CSIS.

I would be remiss if I did not highlight Michael Pitfield's valuable contribution to our shared community of Ottawa, most notably with the University of Ottawa Heart Institute, where he served as a member of the board for many years, including as its chair. Seven years ago, a chair in cardiac surgery was established at the University of Ottawa in Senator Pitfield's name. It is a sad coincidence that both Senator Pitfield and Senator Keon retired from this place this spring.

As is well known, honourable senators, Senator Pitfield is the honorary Chair of the Parkinson's Society of Canada, a position that is no doubt tremendously meaningful as he has waged a personal fight against this dreaded disease for some time. It must be difficult for Senator Pitfield to want to contribute as much as ever to the work of this chamber but to have that desire tempered by physical constraints.

Senator Pitfield's decision to retire early from the chamber is one that I fully respect, as I am sure we all do. It is my sincere hope that this decision will aid in his overall well-being and that he leaves this place knowing he has made a significant contribution.

Thank you, Senator Pitfield, for your lifetime of service to our great country and your work in the Senate of Canada. On behalf of the Conservative caucus, I wish you nothing but the best.

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, I rise today to pay tribute to our colleague, Senator Michael Pitfield, on the occasion of his early retirement from the Senate.

We all came to the Senate out of a desire to make this country the best that it can be. For Michael Pitfield, this desire has been the defining purpose of his entire life. It would have been easy for him to pursue a lucrative career in the financial world, but Michael Pitfield chose to follow his own path and, fresh out of law school, he entered Canada's public service.

He began, as the leader has said, in the office of the Honourable Davie Fulton, Minister of Justice in the Diefenbaker government, and there he worked alongside a few people you may have heard of — Brian Mulroney, Marc Lalonde and Lowell Murray. Still in his 20s, he worked on groundbreaking public policy studies including Grattan O'Leary's Royal Commission on Publications that studied Canada's troubled publishing industry and Kenneth Carter's Royal Commission on Taxation, whose recommendations continue to resonate decades later. Michael Pitfield was even part of a special committee tasked by Prime Minister Lester Pearson with creating a new national honour: the Order of Canada.

Michael Pitfield has always been intensely proud of the Canadian tradition of an independent public service. During his many years in the public service, he served under four prime ministers, Conservative and Liberal. However, there is no question his name will be most closely associated with the era

of Prime Minister Pierre Elliott Trudeau. During that time he became the Prime Minister's closest adviser and most senior public servant, the Clerk of the Privy Council.

There were so many challenges and so many achievements in those years, but today I will only mention two. First, there was the patriation of the Canadian Constitution in 1982 that included the Canadian Charter of Rights and Freedoms. In his words:

> The patriation of the Constitution marked the successful evolution of our country to maturity, without the trauma so many other nations are forced to endure during the course of their own development. There was a national will to build together, on the principle of "the greatest good for the greatest number."

Second, there was his work to help build a highly professional, dedicated public service that attracted some of the best and most able minds from across the country. When he left the public service in 1982, he told a gathering of deputy ministers that together they shared the supreme test of professionalism in the public service, which, in his view, was, "to walk with courage the thin line between policy and politics."

Senator Pitfield took that test seriously. When he was summoned to this chamber in December 1982, he chose to sit as an independent, a status he maintained until his resignation on June 1, 2010.

His contributions in his years here were many and varied. Soon after Senator Pitfield arrived, he became Chair of the Special Committee of the Senate on the Canadian Security Intelligence Service. The committee was asked to study the bill to establish the then proposed civilian service, CSIS, which was to take over the intelligence services that had been conducted up to then by the RCMP.

After three months of close examination, the committee tabled its report. Its concern was unambiguous — protection of security must be balanced with the preservation of individual rights. As Senator Pitfield said here:

> The raison d'être of a security service is the maintenance of a free and democratic society. But if an agency has too much, or inadequately controlled power, it can be a threat to individual rights. On the other hand, if the security of the state is not sufficiently protected, there is a danger of the weakening of a society in which freedom and democracy should flourish.

These words are prescient, honourable senators.

To achieve this delicate balance, the committee proposed, and the government accepted, a number of significant amendments to the bill, which passed in June 1984.

Throughout his years here, Senator Pitfield served on numerous Senate committees, has spoken out on national issues, such as the Clarity Act, taught university courses, and worked to improve both Canadians' understanding of their federal government and their access to participate in the work of that government.

• (1340)

An *Ottawa Citizen* editorial accurately said of Michael Pitfield that he "epitomized. . . what is meant by the phrase 'public service.'" He did everything early — academically and professionally — so I guess it follows that he chose to resign from the Senate early, too. Unfortunately, however, as Senator LeBreton has said, that was because of his long battle with Parkinson's disease.

Honourable senators, Senator Pitfield has the deep satisfaction of knowing that he dedicated his life to a deserving cause: service to his fellow Canadians. Thanks to his work, Canada truly is a better place.

Senator Pitfield, if you read these remarks, please accept our profound thanks and our very best wishes to you, to your three children, Caroline, Tom and Kate, and to your grandchildren.

[*Translation*]

Hon. Pierre De Bané: Honourable senators, I rise today to pay tribute to the Honourable Michael Pitfield. Like many of you, I am sad to see him leave us, because there are very few Canadians who can say they have contributed as much as Senator Pitfield has to making the country a better place and enhancing the well-being of their fellow Canadians.

Senator Pitfield began serving Canada in the armed forces, first as an officer cadet in the Royal Canadian Army and then in the Royal Canadian Navy. After studying law at McGill University, he began working for the Minister of Justice and Attorney General of Canada in 1958.

So began one of the most illustrious careers in the Public Service of Canada.

[*English*]

Senator Pitfield went on to work in the Privy Council Office, serving as a member of the special committee that created the Order of Canada, Canada's highest national order. After several years in the Privy Council, he was appointed Deputy Minister of the Department of Consumer and Corporate Affairs. I served at that time as Parliamentary Secretary of the Minister of Consumer and Corporate Affairs, so I had the chance to see Mr. Pitfield almost daily. What impressed me about Senator Pitfield was to see the way he always thought about the impact of a particular policy on the Canadian people. He felt it was his duty to give an unbiased point of view, thinking only about the good of the people of our country.

Like all clerks of the Privy Council, he played an important role in organizing the machinery of government so that the elected people make the decisions and no one else. Senator Pitfield participated, like his predecessors and all the clerks who have succeeded him, in putting in place a system that allowed the representatives of the people to make the decisions.

Honourable senators, who can forget the essential role played by Senator Pitfield in the patriation of our Constitution? Some of the most profound speeches that I have heard in this chamber were given by the Honourable Senator Pitfield on the Constitution of our country and on his vision of our country.

Honourable senators, for all that, I would like to tell Senator Pitfield how much we will regret his leaving this chamber and how much the whole country is forever indebted to him.

[*Translation*]

Hon. Serge Joyal: Honourable senators, it is a privilege to be able to pay tribute to Senator Michael Pitfield as he retires from the Senate.

[*English*]

Senator Pitfield brought to our chamber an impressive background in the field of public administration, coupled with solid credentials in academia. His brilliant career in government included his appointment as Clerk of the Privy Council, the highest position in the public service. He also taught at the John F. Kennedy School of Government and was later named fellow of the Institute of Politics at Harvard University. He was also a member of the first board of trustees of the Institute for Research on Public Policy, an institution that our colleague Senator Segal knows very well.

Assigned to the Privy Council, Senator Pitfield was responsible for, among other files, most of the preparatory work leading to the creation of the Order of Canada, providing its name and establishing its independent chancery. His role is well described in Christopher McCreery's book *The Order of Canada: Its Origin, History, and Development*. He later became Deputy Minister of Consumer and Corporate Affairs and supervised the "Time-Reader's Digest Act" to stimulate the industry of Canadian publications. In 1975, as was said, at the young age of 37, he was appointed Clerk of the Privy Council and Secretary to the Cabinet by Prime Minister Trudeau. While serving in this position in the last Trudeau administration, he became head of the team, along with former Senator Michael Kirby, involved in the patriation of the Constitution and the establishment of the Canadian Charter of Rights and Freedoms. That is when I had the privilege to work closely with him.

In leaving the Public Service in 1982, he refused to receive the Order of Canada to avoid any impression of a conflict of interest. It was this innate sense of probity that led him to sit as an independent senator when he was summoned to the Senate.

As a senator, he continued to be active in important issues of public administration. Each time Senator Pitfield stood up in the Senate to speak on national issues such as the Clarity Act or the reform of the Senate, his views always had a profound influence in the sober second thought and debate taking place in our chamber. All senators knew that what he had to say would be meaningful, well thought out, and based on his long experience and deep reflections on public administration. Senator Pitfield's views on Senate reform were equally clear. He said:

> It is essential to recognize what is uniquely Canadian to avoid seduction by what can be taken discreetly from other systems because it simply happens to look good in another context. Chances are that transplants would cause, in practice, grave distortion to our own system of government.

Senator Pitfield brought a superior sense of professional and selfless service to our chamber. We all benefited from his wisdom and insight, but, beyond his intellectual depth, Senator Pitfield was a real gentleman who was courteous and respectful of different points of view. He inspired other senators through his integrity, keen intelligence, independence of mind and vast experience. Senator Pitfield represents the best that the Senate can be.

Hon. Anne C. Cools: Honourable senators, I join these tributes to Senator Michael Pitfield on his retirement from this place. Senator Pitfield is a fine man and a senator who is deeply endeared to many of us. He was appointed here on the advice of then Prime Minister Pierre Elliott Trudeau on December 22, 1982 to sit as an independent senator.

Honourable senators, we know about Senator Pitfield's great devotion to our country and of his great work in the public service. He always believed, as he said in his press release, that "service to our nation is the highest privilege that a Canadian can undertake, and for 50 years I have striven to serve Canada as a senior public servant and senator." He believes this deeply and his great contribution as Clerk of the Privy Council reveals that and portrays that.

• (1350)

Honourable senators, Senator Pitfield had a very well-tuned and well-stocked mind. He was a brilliant man. However, there is another side of him that I knew of that I would like to speak of today. I speak of his spiritual side, his relationship with God. Senator Pitfield's life plan and life's journey always included time for prayer, meditation and reflection. When time permitted, he loved to get away to the beautiful monasteries of Quebec, particularly the Benedictine monastery at Saint-Benoît-du-Lac and the Cistercian or Trappist monastery in Oka. He and I had discussed this many times.

Honourable senators, good service is important, and good service, as Martin Luther King once said, depends on "a heart full of grace and a soul generated by love." Senator Pitfield embodied this.

I bid Senator Pitfield farewell from the Senate and I say to his family above, who are watching and listening, that he was deeply esteemed in this place. Every time he spoke, he held the undivided attention of every individual senator.

Having said that, and wanting his children and grandchildren to know that he was a good servant, I say to Senator Pitfield, and I know his health has not been good: Have the best retirement you can possibly have.

[*Translation*]

Hon. Marie-P. Poulin: Honourable senators, I was very sad to hear about the resignation of my colleague and friend, the Honourable Michael Pitfield. I wish him well, knowing that he has made a much-appreciated contribution to Canadian public affairs for many years.

For half a century, the name Michael Pitfield has been synonymous with leadership excellence in public administration. He is held in very high esteem by parliamentarians, public servants, academics, students and business people, both in Canada and abroad.

When I worked at the Privy Council Office as deputy secretary, I was able to appreciate the values Michael Pitfield had left behind, values such as professional rigour and personal integrity. After I was sworn in as a senator in 1995, I continued to look to him as a model of balance, careful deliberation and refined elegance.

All Canadians share the memory of one image, a moment that calls to mind our country's ongoing progress, in which the Honourable Michael Pitfield played a key role. Of course, I am talking about the famous photograph of the signing ceremony marking the repatriation of our Constitution, showing the late Prime Minister Pierre Elliott Trudeau, his clerk, Michael Pitfield, and Queen Elizabeth.

I thank Michael Pitfield for passing on his values as a senior official, but especially as a parliamentarian in the Senate of Canada. He has personified an institution that cherishes noble values.

[*English*]

Hon. Lowell Murray: Honourable senators, these have been wonderful and wonderfully eloquent tributes to Michael Pitfield, and richly deserved. All that remains for me to do is to express my profound sadness at the circumstances that have led to his departure from this place; my sadness also that we are to be deprived of his intellectual gifts and his quiet, though passionate, commitment to public service.

It has been noted that our respective careers, his and mine, began in the same place. It is also a fact that they diverged radically from earliest times. Nevertheless, I do want to record with the greatest of pleasure that our relationship from different perspectives and different posts over the years has been an unfailingly agreeable and pleasant one, thanks in large part to his own objectivity and his own innate gifts of kindness and courtesy.

[*Translation*]

Hon. Lucie Pépin: Honourable senators, we were sad to learn of the resignation of our colleague, Senator Michael Pitfield. He will be greatly missed.

A member of this chamber for 27 years, Senator Pitfield rose above partisan politics and was the voice of wisdom, always remaining focused on finding the best way to serve the common good of all Canadians.

Those of us who had the opportunity to listen to him here will remember how we listened attentively and with respect to each of his speeches, which were characterized by intellectual rigour, independence of mind and clarity of thought. Every one of his speeches should be reread by all of us and serve as models for our own contributions to the debates of this chamber.

By agreeing to sit in the Senate in 1982, Mr. Pitfield continued his previous commitment to putting his immense talents at the service of all Canadians, without exception.

He was very young when he entered the federal public service and he quickly reached the highest levels. His significant contribution to major policies over three decades — the 1960s, 1970s and 1980s — has been recognized by everyone.

Canada owes Senator Pitfield a great debt of gratitude. We hope that his remarkable career will inspire many young Canadians to follow in his footsteps.

We regret that illness is preventing him from further participation in the work of this chamber. However, we wish to assure him that his contribution will not be forgotten and we thank him from the bottom of our hearts.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, before proceeding to Senators' Statements, I would like to draw your attention to the presence in the gallery of Yvon Vallières, President of the National Assembly of Quebec.

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

BAHA'I COMMUNITY IN IRAN

Hon. Roméo Antonius Dallaire: Honourable senators, I would like to talk to you about a most serious situation in terms of preventing mass atrocities and potentially even genocide against the Baha'i community in Iran.

[*English*]

Honourable senators, I rise to draw your attention to the extremely difficult situation confronting the Baha'i community of Iran. With roughly 300,000 members, the Baha'i community is Iran's largest non-Muslim religious minority.

Honourable senators may be aware that the Iranian government, ever suspicious of religious minorities, systematically persecutes leaders from the Baha'i community in violation of domestic and international laws. Seven members of the group that coordinated the social and spiritual affairs of the Baha'i community in Iran have been imprisoned for two years on trumped-up charges. Their trial took place this past Saturday. It has now concluded and the verdict is eagerly being applied.

However, state-sanctioned persecution also extends to the broader Baha'i community. The Iranian government has sanctioned arbitrary arrests and detention, mass expulsion from educational institutions, and denial of employment in the public sector, along with the incitement of hatred and the constant threat of violence.

As a member of the United Nations' Secretary-General's Advisory Committee on Genocide Prevention I can say that there is no clearer example of a nation leading its way into a potential genocide scenario. It is meeting all the criteria.

Having banned the elected bodies and the ad hoc groups responsible for seeing to the needs of the Baha'i community, the Government of Iran is now attempting to prevent Baha'is from having any form of community life, a flagrant denial of the religious freedoms outlined in Article 18 of the International Covenant on Civil and Political Rights.

The government's efforts to identify and monitor individual members of the Baha'i community are a particularly troubling part of the strategy to eliminate the Baha'i community of Iran as a viable entity. In the past, aggressive efforts to identify members of a minority group often have been the precursor to deliberate and premeditated violence in the form of ethnic cleansing and, ultimately, genocide.

• (1400)

Individual members of the Baha'i faith have been summoned to government offices and asked to identify members of their communities who are involved in planning religious gatherings and other events. Others have been ordered to leave their homes or to sign agreements stating that they will no longer speak to specific individuals. The Ministry of Intelligence also disrupts events and asks those in attendance if they are members of the Baha'i administration and how they are receiving the messages from the international governing body of Baha'i in the United Kingdom. As well, the government has been known to spread misinformation about the Baha'i community, claiming that they are spies and that they encourage other Iranians to take whatever action they wish in response to baseless allegations against members of the Baha'i community. We are watching genocide in slow motion in Iran.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw the attention of honourable senators to the presence in the gallery of Dr. Doo Ho Shin, a pioneering leader and leading pathologist in the province of British Columbia and a distinguished member of the National Seniors Council. He is a guest of the Honourable Senator Martin.

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

Hon. Senators: Hear, hear.

[*Translation*]

ROUTINE PROCEEDINGS

CONFLICT OF INTEREST AND ETHICS COMMISSIONER

2009-10 ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the 2009-10 annual report of the Conflict of Interest and Ethics Commissioner in relation to public office-holders, pursuant to paragraph 90(1)(*b*) of the Parliament of Canada Act.

STUDY ON ISSUES RELATED TO COMMUNICATIONS MANDATE

FOURTH REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE TABLED

Hon. Dennis Dawson: Honourable senators, I have the honour to table the fourth report of the Standing Senate Committee on Transport and Communications, entitled: *Plan for a Digital Canada*.

[*English*]

This is the first web-based report issued by the Senate in this form.

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

[*Translation*]

THE SENATE

NOTICE OF MOTION TO RESOLVE INTO COMMITTEE OF THE WHOLE TO RECEIVE MS. SUZANNE LEGAULT, INFORMATION COMMISSIONER, AND TO PERMIT ELECTRONIC AND PHOTOGRAPHIC COVERAGE AND FOR THE COMMITTEE TO PRESENT ITS REPORT WITHIN A PRESCIBED PERIOD OF TIME

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That, at the end of Question Period and Delayed Answers on Tuesday, June 22, 2010, the Senate resolve itself into a Committee of the Whole in order to receive Ms. Suzanne Legault respecting her appointment as Information Commissioner;
>
> That television cameras be authorized in the Senate Chamber to broadcast the proceedings of the Committee of the Whole, with the least possible disruption of the proceedings;
>
> That photographers be authorized in the Senate Chamber to photograph the witness, with the least possible disruption of the proceedings; and
>
> That the Committee of the Whole report to the Senate no later than one hour after it begins.

INFORMATION COMMISSIONER

NOTICE OF MOTION TO APPROVE APPOINTMENT

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That in accordance with section 54(1) of the *Access to Information Act*, Chapter A-1, R.S.C. 1985, the Senate approve the appointment of Ms. Suzanne Legault as Information Commissioner.

OFFICIAL LANGUAGES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Maria Chaput: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That, pursuant to rule 95(3)(a), the Standing Senate Committee on Official Languages be authorized to sit between Monday, September 13, 2010 and Friday, September 17, 2010, inclusive, even though the Senate may then be adjourned for a period exceeding one week, for the purposes of meeting outside the city of Ottawa in relation to its study of the application of the *Official Languages Act* and of the regulations and directives made under it.

[*English*]

THE SENATE

NOTICE OF MOTION TO SUPPORT THE ESTABLISHMENT OF A FEDERAL PUBLIC SAFETY OFFICERS' SURVIVORS SCHOLARSHIP FUND

Hon. Bob Runciman: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That in the opinion of the Senate, the government should consider the establishment of a tuition fund for the families of federal public safety officers who lose their lives in the line of duty and that such a fund should mirror the provisions of the Constable Joe MacDonald Public Safety Officers' Survivors Scholarship Fund, in place in the province of Ontario since 1997.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

Hon. Art Eggleton: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That the Standing Senate Committee on Social Affairs, Science and Technology have the power to sit on Tuesday, June 22, 2010, even though the Senate may then be sitting, and that Rule 95(4) be suspended in relation thereto.

[*Translation*]

QUESTION PERIOD

INTERNATIONAL COOPERATION

FUNDING FOR INTERNATIONAL AID ORGANIZATION

Hon. Roméo Antonius Dallaire: Honourable senators, my question is for the Leader of the Government in the Senate. I asked a question recently about the implementation of Bill C-293, regarding international humanitarian aid to combat poverty, CIDA's primary mandate. The honourable Leader of the Government indicated at the time that she would make inquiries and get back to me with her response.

More recently, I read a new CIDA report addressing that very subject. I would like to call the honourable senators' attention to the first key point set out in that report.

[*English*]

The report fills the act's requirement in terms of disclosure. However, the act does not appear to have had any real impact on the way in which the Canadian International Development Agency manages official development assistance, in particular poverty reduction. Although we are meeting the technical dimension of the law, is it possible that the staff have not applied the changes to procedures, doctrines and methodologies to focus on the objective of that law imposed upon CIDA?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I will make inquiries as to the status of the honourable senator's previous question, which I took as notice, and I will take the honourable senator's question today as notice. I will ask that a response be provided as quickly as possible, hopefully before the Senate adjourns for the summer.

• (1410)

Senator Dallaire: Honourable senators, I thank the leader for her support in this matter. However, I am not the only one looking at this issue. The Canadian Council for International Co-operation has been vociferous in arguing that CIDA has not shifted gears and has not moved into the arena of poverty reduction. Even more, there seems to have been a policy change with regard to non-governmental organizations that receive support from CIDA. The policy change is that CIDA will support NGOs that provide technical aid and development to countries that require it, but it does not have a responsibility toward NGOs that have a role in providing eyes and ears on the ground, and that have an influence on government policy, to hold the government accountable for implementing the policies of international aid.

Is it possible that those who have criticized that new policy might be the ones who are not receiving any more funding, as is the case with CCIC?

Senator LeBreton: Honourable senators, that is a bit of a stretch. However, as I have said before with regard to CCIC, this organization currently has a proposal before CIDA. I cannot comment because I am not sure of the status of the proposal. As I have said before, and I will say again, our government is working to make aid more efficient, effective and focused.

As the honourable senator knows, we have raised aid to the highest level ever. The budget rose by 8 per cent, or $364 million, this year alone. For future years, foreign aid spending will be frozen at the record level of $5 billion. Canadians want results and they want to know their tax dollars are making a difference. We are working with aid organizations to provide delivery where aid is needed most. One of the measures the government undertook was to untie food aid so there would be direct benefit to those countries and groups receiving this aid.

With regard to the various organizations that apply for aid, these organizations are all carefully considered by qualified public servants at CIDA. As I have said before, for all the organizations that receive approval, no matter what organization or under what program this funding takes place, the government tries to make decisions according to need, and as recommended by officials. Simply because an organization has received funds for a long time does not mean this funding will continue in perpetuity. Other organizations request funding and we must take all requests into consideration.

Senator Dallaire: The leader might be right that because funding has been effective for the last 40 years, that does not necessarily mean it will continue to be effective. They are good; then one day, bingo, they are bad and they do not receive money. That is not what I consider a mature process in terms of agencies of this complexity.

However, what troubles me more is that we are now at the end of June and the budget year started on April 1. Anyone with any business planning knowledge realizes that by April 1, they have to at least have a feel for whether they will have funds. All we are hearing from Minister Oda is that they are studying this matter. They can study this matter until the moment the organization dies and then they no longer have to worry about it.

Can the leader give me a feel for when the minister and that organization will take the courageous decision of continuing to help this effective organization that has been the backbone of many NGOs in this country, or can they have even more courage and tell them they will not receive a cent?

Senator LeBreton: Senator Dallaire is the one who makes the assumption that the organizations are effective. The honourable senator seemed to indicate that we are not proceeding with funding to organizations that have been effective.

As I have said before, and I will say again, CIDA officials review all these requests for funds. Obviously, we want funds to go to those who are on the ground, working directly with groups that are in need. We have focused aid on 20 countries, as the honourable senator knows, and have established three priority themes for CIDA: food security, children and youth, and economic growth.

Honourable senators, many organizations apply for funds, whether through CIDA or other agencies of government. The government and the officials who look at these applications have to take into consideration whether new groups that request funding should be denied funding because another organization has funding in perpetuity.

Senator Dallaire: The NGO world is a humanitarian world, where they require humanitarian space. They use that concept, which makes them functional because they are at arm's length and not held to any political or military structure. They operate independently. However, they need funding. They receive funding from various civilian organizations, they raise funds themselves, and they receive funds from governments. The whole of the developing world operates that way.

If an NGO, working independently, finds that the government may not be performing its role effectively in meeting the demands that we read about in the newspapers, and in providing capabilities in the field, and if the NGO criticizes the government, is that criterion used in possibly preventing the NGO from receiving funding from the Canadian government?

Senator LeBreton: That is absolutely not the case, honourable senators. As I have said before, we have increased aid and we have untied food aid. CIDA has funded many worthwhile programs.

The speculation in the media that there is a relationship is incorrect. We rely on solid information provided to us by public servants in CIDA. Obviously, a lot of money is involved here. I believe that Canadians of all stripes expect the aid money to be distributed on a fair and equitable basis, but they also want to know that it goes directly to those who need help the most.

Hon. Jim Munson: Honourable senators, there is obviously a chill in the air. I asked these questions a couple of weeks ago. Many of these groups met with my honourable colleagues in the other place, Ken Dryden and Anita Neville. The groups hosted a round table on the importance of the "public voice." Representatives from 16 organizations, including the Canadian Council for International Co-operation and Oxfam, voiced their concerns on Monday over proposed cuts and the delay in budgetary processes. They say these cuts and delays are due to their criticism of this Conservative government. The affected groups spoke of the impact felt by their organizations and, most important, the people they serve. One project on the Conservatives' chopping block was to have helped 600 families in Ghana.

Will the Leader of the Government in the Senate tell us when the Harper Conservatives will cease imposing these punishing cuts on their critics?

Senator LeBreton: I cannot answer the honourable senator's question because the statement he made is not correct. I cannot answer a question that has no validity.

Senator Munson should know that we have increased aid funding. We can always find people on all sides of every issue. We will always find groups that perhaps have received funding and did not receive the amount of funding they thought they should have. I note that the honourable senator did not mention the many other groups that did receive funding.

This course of events is normal for any funding project of any government, no matter what stripe. We will always find people who are upset that their project was not funded, when the project across the street was funded. This is the reality. The premise of the honourable senator's question is flat-out false.

Senator Munson: Honourable senators, these organizations are not fringe groups; they are NGOs. The leader talked about groups. This issue is a classic wedge issue used to divide. These NGOs are not fringe groups. They have validity.

Mr. Gerry Barr, President of the Canadian Council for International Co-operation, concluded at Monday's round table: "The message is: Be careful what you say, the price you pay will be high."

Considering the government just spent $1.9 million on the infamous fake lake media centre for the upcoming G20 meeting, how can the leader justify not renewing the $1.7 million funding for the Canadian Council for International Co-operation?

• (1420)

Senator LeBreton: Honourable senators, the particular individual mentioned has a point of view. I do not know who hosted the round table. I have my suspicions, but the fact is, while many of these organizations that have applied for funding have received their funding, many have not. We have increased funding to many organizations.

Senator Munson mentioned the pavilion that is being planned for the G8 and G20 summits and I ask if he was working for Prime Minister Chrétien when the APEC summit took place in Vancouver? There are many pictures of leaders standing in front of a lake, and guess what, honourable senators? It was a fake lake.

An Hon. Senator: Say it ain't so!

Senator Munson: Just reflecting on your answers, most of them are fake as well.

Some Hon. Senators: Oh, oh!

Senator LeBreton: Honourable senators, with all of the years that Senator Munson was involved in the media, and then especially where he ended up, I am not surprised at all by that weak response.

[*Translation*]

FINANCE

NATIONAL SECURITIES REGULATOR

Hon. Francis Fox: My question is for the Leader of the Government in the Senate and concerns the national securities commission the government wants to create.

At a joint press conference in Montreal yesterday, Alberta's Minister of Finance, Ted Morton, and Quebec's Minister of Finance, Raymond Bachand, reiterated their clear, precise and unequivocal request to the Government of Canada, specifically, that it reverse its decision to create a national securities commission in Canada.

Furthermore, they added that they expect other provinces to join them when they take their case before the Supreme Court of Canada. At the press conference, Mr. Morton said:

> We are not opposed to improving the present system. We want to know what it is in the present system that Ottawa objects to. Why has the federal government been unable to say exactly what needs to be fixed, so that it can work with the provinces? It refuses to do so.

The minister was of course referring to Canada's current passport system.

I ask the minister, is the federal government willing to accept this joint recommendation made by the two ministers and consult with the provinces to try to avoid making a mess of federal-provincial relations in this country?

[*English*]

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, for some time I have been aware of the views of the Province of Alberta and the Province of Quebec.

The Minister of Finance has proposed a Canadian securities regulator. I noticed there was some reference that we should test this before the courts. That is exactly what the government intends to do and has done.

With regard to the national securities regulator, it is a voluntary, opt-in plan. It seems to be supported by many financial experts that this would be advantageous for Canada, but any particular province that does not want to participate has that right.

Honourable senators, I rarely quote the *Toronto Star*, but an editorial of May 27, said:

> The opposition Liberals . . . should join the governing Conservatives in backing the move and seeing it through Parliament.

We are well aware of the concerns and the objections of the Provinces of Quebec and Alberta. It is a voluntary system. Many other provinces and financial experts say that this is good for Canada. When people choose to invest in this country, rather than having to make their case to 13 securities regulators, they will make it to 1. If Alberta and Quebec decide not to join in, investors will be making their case to 3 regulators, but that is still better than 13 securities regulators.

[*Translation*]

Senator Fox: Honourable senators, allow me to say that the policy of openness toward Quebec announced in the last election campaign has turned into a closed-door policy for both Quebec and Alberta.

Alberta's finance minister has called on the federal government to explain what is wrong with the current passport system. The federal government refuses to even discuss with the provinces possible changes that would allow them to take part in this project, or the federal government's withdrawal from a system that, according to most international authorities like the OECD and the World Bank, and most financial institutions in Quebec and Alberta, is working quite well.

Both ministers have expressed their concern and said that while discussions are being held and preparations made for hearings before the Supreme Court, the flaws and gaps in the current investor protection system will still exist.

They also indicated that if Mr. Flaherty truly wanted to protect investors better with this Canada-wide commission, then he should quickly amend the Criminal Code and make the necessary changes to better protect Canadians from financial crimes.

Does the government intend to accept this recommendation from these two finance ministers in order to better protect Canadian investors, instead of waiting around doing nothing until the Supreme Court makes its ruling, which might take more than two years?

[*English*]

Senator LeBreton: Honourable senators, the reference to the Supreme Court is to ensure that a national single securities regulator falls within the jurisdiction of the authority of Parliament.

Honourable senators, I do not know how many times we have to say this and how many times the Minister of Finance has to say this, but this new regime will be voluntary for provinces and territories that wish to participate. It will make use of existing strengths in local and regional regulators with a broad network of local offices, but if the Province of Quebec and the Province of Alberta do not wish to wish to join, that is their choice. If they at some point wish to join voluntarily, that is their choice as well.

I do believe they have that right. They have the right to continue on with their own securities regulator. The government is not doing anything to interfere with that right. However, there are also eight other provinces and three territories that support a single securities regulator, as is their right. I fail to see, Mr. Morton's comments notwithstanding, what is so difficult to understand about a system that they do not have to join unless they want to.

Senator Fox: Honourable senators, Mr. Morton's joint recommendations are to the effect that the Criminal Code should be amended now to improve the protection of investors in this country. That was the gist of my question. Why does the government not act now to protect investors?

Senator LeBreton: Honourable senators, I am sure that the Minister of Finance and the Department of Finance officials take suggestions and comments by the various provincial ministers of finance seriously, and I am sure they are crafting a response.

Hon. Lowell Murray: Honourable senators, in view of the fact that several provinces are contesting the right of the federal government to establish this commission under the rubric of its commerce power, I am sure the federal government made the right decision in referring the draft bill directly to the Supreme Court of Canada.

Would the Leader of the Government in the Senate undertake to get a written statement from the Prime Minister or the Attorney General stating why they would not do likewise in an exactly similar situation where the federal government is purporting to have the authority to act unilaterally on a number of matters affecting the Senate and several provinces are contesting their authority to do so?

• (1430)

Senator LeBreton: The honourable senator asked if I will ask the Prime Minister. No, I will not. We had sound constitutional advice on the legislation proposed regarding reforming the Senate. It withstood the constitutional test. Furthermore, with regard to constitutional changes of this nature, there was a precedent in 1965, when Senate tenure was changed under Prime Minister Lester Pearson.

FISHERIES AND OCEANS

LIGHTHOUSE PROTECTION

Hon. Jane Cordy: Honourable senators, last week it came to light that the government had decided that 206 of Nova Scotia's lighthouses had been deemed surplus. Does this mean that these lighthouses will be left to rot if ownership of the lighthouse structures is not transferred to a private owner or to a community group?

On Friday, I heard Minister Shea on CBC Radio announcing this issue. I was more confused when she finished explaining about the lighthouse fiasco than when she started. This government is spending millions of dollars claiming to promote Canada at the G8 and G20 summit meetings with the construction of fake lakes and fake lighthouses. However, at the same time, they have decided to rid themselves of any responsibility toward maintaining the real lighthouses along our real coastlines.

Many small communities rely on these historic structures for much-needed tourism dollars during the short tourism season. To say that dumping the lighthouses is a great opportunity for those communities is an insult. In this struggling economy and with decreasing populations in those small coastal communities, how does this government justify stating this is a good thing for those communities? This is nothing but the downloading and dumping of the responsibilities of the federal government.

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, our government fully supports the principle of heritage lighthouse protection under the act to conserve and protect these significant examples of Canada's coastal heritage. In recent years, the Department of Fisheries and Oceans has successfully transferred ownership of several lighthouses to outside interests while maintaining the navigational lights for the Coast Guard program.

At the moment, this very issue is the subject of study by the Standing Senate Committee on Fisheries and Oceans. As I said to Senator Rompkey earlier today, this is an important issue and I look forward to the deliberations of the committee and the recommendations they submit on this important subject.

Senator Cordy: It would have been good if the Senate committee had been allowed to finish its study before the decision was made by the federal government to dump the lighthouses from small communities.

In talking about opportunities, Minister Shea said:

> Well, it is an opportunity, yes, for communities and that's why, as part of the Heritage Lighthouse Protection Act, that's why we've brought this legislation in because communities came to us, because politicians got together and said, "We have to do something to protect the lighthouses that have cultural and heritage value." So that's what we're doing.

It is interesting she said that "politicians got together." The sponsor of the heritage lighthouse bill in the other place was Gerald Keddy. When he was asked for a response to this subject by the media, his office would not even return the phone call. So much for politicians lining up in support of this policy.

It is reported that many of the sites that these lighthouses stand on are contaminated. Does the government have a plan to clean up the sites before they are transferred to new owners, such as community groups, or will the new owners and community groups be expected to foot that bill, as well?

Senator LeBreton: I appreciate very much that Senator Cordy accurately described the words of Minister Shea. The issue of heritage lighthouses and the importance of lighthouses to our navigational safety is one that has been with us for some time. Technologies have changed the requirements and needs for lighthouses and their operators.

There is obviously a significant heritage component. These issues are of great concern, especially to people who live in coastal communities, whether it is the navigational safety issue or the preservation of a heritage lighthouse.

As I said a moment ago, I look forward to the continuing deliberations of our colleagues — though politicians they may be — on both the Liberal and Conservative side in the Senate. I am hopeful they will have some constructive and meaningful recommendations.

Senator Cordy: My question was whether or not the government has a plan to clean up those sites before transferring ownership to community groups.

Senator LeBreton: A contaminated site would not have just happened as of February 2006. I do not have information on the severity of this matter, so I will take the question as notice.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before calling for Orders of the Day, I draw the attention of honourable senators to the presence in the gallery of Grand Chief Richard Nerysoo, a former Leader of the Government of the Northwest Territories, and a distinguished delegation from the Gwich'in Tribal Council. They are guests of our colleague the Honourable Senator Sibbeston.

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

Hon. Senators: Hear, hear!

[*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: second reading of Bill C-2; second reading of Bill C-34; second reading of Bill C-11; consideration of the third report of the Standing Senate Committee on Human Rights; Bill S-4; followed by the other items as they appear on the Order Paper.

[*English*]

CANADA-COLOMBIA FREE TRADE AGREEMENT IMPLEMENTATION BILL

SECOND READING

Hon. Consiglio Di Nino moved second reading of Bill C-2, An Act to implement the Free Trade Agreement between Canada and the Republic of Colombia, the Agreement on the Environment between Canada and the Republic of Colombia and the Agreement on Labour Cooperation between Canada and the Republic of Colombia.

He said: Honourable senators, I am pleased to speak today about the Canada-Colombia Free Trade Agreement. The Government of Canada has made clear the priority it places on implementing free trade agreements to help Canadian businesses compete in international markets.

[*Translation*]

Canada is a country that relies on trade. Given our high level of production and our small market size, it is essential for us to have access to foreign markets. Canada's prosperity depends on it. The recent fragility of the world economy has highlighted the fact that it is both important and urgent that we increase the scope of our trade and investments and break into new markets.

Thanks to its dynamic trade program, Canada is an international leader, showing that protectionism is not the way to increase stability and prosperity.

[*English*]

In this age of fierce global competition and as emerging economies continue to climb the value chain and establish themselves in an ever-widening range of sectors, we must seek out more trade and investment opportunities for our businesses. By pursuing an active trade agenda, including bilateral, regional and multilateral negotiations, the government is working to secure access to markets around the world through enforceable rules, and is creating new opportunities for Canadian companies.

• (1440)

Canada has several long-standing free trade agreements in force, notably the North American Free Trade Agreement with the U.S. and Mexico, and separate bilateral agreements

with Chile, Costa Rica and Israel. The government has also implemented new free trade agreements recently with the European Free Trade Association and Peru on July 1 and August 1, 2009, respectively. In 2009, we signed a free trade agreement with Jordan. Canada has also signed a free trade agreement with Panama on May 14, 2010. The government continues to pursue ambitious trade agreements with other important partners around the world as well.

At the Canada-European Union Summit last May, negotiations towards a comprehensive economic and trade agreement with the European Union were launched. In April, the third round of negotiations took place, in spite of significant logistical challenges related to the Icelandic ash cloud.

The government has remained committed to advancing ongoing free trade negotiations with other partners, including South Korea, Central American countries, the Caribbean community and the Dominican Republic. It is also seeking out other new opportunities. For instance, Canada has started exploring deeper trade ties with India. Canada is also currently involved in technical discussions with Japan.

[*Translation*]

The Canada-Colombia agreement is an integral part of this strategy. A closer economic partnership with Colombia will reduce tariffs for Canadian exporters and increase opportunities for Canadian investors and service providers. Colombia is already a significant trading partner for Canada.

In 2009, two-way merchandise trade totalled $1.335 billion. Colombia's market is growing steadily and offers a number of opportunities for Canadian exporters. Over the past five years, Canadian exports have increased by 55 per cent.

Colombia is also a strategic destination for Canadian investment. Canadian investment stocks in Colombia were worth approximately $800 million in 2009.

[*English*]

The Colombian market is dynamic and exciting. With 48 million people, its gross domestic product per capita has nearly doubled since 2002, while poverty has declined nearly 20 per cent. Even though the gross domestic product growth rate in Colombia decreased from 2.5 per cent to minus .02 per cent in 2009, this decline was consistent with global economic declines, and it is estimated that Colombia's growth rate will again reach 2 per cent or higher in 2010.

Colombia's sound macroeconomic policy and improved security under its current leadership have generated these favourable economic conditions. What is more, in a recent survey, the Fraser Institute showed that Colombia's overall scoring for attraction for investors has improved steadily since 2000.

In the World Bank study *Doing Business 2010*, Colombia ranks as one of the top 10 business environment "reformers." Overall, out of 183 countries ranked, Colombia rose 16 positions, reaching thirty-seventh place in the category "ease of doing business." Colombia also ranked fifth out of the 183 countries with regard to its abilities to protect investors' rights through the application of the rule of law.

[*Translation*]

It is this commitment to improving the business climate that has made Colombia a solid trading partner and a market that is brimming with opportunities for Canadian exporters, investors and service providers — the types of opportunities that Canadian companies across the country are looking for.

[*English*]

This past year, Newfoundland and Labrador, New Brunswick, Nova Scotia and P.E.I. exported in excess of $52 million worth of products to Colombia. A trade agreement would benefit industries across these provinces, including industries such as paper and paperboard, fertilizers and oil.

[*Translation*]

Canadian manufacturers of mining equipment in Ontario and Quebec would see tariffs on their products in Colombia immediately decrease by 5 to 15 per cent.

In fact, since 21.6 per cent, or one fifth, of Canadian exports come from Quebec, $130 million in 2009, that province has a lot to gain from this agreement, particularly in terms of jobs in the paper, paperboard, copper and machinery sectors.

[*English*]

The immediate removal of Colombian tariffs from such cornerstone crops as wheat, barley and pulses will provide benefit to the Prairie provinces and make these products even more competitive in the Colombian market.

In addition to improving market access, a free trade agreement with Colombia will help secure Canadian investments in the region by providing greater predictability and protection for investors. Colombia is an established and growing destination for Canadian direct investment abroad, particularly in the oil and gas sector.

[*Translation*]

Overall, this free trade agreement offers all the traditional benefits one would expect from such an agreement, such as exports, services and investments.

It also aims to develop a closer partnership between Canada and Colombia in the areas of environment and labour.

The government has signed with Colombia solid agreements on labour and the environment, in addition to the free trade agreement.

The environmental agreement clearly shows that stimulating economic growth through increased trade goes hand in hand with protecting the environment.

Under this agreement, Canada and Colombia have committed to guaranteeing high levels of environmental protection. The two countries must effectively strengthen their own national legislation and not soften or weaken it to encourage trade or investment.

[*English*]

Canada and Colombia are both committed to ensuring that trade does not come at the expense of the environment. In support of both countries successfully meeting their obligation under the agreement, it sets outs a framework for undertaking cooperative activities that will allow our two countries to advance our shared environmental priorities.

The Canada-Colombia labour cooperation agreement is a strong and comprehensive agreement as well, and it is one that will help improve labour standards for Colombian workers in many different sectors.

This agreement commits both countries to ensuring that their laws respect the International Labour Organization's 1998 Declaration on Fundamental Principles and Rights at Work. The declaration covers a wide range of workers' rights, such as the right of freedom of association; the right to collective bargaining; the abolition of child labour; the elimination of forced or compulsory labour; and the elimination of discrimination.

Through these provisions, Canada and Colombia have shown their commitment to improving labour standards. Among other things, it commits both countries to provide acceptable protections for occupational health and safety and for minimum employment standards, such as minimum wages and hours of work. Canada is also committed to helping Colombia make the most out of this agreement. This is why the agreement is complemented with a $1 million labour-related technical cooperation program.

The government is already working with Colombia on programs to promote and enforce internationally recognized labour standards. These include programs such as labour inspection, enforcement of labour rights, social dialogue and occupational health and safety.

• (1450)

With these initiatives, we will help Colombia enforce its domestic labour laws and meet the very high standards in the Canada-Colombia labour cooperation agreement. All of these elements contribute to strengthening our partnership with Colombia.

[*Translation*]

It has become increasingly apparent that Canada's economic prosperity and its commitment to democratic governance and the security of its citizens are linked with those of its neighbour.

It was with this in mind that the Prime Minister announced in the summer of 2007 that the Americas would constitute a key foreign policy priority for his government.

He stated that Canada's vision for the region and our strategy of renewed engagement in the Americas would be based on three interconnected and mutually reinforcing pillars: strengthening and reinforcing support for democratic governance, building a safe and secure hemisphere, and enhancing the prosperity of citizens. Canada and Colombia enjoy this rapidly deepening bilateral cooperation.

[*English*]

The Canada-Colombia free trade agreement, the agreement on labour cooperation and the agreement on the environment are part of a suite of instruments Canada uses in its engagement with Colombia. All of these efforts will help solidify ongoing efforts by the Government of Colombia to create a more prosperous, equitable and secure democracy. The Government of Colombia has taken positive steps towards this goal.

Colombia has demonstrated its continued efforts to curb violence against trade unionists. The government continues to fight against impunity and continues to promote security and peace. The Government of Canada recognizes that challenges remain in Colombia, and at the core of Canada's engagement in Colombia is the protection and promotion of human rights.

In recent years, personal security has improved. The global community and international organizations present in Colombia recognize that personal security conditions of the vast majority of urban Colombians have improved.

[*Translation*]

The Colombian government has made considerable progress in its fight against illegal armed groups, such as paramilitary and rebel groups. The Government of Canada also recognizes the efforts that have led to the formal demobilization of over 30,000 paramilitaries and the weakening of the two primary guerrilla groups in that country. This tangible progress proves that Colombia's efforts to break the cycle of violence are not in vain.

With the support of the international community, government authorities and civil institutions have undertaken a series of actions that are contributing to increased peace and prosperity. It is vital for Canada and other countries to pursue policies of engagement and support for peace in Colombia.

[*English*]

Honourable senators, in the last five years Canada has disbursed over $64 million in Colombia through the Canadian International Development Agency. CIDA projects have allowed for the development of policies and programs that take the rights of children and youth into consideration and help protect these children from violence. Projects have also prevented the recruitment of children into illegal armed groups and ensure the reintegration of the mobilized youth into their communities. Other projects have supported environmentally sustainable agriculture to provide alternative livelihoods to growing illicit crops. This also contributes to food security for poor communities.

In addition, through the Department of Foreign Affairs and International Trade, Canada's Global Peace and Security Fund has disbursed over $18 million since 2006. This fund is helping to

promote peace in Colombia and the region and is also promoting the protection of victims' rights, the strengthening of the Colombian judicial system and demining activities.

The Canada-Colombia free trade agreement is a strong complement to these efforts, and the government stands behind the idea that economic growth, through liberalized, rule-based trade and investment, can contribute to alleviating poverty and create new wealth and opportunities for Colombians. Other countries are choosing to enhance their partnership with Colombia as well. Canada's main competitor in the Colombian market, the United States, has already completed an FTA with Colombia. Colombia is also pursuing ambitious free trade agendas with others.

[*Translation*]

The European Union recently concluded negotiations for a free trade agreement with Colombia. The members of the European Free Trade Association began national consultations to implement an agreement with Colombia.

Canadian businesses and workers expect their government to conclude trade agreements that allow them to compete in international markets on a level playing field.

The government must respond to these expectations and support businesses and the Canadian economy in order to create opportunities for the people of Canada and Colombia.

[*English*]

This agreement is the way to do that. For this reason, I ask all colleagues to support the Canada-Colombia free trade agreement.

Hon. David P. Smith: Honourable senators, I rise today in support of Bill C-2, an act to implement the Free Trade Agreement between Canada and the Republic of Colombia, the Agreement on Labour Cooperation and the Agreement on the Environment entered into by Canada with the Republic of Colombia on November 21 of 2008.

Honourable senators, I want to state that the Liberal Party supports this legislation. We support the initiatives that improve market access for Canadian business and particularly in a situation where increased economic engagement will help strengthen Canada's influence on Colombia in the area of human rights.

First I would like to talk about the history of this bill. This journey goes back to 2002, when the Liberals were in power and the then Minister for International Trade was the Honourable Pierre Pettigrew. He announced that Canada and the Andean countries — that is Bolivia, Colombia, Ecuador, Peru and Venezuela — had agreed to begin exploring the possibility of a free trade agreement.

I have had the opportunity to visit four of these countries. The irony is that the one country I have not visited is Colombia.

The countries launched exploratory discussions in November of that year, met on four occasions, and there were some pretty frank and open exchanges on a wide number of issues. As part of the process, the Minister for International Trade held domestic consultations with business, citizen-based organizations, individual Canadians, as well as provincial and territorial governments. All indications pointed to a broad support for a free trade agreement.

Not all of the Andean community countries were in a position to move forward on the free trade negotiations at the same pace, but Canada proceeded to negotiate with Colombia and Peru, who were ready and willing, and so free trade negotiations began. The Canada-Peru Free Trade Agreement came into force on August 1 of 2009. The Canada-Colombia agreement was signed in November of 2008, as I said earlier.

Honourable senators, I believe — and our party believes — that ratifying this trade agreement involves little economic risk for Canadian industry. Existing Colombian tariffs on Canadian exports are significantly higher than Canadian tariffs on Colombian exports. The agreement will benefit Canadian businesses and we support initiatives that improve market access for them.

• (1500)

Canada and Colombia are complementary economies. There is little direct competition between the two economies as we produce and export different goods. How much are we talking about? The two-way Canada-Colombia merchandise trade represents approximately $1.35 billion per year, and that is the 2008 figure. Of that, Canada exported $703 million to Colombia, primarily in cars and other motor vehicles, manufactured goods, wheat, paper and pulses. Our imports were about $644 million from Colombia in goods such as coffee, bananas, coal, oil, sugar and flowers. Therefore, the balance is in our favour.

This agreement will eliminate tariffs on Canadian exports to help make Canadian goods more competitive in a range of sectors, including mining, agricultural products and agri-food products.

While Canadian businesses will greatly benefit from the agreement, free trade will also have a positive impact on Colombians. Colombia has had its share of problems and we hear about them frequently. The drug trade, corruption and human rights violations have been part of life in Colombia. Critics of this bill point to these as reasons for not proceeding with the bill. However, there are many ways to promote human rights. We believe that increased economic and political engagement and having a bona fide economy will help address the root causes of violence and improve the human rights situation in Colombia.

While Colombia has made progress toward reducing violence and human rights abuses, there is still a long way to go. However, achieving further progress in Colombia depends on growing Colombia's legitimate economy. Through free trade, Canada can help to build that legitimate economy and create jobs and opportunities for all Colombians, including the most vulnerable.

Human rights are at the core of Liberal values. Therefore, our colleague in the other place, the Honourable Scott Brison, worked with the Colombian government to agree to specific human rights reporting requirements on the part of both countries. The Colombian government agreed and, on March 24, so did the

Canadian government. As a result, Canada and Colombia signed a treaty requiring both countries to report to their own parliaments on how the free trade agreements are impacting human rights in their respective country, as well as in the other country.

The human rights aspect and these reporting mechanisms that have been agreed upon were crucial and a catalyst in making the overall package happen.

When the Colombian minister was in Ottawa several weeks ago, I attended the briefing and the question-and-answer session that Scott Brison convened for Liberal parliamentarians because I was quite interested in the subject.

In Canada, this gives Parliament the tools to better engage civil society groups, businesses, and other experts in both Canada and Colombia. It strengthens the public's ability to monitor the human rights situation in Colombia, and holds both governments accountable on an ongoing basis.

Honourable senators, this is the first human rights reporting requirement in any free trade agreement in the world. It sets a new gold standard for human rights reporting in free trade agreements. The amendment was motivated by a desire for greater public oversight in the area of human rights and the belief that human rights are deeply intertwined with economic opportunity.

As with Canada's free trade agreements with Chile and Costa Rica, and NAFTA, the Canada-Colombia Free Trade Agreement includes side agreements on labour cooperation and the environment. With the labour agreement, both countries agree to respect and enforce internationally recognized labour standards and principles, such as the right to freedom of association, the right to collective bargaining, the abolition of child labour, the elimination of forced or compulsory labour, and the elimination of discrimination.

In view of these side agreements on labour cooperation and the environment, I think it is disappointing that the NDP has, once again, chosen not to support a free trade agreement. I cannot resist pointing out the following facts. First, the NDP have opposed all of Canada's free trade agreements. The NDP is calling for an independent and comprehensive human rights impact assessment, but the NDP already does not believe that the agreements on labour cooperation and the environment will be effective. Furthermore, they argue that the agreements will enable large multinational corporations to exploit Colombian workers.

Now, I know a lot of people in the NDP; most of them are fine, decent people with good principles and they believe in what they say, but, regrettably. the NDP always agree with whatever the Canadian labour unions say. That is a reality and I think it is regrettable. They favour keeping the Canadian tariffs higher so that it hurts us in eliminating tariffs on our exports.

Honourable senators, I believe in a free enterprise system. It works. Sure, there are controls on it. About 30 years ago, as an MP at the time, I was the Canadian delegate on a committee that met for several summers in Vienna studying disability. On the weekends, we would sometimes go to different cities. I had gone behind the Iron Curtain a number of times, going back as far as 1969. One weekend, we went to Prague. The life on the streets was dead; it seemed grey. Beautiful buildings were there, but the city was kind of dead. About three weeks ago, I took my wife there before we got on a boat to go down the Rhine on a wine cruise. We spent two days in Prague. Twenty-nine years later, the life on the streets was buzzing. There was economic activity everywhere — in the stores and shops, and with the tourists. It was unbelievable. There is no other city with as many statutes on buildings as Prague. They are beautiful.

Prague's previous version was a socialist version. Regrettably, it was the most extreme form of socialism, namely, communism in its totalitarian state. I will never forget when we left to come back in 1981 and crossed the Czechoslovakian border into Austria. Looking up at the border fence, one saw a tower on each side with a couple of men with guns that were pointing inward. I remember thinking that a society where the guns at the border are pointing inward has a much bigger problem than when the guns at the border are pointing outward to defend itself.

Today there are no check stations; one just drives through at the border because of the Economic Union.

There are certain realities that our friends in the NDP will have to come to grips with. One of them is that we live in a global economy. If one is not competitive, then one will not make it. We want to be competitive. This is a situation where human rights scrutiny were tied to the changes that got rid of the tariffs.

At the risk of sounding corny, honourable senators, I like it when the two major parties see eye to eye on issues such as this one. The Bloc also opposed this for vague reasons that I will not get into. Quite frankly, I want to give a good chunk of the credit to Scott Brison, who has managed this in a non-partisan way. He was there and achieved a united front on this issue.

• (1510)

Trade with Colombia is already taking place but without a rules-based system to encourage stronger labour rules and human rights. This agreement will give muscle to the effort to have stronger rules on labour and the environment, which can only help Colombia.

We have examined these free trade agreements and the provisions in the side agreements. I think the agreements are in the best interests of both countries. Much progress has been made.

In closing, I want to read an email addressed to Member of Parliament Scott Brison that he gave to me today:

> I want to add my sincere thanks and congratulations. This is an excellent example of how a first-rate MP can make an invaluable contribution. I was in Washington last week where the business people with whom I spoke were in despair about their lack of progress on this issue.

It is signed by former Conservative minister Perrin Beatty on behalf of the Canadian Chamber of Commerce. I like it when we see representatives from the two major parties put partisan issues aside to do what is in the best interests of this country. That is why we support this legislation.

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

Hon. Senators: Question!

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

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Di Nino, bill referred to the Standing Senate Committee on Foreign Affairs and International Trade.)

MUSEUMS ACT

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Consiglio Di Nino moved second reading of Bill C-34, An Act to amend the Museums Act and to make consequential amendments to other Acts.

He said: Honourable senators, I am pleased to speak to Bill C-34, the final step in the creation of a new national museum of immigration for Canada. Increasing our support for our national museums was a Conservative campaign commitment. Creating a new national museum at Pier 21 in Halifax was a commitment we made in the Speech from the Throne.

Honourable senators, on a dreary rainy day on August 21, 1951, as a 13-year-old boy accompanied by my mother and father, my first close-up glimpse of Canada was the Port of Halifax and Pier 21. Hundreds or maybe even thousands of confused, scared and excited men, women and children were processed as new immigrants to Canada. I wish I could say the experience was positive, but that was then.

We followed tens of thousands and were followed by tens of thousands of other wide-eyed, hopeful and eager future Canadians from every corner of the world whose contribution to building our country has been widely and frequently praised.

I speak on behalf of all of them when I say that I am proud to present and support this bill. It will be the second new national museum created by our government. It is only the sixth national museum created in the 143 years since Canada itself was created, and it is only the second established outside the Ottawa-Gatineau area. Until 2008, all national museums were located in the National Capital Region. This is despite the fact, honourable senators, that the Museums Act, adopted in 1990 under a Conservative government, clearly states that a national museum can be anywhere in Canada.

[*Translation*]

We believe that the national museums belong to all Canadians. Anyone familiar with this proposal will understand that the Canadian Museum of Immigration at Pier 21 is a good choice for Canada. This immigration museum will allow current and future generations of Canadians to appreciate the richness and history of immigration in Canada. Immigration has played an important role in building our nation. Today, hundreds of thousands of immigrants from all over the world continue to arrive in Canada every year. As we all know, Canada is a land of immigrants.

[*English*]

It is the City of Halifax that has played such an important and historical role in shaping Canada's diversity. This new museum will be situated partly in the Pier 21 building — where I landed so many years ago — that served as a primary gateway for more than one million new immigrants to Canada from 1928 to 1971.

That site holds special significance for one in five Canadians today. It served as the port of departure and return for approximately 500,000 Canadian troops that fought during the Second World War. The Pier 21 museum was originally established to tell the story of immigrants, war brides, displaced children and Canadian military troops that passed through its doors. As I said, one in five Canadians can trace a relationship to this site. It has also been designated as a National Historic Site by the Historic Sites and Monuments Board of Canada.

For these reasons, Halifax is the ideal location to honour the legacies of those who built Canada. At no time has immigration played a greater role in Canadian history than during the 20th century. Today, almost 20 per cent of Canadians were born outside the country. Without immigrants, Canada would not be the country it is today.

As the Prime Minister said in Halifax at Pier 21 last June:

> In every region . . . new Canadians make major contributions to our culture, economy and way of life. . . Anybody who makes the decisions to live, work and build a life in our country represents the very best of what it means to be Canadian.

[*Translation*]

This bill will officially recognize the Canadian Museum of Immigration at Pier 21 as a national museum under the Museums Act. It will establish the museum as a new federal Crown corporation with the same status as the other national museums. Like those museums, the Canadian Museum of Immigration at Pier 21 will provide services in both official languages. In short, the museum will celebrate the experiences of immigrants as they arrived in Canada, the vital role immigrants have played in building Canada, and their contributions to all aspects of Canadian society.

[*English*]

In conclusion, honourable senators, it is important to thank some of the driving forces behind the creation of this new national museum. Senator Cowan will recognize that this first person is one of the most dynamic people we have ever met. I, too, was one of her victims many years ago.

• (1520)

Ruth Goldbloom, chair of the Pier 21 Foundation, is truly the leader behind the creation of Pier 21; she is quite a lady. John Oliver and Wadih Fares are the current and past chairs of the Pier 21 Society and Robert Moody is the current CEO of Pier 21. As a result of their action and leadership, the impact of the Canadian Museum of Immigration at Pier 21 will reach far beyond Canada. It will be a valuable source of knowledge and expertise that will place it in a position to benefit the entire world.

In closing, honourable senators, for me — and I suspect for all of the others whose voyage brought us to this wonderful land — this is a great day, one that further recognizes our role and our contributions to this great country. As well, it needs to be stated that over many years, Canada and Canadians opened their arms — and, indeed, opened their hearts — and embraced all new aspiring citizens as full and equal partners. Together we have built the most respected and envied country in the world. I urge all honourable senators to support this bill in honour of all Canadians who risked, persevered and contributed to its success.

Hon. Serge Joyal: Will the honourable senator accept a question?

Senator Di Nino: Yes.

Senator Joyal: Thank you for your presentation. I support the objective of Bill C-34. In reading it, however, I have a question in relation to section 2. If you have a copy of the bill in front of you, it is the second paragraph at the top of page 2.

It states "capacity and powers"; it is paragraph 15.6(1). I will read it so that all honourable senators understand my question.

> In furtherance of its purpose, the Canadian Museum of Immigration at Pier 21 has, subject to this Act, the capacity of a natural person and, elsewhere than in Quebec, the rights, powers and privileges of a natural person.

Could you explain to us why the new museum would not be able to act in Quebec in the same capacity that it would act somewhere else in Canada?

Senator Di Nino: Honourable senators, I will make sure the officials fully and properly explain this paragraph, but my understanding is there is a separate immigration agreement with the Province of Quebec. The intent was not to interfere with that relationship that exists between the Government of Canada and the Province of Quebec on the issue of immigration.

Senator Joyal: I understand the point; I was a member of Parliament when that agreement was entered into by the federal government, and renewed by successive Canadian governments. I see that the Leader of the Government agrees with me. On many instances when those agreements lapsed, they were renegotiated and renewed — and they work well, in my opinion.

The point here is that we are talking about a museum, as you said yourself, like any of the other five museums in Canada, be it the National Gallery or the newly refurbished Museum of Nature that Her Majesty will have the opportunity to see at the end of this month. Those museums can operate in the same capacity all over Canada without any impediment because of other agreements that the Government of Canada might have with the Province of Quebec in the cultural field.

Therefore, I do not understand exactly why this museum, which will be incorporated under a federal act, will be barred from acting in Quebec in the same way that other federal museums act in Quebec, being federal corporations under the act that creates them. I have some difficulty in understanding that.

In Quebec, as I am sure the honourable senators know, there is Grosse Île in the St. Lawrence River that hosted the immigrants coming from Ireland. Our colleague Senator Dawson reminded us last week of the death of a famous Canadian of Irish descent, an historian who recorded the history of the Irish immigrants in that area. In that capacity, that National Historic Site is fully operative in Quebec on the same basis that we will want Pier 21 to become operative — for the benefit of all Canadians, wherever they are and wherever they come from.

That is why I am puzzled by this mention in that section of the act, which refers to the fact that the new museum will not be able to act the same way in Quebec.

Senator Di Nino: Honourable senators, I am not sure I will be able to give you any better answer than I did the last time, other than to say that in the briefings that I received on this, that issue did not come up. However, when I was skimming through it, I too noticed it and wondered why not in Quebec?

I am making the assumption that there was agreement between the federal government and the Province of Quebec that would not allow this kind of an act to be valid in Quebec. However, I will undertake to ask the officials and respond to the honourable senator, either directly or through a response at third reading when we bring it back from committee.

Senator Joyal: Thank you, senator.

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, I want to congratulate Senator Di Nino on his speech this afternoon. I am delighted to support this initiative. It is one of the few initiatives that I am sure we are promised in the Conservative agenda. I hope this will not lead to other things, Senator Di Nino, but on this issue, we thoroughly agree. I am delighted to support this initiative.

I would like to reflect on what the honourable senator has said today and to speak tomorrow. Therefore, I would ask that the debate be adjourned in my name for the balance of my time.

(On motion of Senator Cowan, debate adjourned.)

IMMIGRATION AND REFUGEE PROTECTION ACT FEDERAL COURTS ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Judith Seidman moved second reading of Bill C-11, An Act to amend the Immigration and Refugee Protection Act and the Federal Courts Act.

She said: Honourable senators, I rise today in the Senate to support Bill C-11, the balanced refugee reform act. If passed, the legislation will allow Canada to help those who truly need Canada's protection, and to do so much more quickly. I encourage all honourable senators to support this bill.

The proposed reforms outlined in the bill have received support from all parties in the House of Commons, as well as from stakeholders, Canadians and the media. In response to concerns raised in good faith by parliamentarians, the government has agreed to significant amendments that both reflect the input and have resulted in a stronger piece of legislation.

These amendments, honourable senators, create a reform package that provides for even faster processing than the original proposal for claimants from safe countries of origin and for those with manifestly unfounded claims. The amendments also ensure that all failed refugee claimants, regardless of where they come from, would have access to the new Refugee Appeal Division at the Immigration and Refugee Board.

This is a monumental achievement for all involved. It demonstrates the kind of democratic consensus that can be achieved through the cooperation and collective efforts of all parties in Parliament.

Honourable senators, Canada is one of the largest recipients of asylum claims, even though we are relatively isolated geographically. People come from great distances from around the globe to seek asylum here. We have an asylum system that exceeds the requirements of UN conventions on refugees and torture and, indeed, the Canadian Charter of Rights and Freedoms.

• (1530)

However, all parties recognize that we also have a broken system characterized by ongoing large backlogs and slow processing times. It is a system at risk because too many who are not refugees try to use it as a back door into Canada, abusing our generosity and violating our laws.

We have some 60,000 people in the asylum queue, the largest number of asylum claims of any developed country. It takes nearly two years for a refugee claimant to get a hearing at the Immigration and Refugee Board of Canada. Additionally, that independent tribunal determines that nearly 60 per cent of our asylum claimants are found not to be in need of Canada's protection; in other words, they are not genuine refugees. That is why, honourable senators, we need to reform the asylum system and why the government introduced Bill C-11: to enhance procedural fairness for asylum claimants and, at the same time, more quickly remove the false claimants who abuse our generosity.

It has been imperative to find a way to deter abuse, so that those who really need protection get that protection faster. Band-aid measures have been tried and have failed. Full-scale reform is necessary. Bill C-11 represents an historic opportunity to put in place an asylum system that, in the words of former IRB Chair, Peter Showler, is both fast and fair.

In essence, honourable senators, this bill provides for a new information-gathering interview at the independent Immigration and Refugee Board early in the claims process; independent decision makers at the Refugee Protection Division of the IRB who are not political appointees; a new facts-based refugee appeal division, something refugee advocates have requested for a long time; protection for bona fide refugees in about three to four months, rather than 19 months; removal of false claimants in about a year, rather than several years, which would yield about $1.8 billion in savings for taxpayers over five years; the possibility to fast-track the processing of claims from designated countries of origin, as well as the identification and expediting of manifestly unfounded claims; a new pilot program of assisted voluntary removals for failed claimants; and $540 million in new resources for the refugee system, including a 20 per cent increase in the number of refugees resettled in Canada from refugee camps and urban slums and a 20 per cent increase in settlement support for government-assisted refugees.

The government has been open to thoughtful improvements to the proposed legislation. Following the introduction of the bill, the minister has put great effort into listening to stakeholders, parliamentarians and Canadians. The proposed reforms are long overdue and would focus our resources on providing protection to those who need it.

Honourable senators, Bill C-11 would put in place authority to designate country of origin. This list would include countries with a strong record of human rights and protecting their citizens, and which are not normally refugee producing; it would probably list no more than a handful of countries at any time. Canada needs such a tool to deal with spikes in claims from particular countries, claims that are often later abandoned or withdrawn, suggesting that they may not have been well founded to begin with.

The government has worked with our colleagues in other parties to make further changes to respond to continued concerns around the designated country of origin policy. Bill C-11, with the amendments adopted by the Committee on Citizenship and Immigration, would result in faster protection for those claiming asylum who truly need it. It would help Canada to maintain our strong humanitarian tradition by protecting the persecuted. It would also expedite the processing and removal of people who do not need Canada's protection and who would otherwise take advantage of Canada's generosity.

Canada's asylum system is designed to protect those fleeing persecution. If we do not focus the resources of this system on providing protection to those genuinely in need, then we are doing a disservice to those individuals and putting at risk our ability to help those who truly need our protection.

These proposed new measures honour the principles of fairness, effectiveness and respect for human rights of all. Through them, this government is honouring the values that Canadians hold dear. I encourage all honourable senators to support this bill, so that Canada can continue to help those individuals from around the world who truly need our protection.

(On motion of Senator Tardif, debate adjourned.)

FAMILY HOMES ON RESERVES AND MATRIMONIAL INTERESTS OR RIGHTS BILL

THIRD REPORT OF HUMAN RIGHTS COMMITTEE ADOPTED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on Human Rights (Bill S-4, An Act respecting family homes situated on First Nation reserves and matrimonial interests or rights in or to structures and lands situated on those reserves, with amendments), presented in the Senate on June 15, 2010.

Hon. Janis G. Johnson: Honourable senators, as the Chair of the Standing Senate Committee on Human Rights, I am pleased to provide an explanation of a series of amendments to Bill S-4, An Act respecting the family homes on reserves and matrimonial interests or rights. As per rule 99, a senator presenting a committee report must explain each amendment for the benefit of the Senate.

To understand the significance of the amendments, one must first grasp the essential elements of the legislation now before us. Bill S-4 proposes to eliminate a gap in the law. As honourable senators know, the Supreme Court of Canada determined two decades ago that provincial and territorial laws governing matrimonial real property do not apply on reserve lands. No federal law exists as the Indian Act is silent on this matter.

The consequences of the resulting gap are well known and can be devastating for those individuals — often Aboriginal women and children — who may be forced to leave the reserve and sever their ties to their community.

Bill S-4 proposes a two-part solution: a mechanism whereby First Nations can design and implement their own laws in this area, and immediate protection from the implementation of a federal regime. This solution grew out of a lengthy process of research, consultation and engagement. During its review of Bill S-4, the Standing Senate Committee on Human Rights heard from more than 30 witnesses representing several national Aboriginal organizations, First Nations, independent lawyers, human rights experts, and the federal government.

The committee heard that there is opposition to this bill, but the overriding message, and a point that all witnesses could agree on, is that a solution is needed.

After considerable discussion and debate, the committee agreed to adopt an amended version of Bill S-4. The committee believes that setting aside Bill S-4 would have serious consequences. Although the proposed legislation is not perfect and may not satisfy all stakeholders, it would close a legal gap that denies those individuals living on reserve the same rights and protections as those living off reserve. While moving ahead with an amended version of Bill S-4 risks alienating some stakeholders, not moving ahead is certain to lead to more suffering, particularly for the more vulnerable members of society who are often Aboriginal women and children.

• (1540)

Honourable senators, the committee adopted a total of 12 amendments. The first one grew out of a recommendation made by several groups, including the Assembly of First Nations, the Congress of Aboriginal Peoples, the Atlantic Policy Congress of First Nation Chiefs and the Federation of Saskatchewan Indian Nations. It amends clause 2 to clarify that judges must take into consideration agreements reached through traditional dispute resolution. This amendment accommodates the fact that some communities may use mechanisms such as elders' councils to resolve disputes related to relationship breakdowns. Although Bill S-4 already accommodated traditional dispute resolution mechanisms, this amendment makes recognition more explicit.

The next four amendments address clause 21 and emergency protection orders. The first change requires that an emergency protection order be issued by a judge situated in the province where the family home is located. The second change clarifies that a peace officer or other person may apply for a protection order on behalf of someone else.

Clause 21 currently includes a list of factors a judge must consider when making an order for emergency protection, such as history of family violence and the best interests of children. The next amendment adds another factor, the applicant's ties to the community. The period of time that the applicant has habitually resided on the reserve can be used as an indication of the individual's tie to the community. Several witnesses called for this amendment. The final amendment to clause 21 permits regulations to stipulate how a peace officer shall serve an emergency protection order in special circumstances such as when the person to be served cannot be located.

There were also amendments to clause 22 and clause 23. In both cases, the amendments responded to comments about the collective nature of reserve lands by several witnesses, including the Assembly of First Nations, the Native Women's Association of Canada, the Federation of Saskatchewan Indian Nations, the Anishinabek Nation, the Association of Iroquois and Allied Indians and the Chiefs of Ontario. The amendments clarify that First Nations may take representations to the courts in regard to collective interests, both when a judge hears an application to change or revoke an emergency protection order and for rehearings of such orders.

The next amendment addresses clause 25 of Bill S-4. This clause lists several factors that a judge must consider when making exclusive occupation orders. The amendment adds two factors to the list — collective interests and a person's ties to the community. Again, this amendment responds to comments from several witnesses who appeared before the committee.

Witnesses also suggested amending clause 26, which addresses applications by a survivor for exclusive occupation of the family home. The amendment specifies that First Nations may take representations to the courts in regard to their collective interests when a survivor applies for exclusive occupation of the family home.

The final three amendments to Bill S-4 are more technical in nature and respond to recommendations from legal experts and other witnesses who appeared before the committee. Clause 31 has been amended to clarify who is bound by the lease of the family home during a period of court-ordered, inclusive occupation. The lack of clear language in the original draft legislation was an oversight, and representatives from the Canadian Bar Association, the Province of Manitoba and the Department of Justice all recommended the amendment.

The next amendment adds a new clause, clause 50.1, to Bill S-4. This new clause, suggested by representatives of the Department of Justice along with other witnesses, allows for the appeal of an order made under the act.

The final amendment addresses clause 57, and clarifies the authority to make regulations when something is to be prescribed under the bill.

Honourable senators, the 12 amendments I have outlined to help strengthen Bill S-4 clarify language and address technical weaknesses that otherwise can hamper implementation and application. Furthermore, the amendments respond to the comments from witnesses who appeared before the committee and recommended changes. It is my belief that these amendments strengthen the bill and, in so doing, will help secure support for this important legislation.

I emphasize that, as a committee, we heard strong testimony about the need to close this legislative gap related to on-reserve matrimonial interests and rights.

Bill S-4 aims to protect the rights of some of Canada's most vulnerable citizens and, for that reason, this legislation is necessary. Many witnesses made this point during their testimony before the committee, even as they were noting some of its deficiencies. A representative of the Federation of Saskatchewan Indian Nations, for instance, described the bill as encouraging and said that if a woman's relationship breaks down, or in the event of the death of her partner, whether by marriage or common law, laws should be in place to ensure her rights are met, regarding matrimonial real property. The point was echoed by a representative of the Atlantic Policy Congress of First Chiefs, who said:

> . . . I want to note that it is positive in the sense that we are finally addressing this issue of matrimonial real property in the First Nations community.

The committee also heard from the Minister of Indian Affairs and Northern Development, who was passionate about delivering a legislative solution to this issue. He is quoted as saying:

> The bill is not perfect, but it allows us many solutions that can be developed in the field and many alternatives that can be developed with First Nations.
>
> However, having no alternative is not an answer. We cannot say that the issue is tough, so we will not wrestle it to the ground. We need to wrestle it to the ground.

Honourable senators, I am pleased to report this bill with the amendments I have outlined. The Standing Senate Committee on Human Rights conducted a thorough review of the proposed legislation, considered the testimony of both supporters and opponents and adopted the amended version now before us. As the chair of the committee, I believe Bill S-4 strikes an appropriate balance between protecting rights of individual Canadians and accommodating the collective interests of First Nations, and I look forward to its adoption.

The Hon. the Speaker *pro tempore***:** Honourable Senator Dyck, do you have a question?

Hon. Lillian Eva Dyck: Yes, I do.

The Hon. the Speaker *pro tempore***:** Honourable Senator Johnson, will you accept a question?

Senator Johnson: Yes, I will.

Senator Dyck: My question is with regard to clauses 22, 23, 25 and 26. These clauses were all amended by adding words with respect to collective interests of First Nations. The intention of the amendments may be good, but have either the committee or the honourable senator received any feedback from the people who proposed those amendments to see if they agree with the intention of them?

Senator Johnson: That is an interesting question. We have had absolutely no feedback at this time. I will report to the honourable senator when we do.

Senator Dyck: My suggestion would be that having a judge rule on the collective interests of a First Nation implies that a judge, who is probably at a provincial court level, has authority to rule on what is seen as an inherent right to self-govern. The intention may be good, but the outcome of the amendments may worsen the situation with regard to First Nations who have an inherent right to self-government. The interpretation may weaken the case for First Nations' rights to self-government. I wonder if the honourable senator will pose that interpretation to the people who suggested those amendments.

Senator Johnson: I will do that.

Hon. Anne C. Cools: Honourable senators, I was listening to the senator with some interest. Several times, I heard her say that the bill was not perfect, and then I understood her to say that the bill has been amended 12 times, including a clause that is brand new. If I am wrong, correct me, senator.

It seems to me that what the honourable senator is saying does not inspire confidence. She begins by saying it is imperfect, then goes on to say that it has been amended 12 times, 12 amendments, and one clause is new, which means that that clause has not had second reading in this place.

Honourable senators, I also observed that she said the amendments are drawn from comments, I think she said, from several persons, but they are all First Nations people.

• (1550)

Honourable senators, from where I sit, simply listening, not having followed the bill and not being well acquainted with it, it seems that many First Nations people had problems with this bill, which the honourable senator admits is imperfect. Why have we not arrested the progress of the bill and studied the matter more perfectly to produce a better bill in the long run?

Senator Johnson: I thank the honourable senator for the question. Obviously, Senator Cools did not attend any of the hearings. I will give the honourable senator a bit of history.

Bill C-47 started in the House of Commons in a different session. This version of the bill was introduced in the Senate as Bill S-4. We had considerable, lengthy hearings, and experienced senators discussed the bill with us. Amendments were made after intensive discussions and hearings.

It is the best we can produce; it is excellent; and it is going forward. It will proceed from here to the House of Commons where, of course, parliamentarians will review it. I am sure the honourable senator could attend those hearings as well.

Senator Cools: Honourable senators, I have no doubt that many senators gave the bill their attention or that the bill had other forms and lives previously. My question had to do with the response of First Nations to the bill. The honourable senator indicated that the minister said the bill was imperfect. Therefore, she admits to this house that the bill is still considered imperfect. However, she asks us to vote for it.

Senator Stratton: Do not put words in her mouth.

Senator Cools: Then the honourable senator can clarify. I did not put words in her mouth. If Senator Stratton wants to speak, he can get up and speak.

Senator Stratton: The bill started in this chamber, not the other.

Senator Cools: It does not matter. Does Senator Stratton feel he has to come to Senator Johnson's protection? She is a strong woman; she can speak for herself.

Senator Stratton: Yes, she is.

Senator Johnson: Honourable senators, is Senator Cools asking a question or giving a speech?

The Hon. the Speaker *pro tempore***:** Would the Honourable Senator Johnson like to respond to the question posed by the Honourable Senator Cools?

Senator Johnson: The Standing Senate Committee on Human Rights Committee has adopted Bill S-4 as amended.

Senator Cools: Your Honour, it is out of order to cut off a senator when that senator is in the middle of a sentence. Unless a senator has called upon you, Your Honour, asking about a point of order, you should let me finish first before you rise.

All I was trying to say, honourable senators, is that I was responding to what — we can talk to His Honour. This is the Senate's Speaker, not the House of Commons' Speaker.

I was saying that I was listening to Senator Johnson with some care. What the senator said raised alarms that something is not as proper as it should be. If I was erroneous or wrong in what I heard or understood, I am happy to say so. I only want clarification.

The way Senator Johnson said it and what she said did not invite confidence. That is all. I made no slight and do not mean to hurt the honourable senator in any way. I have great respect for Senator Johnson.

I only say that it does not inspire confidence when the senator begins by saying that the minister said the bill is imperfect and then points out that many First Nations peoples also said there is something wrong with the bill. If the bill needed so many amendments, we should know why.

The Hon. the Speaker *pro tempore***:** Honourable Senator Johnson, I regret to inform you that your time is up.

Are honourable senators ready for the question?

Some Hon. Senators: Question.

The Hon. the Speaker *pro tempore***:** It has been moved by the Honourable Senator Johnson, seconded by the Honourable Senator Comeau, that consideration of the third report of the Standing Senate Committee on Human Rights (Bill S-4, An Act respecting family homes situated on First Nation reserves and matrimonial interests or rights in or to structures and lands situated in those reserves, with amendments), presented in the Senate on June 15, 2010, be now adopted.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

(Motion agreed to and report adopted, on division.)

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

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

[*Translation*]

GOVERNANCE OF CANADIAN BUSINESSES EMERGENCY BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Hervieux-Payette, P.C., seconded by the Honourable Senator Tardif, for the second reading of Bill S-205, 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.

Hon. Céline Hervieux-Payette: Honourable senators, in light of the fact that a number of working groups will be meeting, including the G8 and the G20, and a number of proposals will come out of these very important meetings, I propose to give my

speech in support of this bill once I have received the necessary documentation and I have all the national and international information.

(On motion of Senator Hervieux-Payette, debate adjourned.)

[*English*]

CRIMINAL CODE

BILL TO AMEND—THIRD READING—DEBATE SUSPENDED

On the Order:

> Resuming debate on the motion of the Honourable Senator Martin, seconded by the Honourable Senator Wallin, for the third 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. Art Eggleton: Honourable senators, I rise today to speak on Bill C-268. At first glance, it seems easy to support this bill. It involves a horrible crime. It involves some of our most vulnerable members of society — our youth. It also comes from a sponsor that has championed this cause. I applaud Joy Smith for her dedication and work on this issue.

However, honourable senators, if you believe in evidence-based public policy, the evidence heard at the committee does not support the imposition of mandatory minimums as proposed in this bill.

Human trafficking is deplorable and reprehensible. It is an illegal trade of human beings for the purposes of commercial sexual exploitation or forced labour — a modern-day form of slavery. In 2005, the government of Prime Minister Paul Martin brought in amendments to the Criminal Code to devise specific offences for human trafficking. MP Joy Smith pointed out before the Standing Senate Committee on Social Affairs, Science and Technology: "The legislation was well drafted and has provided important tools for all police officers, prosecutors and judges, as well as a means for compensation for victims."

Prosecution under this new legislation, honourable senators, has been slow. We heard from witnesses before the committee that there have been only five convictions for human trafficking in Canada since 2005. There are currently 32 cases before the courts; whereas, in other countries with similar legislation, such as the United Kingdom, there have been 110 convictions for human trafficking since their legislation was put in place in 2002.

• (1600)

To underscore my first concern about this bill, I want to mention the five cases that have resulted in convictions. Two of the convictions were for trafficking adults and the remaining three were for trafficking people under 18 years of age. Since Bill C-268 specifically concerns minors, I will focus on those three cases.

The first case was the Imani Nakpangi case in May 2008. This was the first conviction for human trafficking in Canada. Mr. Nakpangi pleaded guilty.

The Hon. the Speaker *pro tempore***:** I regret to interrupt the honourable senator, but it is now four o'clock.

Hon. Gerald J. Comeau (Deputy Leader of the Government): I stand on a point of order. My understanding is there is a house order allowing a minimum of 15 minutes. The table may be able to help Your Honour on this, but there was a house order extending the time by 15 minutes.

The Hon. the Speaker *pro tempore***:** Thank you, Senator Comeau. Senator Eggleton, I apologize. Please continue.

Senator Eggleton: This man pleaded guilty and received a five-year sentence; he received three years for trafficking a teenager and two years for living off the avails of a teenage prostitute, to be served consecutively.

The second case was the conviction of Michael Lennox Mark in June 2008. He pleaded guilty to trafficking a 17-year-old girl and procuring three others — one under 18 — to become prostitutes. He received two years for the trafficking charge, and two years for procuring, to be served concurrently. However, after receiving credit for time served in pre-trial custody, he spent only one week in jail for the crimes.

The third conviction involving a minor was in Gatineau, Quebec. In April 2009, Laura Emerson pleaded guilty to human trafficking by exploiting two women — one a minor — and living off the avails of a prostitute. Her sentence was seven years.

Honourable senators, what can we conclude from these first three convictions? We have one conviction that seems unacceptably short, although we do not know all the facts that were before the court. On the other hand, we had another conviction with significant penal sanction and which sends a strong message concerning the seriousness of the crime. The third conviction is somewhere between the two.

I do not think we can conclude much from only three cases, except that we should not make public policy based on such a small sample, and based on examples with such divergent outcomes and for reasons that are not available to us.

This legislation is still in its infancy. As Barry MacKillop, the Director General of Law Enforcement and Border Services at Public Safety Canada, said before the committee, which was echoed by other witnesses:

> Any time we introduce any new laws, there is a certain period of awareness, both on the application side — from the police, prosecutors and judges — and from the public in recognizing what the new crimes are.

Unfortunately, I think this bill is based more on ideology than on fact. The judges are too lenient and the perpetrators should be punished severely.

I point out that this view was not the prevailing one of the witnesses who came before the committee. Most of the witnesses had confidence in the judicial process. The superintendent from the RCMP said, and was echoed by others: "I have faith in the judicial system in this country to exercise the justice that is required with respect to individuals who are charged before the court."

However, do mandatory minimum sentences work? The majority of witnesses before the committee said no, and they opposed the use of mandatory minimum sentences for many reasons. Of the five witnesses who expressed an opinion on whether they favour mandatory minimum sentences, three opposed mandatory minimum sentences and two were in favour, including Ms. Smith, the sponsor of the bill.

The three witnesses opposed to mandatory minimum sentences were a university researcher, a lawyer and a child rights activist. The first objection was based on their utility. Michael Spratt from the Criminal Lawyers' Association pointed out: "There appears to be little empirical data that shows they are effective . . . in specific deterrence and general deterrence." In other words, mandatory minimum sentences will not deter subsequent offenders. Perpetrators do not consider how long a sentence they might receive before committing the crime.

The second major reason against mandatory minimum sentences for human trafficking is that two negative scenarios will probably arise in many cases. If the Crown decides to charge an accused with human trafficking, the case likely will go to trial. As Mr. Spratt pointed out, if someone's culpability is at the lower end of the scale, with no criminal record and that person knows that no matter what the person does before trial, that person will receive a minimum sentence of five years, that individual will take their chances at trial.

As Jamie Chaffe, from the Canadian Association of Crown Counsels, pointed out:

> Once we have a trial, we are into a very challenging case for the Crown, particularly in these types of offences. We are dealing with witnesses who are young and who have often suffered post-traumatic stress. . . . We have issues around interpretation and translators; we have issues around memory.

He further pointed out that going to trial can have a very harmful effect on the victims. Witnesses who are young and who have often suffered post-traumatic stress often find it very difficult to go through trials.

This could have serious consequences, honourable senators; this could result in fewer convictions and defenders might not receive the justice that they deserve. It is no surprise then that all three of the convictions to date for human trafficking of young people in Canada involve a plea bargain; they all involved a plea bargain.

Depending on the complexity of the case, the second scenario that can happen is that the prosecutor will drop the human trafficking charge in favour of a plea bargain to a lesser charge to ensure a conviction, thereby eliminating the purpose and effectiveness of the human trafficking legislation. In the plea bargaining taking place, they have not had what they need to obtain that kind of conviction. That is the one thing we are finding out.

Honourable senators, mandatory minimum sentences may also lead to another consequence that was identified before the committee. The International Bureau for Children's Rights — which is active in this area — pointed out that some perpetrators of human trafficking have been victims themselves. In a study of human trafficking in Quebec, they found that young girls involved in human trafficking, either recruiting or running the ring, participate to obtain a higher ranking within the gang to escape prostitution.

This bill will effectively criminalize the victim. Criminalizing the victim with mandatory minimum sentences, the judges will have no option to consider mitigating circumstances during sentencing. That option is important.

This highlights the last major problem I have with mandatory minimum sentences. They limit or remove discretion from judges. Proponents of mandatory minimum sentences will say that is exactly what they want to do; they do not trust the judges to make the right decision.

However, honourable senators, judges are the ones we want to make the decisions. They can interpret the laws and apply justice in a fair and just manner, and their decisions can be reviewed. If the prosecution does not like the outcome of a case, or does not like the sentence handed down to an offender, there is an appeal process. We all know that. This process ensures we have an open and transparent system; a system that has served Canada well as a nation for 143 years.

Honourable senators, I believe we are missing a crucial step that would more effectively combat human trafficking than this bill. That crucial step should be in place before we pass a piece of legislation that is based on limited facts and ideological perceptions.

We need a national strategy on human trafficking.

On February 22, 2007, Member of Parliament Joy Smith was successful in passing, with all-party support, a motion in the House of Commons that called on Parliament to condemn the trafficking of women and children across international borders for the purpose of sexual exploitation, and to immediately adopt a comprehensive strategy to combat the trafficking of persons worldwide. Honourable senators, it has been three years since that motion passed unanimously and nothing has been done about it. No strategy has been developed.

It is not as though we do not have many examples to guide us along the way. A great framework to follow was laid down in 2007 in the House of Commons in the Status of Women Committee report. By the way, Joy Smith was vice-chair of that committee, as well. It was entitled *Turning Outrage into Action to Address Trafficking for the Purpose of Sexual Exploitation in Canada*.

• (1610)

In that report, they did not call for mandatory minimum sentences. Instead, they said that the major barrier to combating trafficking in Canada resulted from the failure to enforce the laws that Canada currently has. They found that the lack of education about human trafficking in the police forces and in the judiciary was the main culprit for this problem.

The committee, therefore, recommended that the federal government consult with national and provincial bar associations to establish a strategy to increase the legal community's awareness of victims of trafficking, and to improve and encourage continuing legal education relating to trafficking in persons.

The committee also recommended that all levels of government should increase funding to the police and the judiciary to better investigate and prosecute cases of human trafficking. That is what came from the Status of Women committee report and its vice-chair, Joy Smith.

We could also learn from the United Kingdom, a country that has a national action plan and which was identified by witnesses as doing well in combating human trafficking. The U.K. action plan focuses on covering the broad areas of prevention — prevention is very important here as we do not want more of these incidents to happen — investigation, law enforcement, prosecution and providing protection and assistance to victims.

The plan sets out a number of action points, with timetables for implementation. They view this as a balanced approach that addresses the need of victims, prosecutes the offenders, and tries to prevent the crime in the first place.

Furthermore, honourable senators, even though they have substantially more data on convictions than we do — I mentioned the figure of 110 — and have reviewed their action plan twice since it was introduced in 2007, guess what? They do not have mandatory minimum sentences.

Honourable senators, in conclusion, human trafficking is a reprehensible crime. We need to make sure that the victims are safe, secure and in a state where they can rebuild their lives; and we need to effectively prosecute, punish, but also rehabilitate offenders. Let us not forget that.

It was said in committee that maybe we should just lock them up and not worry about them; but if we care about the victims, then we must care about preventing new ones. Offenders will be back on the street again after their prison time is up, whether there are mandatory minimums or not, and we do not want them to reoffend. Therefore, we should be interested in rehabilitation.

I believe, honourable senators, that this bill has good intentions, but it has the wrong conclusion.

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

The Hon. the Speaker *pro tempore***:** I regret to inform the honourable senator that his time is up. Are honourable senators agreeable to an extension of five minutes?

Hon. Senators: Agreed.

Senator Cordy: I thank the honourable senator for an excellent speech. Yesterday, I mentioned in my speech that I also do not believe that mandatory minimum sentences work. I hope that this bill helps, but I am doubtful that mandatory minimum sentences will help.

The honourable senator did an excellent job of describing why mandatory minimum sentences do not work. He said that perpetrators do not think about mandatory minimum sentences when they are planning a crime. I believe that is probably true for any kind of crime, but particularly in this case, because, with trafficking, the chances of their getting caught, charged and convicted are minimal. We know that last year, the only ones who were found guilty and convicted were the ones who actually entered a guilty plea.

He also talked about our judicial system. We have the best judicial system in the world and yet we are not allowing judges to have any leeway whatsoever, or any discretion. He talked about the example where some of the victims actually became traffickers, and we have done nothing in order to help these people. I would think if we have the best judicial system in the world, then we should allow our judges to have some discretion.

One of the things the honourable senator did not mention, which I also heard at the committee, was that sometimes mandatory minimum sentences become maximums. We do know that if someone has been found guilty of such a heinous crime as trafficking those under the age of 18, then we would not like what started off as a mandatory minimum sentence to become a maximum penalty that they should receive. At least, I do not believe it should become a maximum penalty. Could the honourable senator comment on that?

Senator Eggleton: I thank the honourable senator for the summary.

Yes, there is that risk. What is important here is to look at the victims, both in terms of the ones who have been victims and the ones we want to prevent from becoming victims. That is why a strategy and an action plan such as they have in the U.K. is the kind of thing we really need to have.

The Crown counsel representative — I think to the surprise of some members of the committee — said that if there are mandatory minimum sentences, then there will not be as many guilty pleas because they will fight it. If it is five years, they will fight it. That is where it brings into play the fact that some of these victims have been so stressed and it has been such a traumatic experience for them that the Crown's counsels are concerned that they will not be able to get a conviction if it goes to trial. The way it is now — as they have in the three cases involving people under 18 — they are able to work out a plea bargain to not put those victims through that situation.

We need to make sure, as has been done in the U.K., that the judges and the prosecutors appreciate the fact this is a serious crime and we have to get the appropriate penalties. However, we must leave some flexibility in the system, so we do not re-victimize those victims and we do not put them through that terrible, stressful condition if it is felt that they cannot go through it. Leave that kind of flexibility in the court.

We have the best court system anywhere. It is not infallible; they make mistakes — that is why we have an appeal process. However, I think our system is quite capable of handling it and we will handcuff them if we put in mandatory minimum sentences, and we risk that very kind of thing happening — where the minimum could become the maximum.

The Hon. the Speaker *pro tempore***:** Honourable senators, it being 4:15 p.m., pursuant to the order adopted by the Senate on June 15, 2010, I declare the Senate continued until Thursday, June 17, 2010 at 1:30 o'clock, the Senate so decreeing.

(The Senate adjourned until Thursday, June 17, 2010, at 1:30 p.m.)

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