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(HANSARD)

**Monday, December 13, 2010**



THE HONOURABLE NOËL A. KINSELLA  
SPEAKER

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## THE SENATE

Monday, December 13, 2010

The Senate met at 6 p.m., the Speaker in the chair.

Prayers.

[Translation]

### SENATORS' STATEMENTS

#### THE LATE MR. MARTIAL THIBODEAU

**Hon. Percy Mockler:** Honourable senators, Senator Poirier joins me in paying tribute to an extraordinary man from Acadia, my friend, our friend, a proud Acadian and New Brunswicker, Martial Thibodeau, who passed away on Sunday, December 5, after a long and courageous battle with cancer.

Honourable senators, Martial believed that culture was the soul of the people and the greatest gift a community could give the world. He often said that Acadian culture is an invaluable asset to the people of Canada.

Mr. Thibodeau had several jobs. He worked for the Société de l'Acadie du Nouveau-Brunswick and Télé-Acadie. However, many people will remember him as the director and coordinator at Le téléjournal/Acadie for nearly 28 years.

We will also remember Martial as a great Acadian and a staunch defender of the Acadian cause, Acadian culture and the Acadian people.

Shortly before he passed away, he bravely agreed to make a television appearance on Radio-Canada, where his calm and great courage were obvious. His message was surely a source of inspiration for people facing cancer.

I extend my deepest sympathies to his wife, Cécile; his two sons, Christian and Ghislain; and his granddaughter, Makayla. Our thoughts and prayers are with you at this difficult time.

Martial, as we say back home, you earned your laurels, and we thank you, Acadia's son.

[English]

#### IMMIGRATION AND DIVERSITY

**Hon. Donald H. Oliver:** Honourable senators, I rise today to call your attention to an interesting article published recently in *The Globe and Mail* entitled "Conservative immigrants boost Tory fortunes." In this October 4 article, journalists John Ibbotson and Joe Friesen stated that the Conservatives "have embraced diversity with fervour."

[Translation]

These journalists show how the Conservative Party has become more popular with immigrant communities and visible minorities, especially in the suburbs of major Canadian cities.

As Minister Jason Kenney says, "We are becoming more competitive as the party of choice for first-generation Canadians and newcomers."

[English]

*The Globe and Mail* article showed that, in the October 2008 general election, the Conservative Party won six new seats in ridings where visible minorities account for more than 20 per cent of the population. For years, these ridings were the domain of the Liberals. They said the Conservatives have also closed the gap in several key urban ridings in Toronto and Vancouver. Only two weeks ago, Conservative member of Parliament Julian Fantino won the November 30 by-election in Vaughan, outside of Toronto.

The 2006 Census showed that the electoral district of Vaughan has a population of 154,215. Visible minorities represented more than 25 per cent of the population. This win is further proof that the Conservative ideals are appealing to visible minorities and to new Canadians. A poll conducted by the Canadian Election Study, the premier academic survey on Canadian public opinion and voting behaviour, shows that one third of immigrants voted for the Conservative Party in 2008, and the Liberal Party's popularity dropped 17 percentage points between 2000 and 2008.

To this study, Stuart Soroka, a McGill University political scientist, said, "There is definitely a shift under way." According to University of Guelph sociologist Linda Gerber, who specializes in ethnic voting trends, the Conservative Party's success stories in ridings with a strong percentage of visible minorities and new Canadians are credited to the Conservative Party's ethnic outreach campaign.

Honourable senators, I have been a Conservative all my life and a member of the Conservative Party for more than 50 years. As a visible minority, I have made it a priority throughout my life to reach out to visible minorities and new Canadians and invite them to join our party. Today, more than ever, we are getting results.

• (1810)

Honourable senators, *The Globe and Mail* article tells us that new Canadians and visible minorities have found a home in the Conservative Party. Canada's minorities may well hold the key to a Conservative majority government. Our party is committed to embracing and respecting these communities and engaging them in the political process.

#### SKI PATROL HEROES

**Hon. Consiglio Di Nino:** Honourable senators, I quote from a letter by Mr. Sean Hirtle:

If it wasn't for the quick and selfless actions of two skiers Saturday, I wouldn't be writing this letter today.

December 4 was one of the best early season days in recent memory, tons of fresh snow, cold temperatures and blue sky. After two quick groomers I waited about 45 minutes for the Harmony Chair to open for the season; I was sixth in line which meant I'd be on the second chair up the hill.

After we dismounted the chair I headed to Harvey's, my buddy headed further right towards Robertson's. This is an area we have skied hundreds of times over the last 30 years.

As I headed towards the last pitch on Harvey's my downhill ski released prematurely; before I could react I found myself head down in a tree well. I knew I was in trouble immediately. My buddy was nowhere near me and I was completely immobilized. Upside down, snow began to fill around my face. I knew the seriousness of the situation. As I struggled I became more and more immersed, snow began to fill my gasping mouth. I wondered how long it would be before I blacked out. I knew the expanse of the area and I knew the chance of rescue was slim. I knew I was dead. I thought, "Is this how it happens?". . . . I thought of my parents and my girlfriend Taryn, I couldn't believe I was going to put them through this.

The next thing I remember is being awoken from a deep sleep by the yelling of some stranger. I was disoriented, blood was dripping from my lip. After several moments, I collected my breath and thoughts. I realized that the two men attending to me had pulled me from the tree well. I was alive. It's impossible to describe the feeling of waking up to find you are alive. . . .

My rescuers later told me I was blue, non-responsive and lifeless when they pulled me out. . . . The attending physician speculated that they discovered me anywhere from 5 — 15 minutes after I passed out.

These two men, Brad Tkachuk and Eamon Sallom, are heroes. It must have taken great physical exertion, strength and effort to free me. The snow was deep, the terrain steep, I question whether a less competent duo would have been successful. The actions of these two men saved my life, they are heroes, no other way to put it. They risked their own welfare by rescuing me. . . . If it wasn't for having two healthy, strong, snow-smart saviours, I wouldn't be writing this letter today. . . . You understand the magnitude of the situation when the Ski Patrollers are shaking their heads and calling me the luckiest guy on the hill. . . .

I want to acknowledge the efforts of Brad Tkachuk and Eamon Sallom. These men need to be commended for their actions. They have an open tab with me at Après.

Honourable senators, Brad Tkachuk and Eamon Sallom need to be recognized. Brad is the son of my seatmate, Senator David Tkachuk. To Brad and Eamon, we say well done and thank you very much.

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[ Senator Di Nino ]

## ROUTINE PROCEEDINGS

### STUDY ON MOTION TO ENCOURAGE THE MINISTER OF NATIONAL DEFENCE TO CHANGE THE OFFICIAL STRUCTURAL NAME OF THE CANADIAN NAVY

FIFTH REPORT OF NATIONAL SECURITY AND  
DEFENCE COMMITTEE PRESENTED

**Hon. Pamela Wallin**, Chair of the Standing Senate Committee on National Security and Defence, presented the following report:

Monday, December 13, 2010

The Standing Senate Committee on National Security and Defence has the honour to present its

#### FIFTH REPORT

Your committee, which was authorized by the Senate on Tuesday, October 5, 2010 to examine and report on, Motion No. 41 by the Honourable Senator Rompkey, P.C, seconded by the Honourable Senator Fraser,

"That the Senate of Canada encourage the Minister of National Defence, in view of the long service, sacrifice and courage of Canadian Naval forces and personnel, to change the official structural name of the Canadian Navy from 'Maritime Command' to 'Canadian Navy' effective from this year, as part of the celebration of the Canadian Navy Centennial, with that title being used in all official and operational materials, in both official languages, as soon as possible", now reports as follows:

**Your committee recommends that the Senate adopt an amended version of the motion reading as follows:**

"That the Senate of Canada encourage the Minister of National Defence to change the official structural name of 'Maritime Command' to a new name that includes the word 'Navy'."

Respectfully submitted,

PAMELA WALLIN  
*Chair*

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

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

#### CRIMINAL CODE

##### BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-30, An Act to amend the Criminal Code.

(Bill read first time.)

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

[Translation]

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

#### CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

ANNUAL MEETING OF WESTERN GOVERNORS'  
ASSOCIATION, JUNE 27-28, 2010—REPORT TABLED

**Hon. Janis G. Johnson:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Western Governors' Association annual meeting, held in Whitefish, Montana, from June 27 to 28, 2010.

ANNUAL MEETING OF NATIONAL GOVERNORS  
ASSOCIATION, JULY 9-11, 2010—REPORT TABLED

**Hon. Janis G. Johnson:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the annual meeting of the National Governors Association, held in Boston, Massachusetts, from July 9 to 11, 2010.

ANNUAL MEETING OF SOUTHERN LEGISLATIVE  
CONFERENCE—COUNCIL OF STATE GOVERNMENTS,  
JULY 31-AUGUST 3, 2010—REPORT TABLED

**Hon. Janis G. Johnson:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the sixty-fourth annual meeting of the Southern Legislative Conference—Council of State Governments, held in Charleston, South Carolina, from July 31 to August 3, 2010.

ANNUAL MEETING OF MIDWESTERN LEGISLATIVE  
CONFERENCE—COUNCIL OF STATE GOVERNMENTS,  
AUGUST 8-11, 2010—REPORT TABLED

**Hon. Janis G. Johnson:** Honourable senators, I have the honour to table, in both official languages, the report of the Canada parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the sixty-fifth annual meeting of the Midwestern Legislative Conference—Council of State Governments, held in Toronto, Ontario, from August 8 to 11, 2010.

ANNUAL MEETING OF COUNCIL OF STATE  
GOVERNMENTS—EASTERN REGIONAL CONFERENCE  
AND REGIONAL POLICY FORUM,  
AUGUST 15-18, 2010—REPORT TABLED

**Hon. Janis G. Johnson:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the fiftieth annual meeting of the Council of State Governments Eastern Regional Conference and Regional Policy Forum, held in Portland, Maine, from August 15 to 18, 2010.

#### CANADA-FRANCE INTERPARLIAMENTARY ASSOCIATION

ANNUAL MEETING,  
AUGUST 29-SEPTEMBER 4, 2010—REPORT TABLED

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation to the Canada-France Interparliamentary Association, respecting its participation at the 37th annual meeting, held in Edmonton and Calgary, Canada, from August 29 to September 4, 2010.

• (1820)

[English]

#### FISHERIES AND OCEANS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE  
TO DEPOSIT REPORT ON STUDY OF ISSUES RELATING  
TO FEDERAL GOVERNMENT'S CURRENT AND  
EVOLVING POLICY FRAMEWORK FOR MANAGING  
FISHERIES AND OCEANS WITH CLERK  
DURING ADJOURNMENT OF THE SENATE

**Hon. Bill Rompkey:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, the Standing Senate Committee on Fisheries and Oceans, which was authorized on Thursday, March 25, 2010 to examine and report on issues relating to the federal government's current and evolving policy framework for managing Canada's fisheries and oceans, be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate an interim report, on Canadian lighthouses, by December 23, 2010, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Senate.

#### QUESTION PERIOD

##### HEALTH

##### TOBACCO PRODUCTS

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, I want to return to a matter that the leader and I have discussed previously, the question of labelling on cigarette packages.

Last week the leader was very clear that the CBC and *The Globe and Mail* were wrong when they reported that the government had announced at a meeting of provincial health ministers that it had suspended action to update warning labels on cigarette packages. What about provincial health ministers; are they wrong, too?

Jim Rondeau, the Manitoba Minister of Healthy Living, Youth and Seniors, was at a closed-door meeting where Health Canada announced that it was backing down from updated warning labels. He is on the public record saying that they were told that the government was shelving the plan.

“The question was asked ‘Why’ multiple times,” Rondeau said. “The response was they were going to focus on contraband.”

It is not only Manitoba. Last Thursday, Dr. Robert Strang, the Chief Public Health Officer from Nova Scotia, my province, testified before the Health Committee in the other place. He said:

Provincial and territorial governments remain puzzled as to why the initiative to renew health warnings was stopped at the last minute, with no consultation.

It’s also extremely disappointing to learn that the tobacco industry was informed about Health Canada’s decision several months before provincial/territorial partners or the tobacco control community.

One has to wonder what role the tobacco industry played in the decision not to move ahead with the renewal of health warning labels on tobacco packages.

I have spoken to senior people in the Government of Nova Scotia who confirm that provincial ministers went into the meeting in September believing that renewed labels were a go and they left with the understanding that the federal government had dropped this initiative.

If the government is now telling the public that no decision has been made on the issue, why did it tell the tobacco industry and the provinces the very opposite many months ago?

**Hon. Marjory LeBreton (Leader of the Government):** I thank the honourable senator for the question. My colleague, Minister Aglukkaq, the Minister of Health, dealt with these issues and answered these questions in the other place last week, and I suppose again today, although I did not see Question Period today.

I will put on the record again that our government is committed to a comprehensive, innovative and integrated strategy to reduce smoking rates in Canada, address the issue of contraband and prevent young Canadians from smoking in the first place. We are already taking action on many fronts, as I have said before. For example, we provide \$15.7 million in anti-tobacco strategy funding. The Cracking Down on Tobacco Marketing Aimed at Youth Act, which recently came into force, will make it harder for industry to entice young people to use tobacco products. Additionally, health warning labels are still under review and, as the Minister of Health has stated in the other place, an announcement will be made soon.

There is nothing further for me to add to this. That is the position of the government. Repeating information from newspapers or from private meetings does not change the fact that the government’s policy is just as I stated.

**Senator Cowan:** Honourable senators, let me get this clear. Is the leader saying that the updating of labels on cigarette packaging is still government policy and is still under active consideration?

**Senator LeBreton:** I am saying that additional health warning labels are still under review and that an announcement will be made soon.

**Senator Cowan:** Therefore, the government has changed its position from the September meeting when it was clear, as we have it from two sources, Nova Scotia and Manitoba, that —

**Senator Stewart Olsen:** Oh, oh.

**Senator Cowan:** I am sorry, Senator Stewart Olsen. As far as I know, you are not the Leader of the Government yet. You may be some day, but you are not now. In the meantime, the practice of this place is that I direct questions to the Leader of the Government in the Senate and she responds.

**Senator Stewart Olsen:** Oh, oh.

**Senator Cowan:** Senator Stewart Olsen, you should wait your turn.

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

**Senator Cowan:** Despite the chirping from the back row, my question is this: We have two provinces —

You may find this funny, Madam Minister, but it is not. This is a very serious matter for Canadians.

The leader shakes her head, but the Minister of Health clearly told at least two provinces at that meeting in September that the program was being suspended. I am only asking the leader to confirm today that that is not the case.

**Senator LeBreton:** I was shaking my head in wonderment as to what could possibly have happened to senators over the past couple of weeks that has put them in such a foul humour.

I was not at the meeting, and I will not answer questions about a meeting that I did not attend. I can only say, as I said last week and as I will repeat every time I am asked this question, additional health warning labels are still under review, as the minister has stated, and an announcement will be made soon.

**Senator Cowan:** Honourable senators, between 2000 and 2005 there was a clear decrease in the rate of smoking among Canadians. Since 2005, the decline in smoking has stalled. The Conservative government points repeatedly to Bill C-32, which contained amendments to the Tobacco Act and was passed with the support of all parties last year. The government said that the purpose of those amendments was to make it harder for industry to entice young people to use tobacco products, an objective that we all support.

We have heard reports in the last couple of weeks, including some from government agencies, that tobacco companies have already found their way around these new regulations. For

example, the companies apparently have made some cigars that were caught by those regulations slightly larger, and presumably more dangerous, and have removed the filters from them. In this way they have been able to evade the regulations. The Prime Minister and the Health Minister have acknowledged these problems and have indicated that they intend to move to remedy them.

These successful attempts to circumvent the regulations were brought to light in the spring, I believe. When does the government intend to take the necessary action to close those loopholes?

**Senator LeBreton:** Honourable senators, as I pointed out last week, it was under a Conservative government that warning labels were first put on cigarette packages. There is the smoking cessation program of Health Canada and other programs of the government, including the programs that we have brought in since we formed the government, plus the effort we are putting into dealing with the issue of contraband tobacco. Of course, industry always looks for ways around new regulations.

Like any responsible government, we intend to do everything we can to ensure that the use of tobacco remains at low levels, as it fortunately is now. Health Canada warning labels are under review. As I mentioned a moment ago, an announcement with regard to this will be made as soon as possible.

**Hon. Grant Mitchell:** The minister has recited a list, which she is good at doing, of what the government is doing at a good deal of expense to Canadian taxpayers. She says that they may be reconsidering labelling, but we have never heard why the government would be so reluctant to have these warnings on cigarette packages. Why would the government not decide in 15 seconds to do that? Why would there be any doubt that the government would want to force the tobacco companies to put stronger, more rigorous and more aggressive warnings on their packaging? Why would it be so difficult to do that?

• (1830)

**Senator LeBreton:** First, the premise of the honourable senator's question is completely false. The government is not reluctant at all. We have brought in many measures including the legislation we introduced to deal with the serious issue of tobacco products being made available to young Canadians.

As I pointed out a few moments ago, warning labels were put on tobacco products by a Conservative government. Additional health warning labels are under review at the present time and an announcement will be made soon. Senator Mitchell should remove any thought from his head that we are reluctant to add warning labels. That is not the case at all.

**Senator Mitchell:** The proof is in the pudding.

**Hon. Sharon Carstairs:** The first time we raised this issue with the honourable minister, Senator Mitchell was accused of making things up and I was accused of shouting at the minister. We now learn that \$496,000 of taxpayers' money was distributed to provinces for them to develop ways to respond to the Quit Line, which was part of this enhanced advertising.

Why did this government distribute nearly half a million dollars to the provinces if they were not intending to go through with it?

**Senator LeBreton:** My answer is the same, honourable senators. Additional health warning labels are under review and an announcement will be made soon.

**Senator Carstairs:** Will the new labelling have within it a Quit Line so that Canadians who want to give up this dreadful habit have the opportunity to contact people who can help them quit?

**Senator LeBreton:** I will take the honourable senator's question as notice, because I am not privy to the exact wording for any proposed changes or additions to the advertising on packages.

[Translation]

## NATIONAL DEFENCE

### CIVILIAN PERSONNEL IN AFGHANISTAN

**Hon. Roméo Antonius Dallaire:** Honourable senators, my question is for the Leader of the Government in the Senate and is regarding Afghanistan.

I would like to talk about a point that came up last week. I noticed the leader engaging in some mudslinging when I said that I wanted to discuss a clear issue and she responded by talking about Bill S-35, which had absolutely nothing to do with my question. I found the answer redundant and even incorrect.

[English]

When I was director of army requirements, what scared me the most in those days was a general walking around with a glossy brochure, saying, "I want 12 of these things." However, what scares me even more is when I have a Minister of National Defence standing in front of a cardboard mock-up, saying, "I want 65 of those things."

Maybe when I see the operational effectiveness of the system and its project management process, I will be more inclined to look at that weapon system for what it is worth.

I come back to the question about the Canadian Afghan advisers with the troops overseas. The minister said she would look into this matter, since the ruling did not permit the advisers to continue to be employed after three months.

We have heard continuously that the government has taken major steps in terms of whole-of-government solutions to our needs, particularly in Afghanistan. There are four different task forces. This is an operational essential that can have an impact on the security of troops in the field. I cannot understand, if there is a whole-of-government approach, why the government has not anticipated this need. Why is it that we will lose that capability and present risks on the ground before a solution is brought forward, for something that is so mundane administratively?

**Hon. Marjory LeBreton (Leader of the Government):** The only reference was a comment that the honourable senator made following the question of his colleague Senator Moore. That is the only reason I brought F-35 into the discussion.

As I indicated, I have read about, and I am aware of, the situation. I indicated to the honourable senator that I would request a written response from the department, and I cannot add further to that answer today. The operational facilities of the Department of National Defence and all its components are complex. When the honourable senator asks specific questions like that one, obviously I will not delve into areas that are operational in nature for the Armed Forces. I indicated to the honourable senator that I would request a written response. I have done so, and I expect we will hear from the department shortly.

#### MILITARY FAMILY SUPPORT CENTRES

**Hon. Roméo Antonius Dallaire:** Honourable senators, my next question is also focused on Afghanistan and operational effectiveness. We are at war and we have troops in the field, and that operational effectiveness should be an element of keeping us ahead of the game rather than behind the game. We now have over 2,000 troops deployed in the field from Valcartier. The Military Family Resource Centre on that base is now restrained in its funding to the 2007 level and must absorb the increases in pay simply through the annual requirements of pay increases. To do so, they have to fire 10 people at a time when the centre most needs these capabilities to support the families and troops.

Is there a disconnect in this concept of “whole of government” in responding to our operational effectiveness? I have read all these reports. I still do not understand why four different task forces are responding to this. That is why we seem to end up with these disconnects that have a direct impact on the troops in the field, troops that the government says it supports.

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I do not believe there is a disconnect. However, I will take the question as notice. I checked with my colleague. I was certain I had seen a written response to the honourable senator’s question of last month, and of course that response will be given following Question Period.

#### NATURAL RESOURCES

##### POINT LEPREAU NUCLEAR GENERATING STATION HEARINGS

**Hon. Michael A. Meighen:** Honourable senators, my question is for the Leader of the Government in the Senate.

The Canadian Nuclear Safety Commission recently announced that it will hold a critically important hearing on the future of the Point Lepreau nuclear power plant on January 19, 2011. That is the good news. The bad news is that the hearing is scheduled to be held in the commission’s office in Ottawa, Ontario.

This hearing will decide whether to extend the licence for the Point Lepreau reactor, an issue that is obviously of vital importance to the people of southwestern New Brunswick and, indeed, of the entire province. Holding this hearing in Ottawa would virtually exclude meaningful participation by most New

Brunswick interest groups, volunteer organizations, small municipalities and ordinary citizens, all of whom have a vitally important stake in this decision.

Will the minister speak to her colleague, the Minister of Natural Resources, and bring this iniquity to his attention? Better still, will she use her good offices to endeavour to persuade him to have the location of the hearing changed from Ottawa to Saint John, so that those most affected by the decision will be able to participate directly? Surely the hearing on the future of a reactor should be held in the province where it is located.

**Hon. Marjory LeBreton (Leader of the Government):** I thank the honourable senator for his interest. This is an area with which he is familiar. Even though he is an Ontario senator, he is a transplanted New Brunswicker, like many senators here.

As the Canadian Nuclear Safety Commission operates at arm’s length, it alone chooses the time and place of its hearings. That being said, I am informed that the hearings taking place in January pertain to a one-year extension of New Brunswick Power Corporation’s existing operating licence so that it may continue with already approved refurbishment activities that are scheduled to continue beyond the current licensing date.

Further hearings will need to be held in order for New Brunswick Power to generate power once again at Point Lepreau. I am happy to inform the honourable senator that the commission is looking to hold future hearings in Saint John, and I imagine the commission would welcome the views of the honourable senator in this regard.

• (1840)

[Translation]

#### INDUSTRY

##### 2011 CENSUS

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** We learned recently that university researchers will have to rely more on the private sector to obtain the data they need, because of the Conservative government’s decision to make the long-form census voluntary. A number of researchers will have to use their federal grant money to obtain data from private businesses, which adds not only to the financial burden on colleges and universities, but also to the support that the federal government will have to provide.

Research budgets at post-secondary institutions are small enough as it is. Could the leader tell us whether her government will increase subsidies to federal grant agencies when Canadian colleges and universities can no longer support the financial burden to purchase data, a responsibility that falls under her jurisdiction?

[English]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, the government has increased funding to a wide variety of areas for post-secondary education.



With regard to the census, I point out yet again that the decision of the government is final. We will have a short-form mandatory census, and we will have a voluntary household survey that will cover more people and have the same questions. We expect the response will be remarkable and that the information gleaned from that long-form household survey, which contains the same number of questions asked in the mandatory long-form census but with a wider distribution, will provide all the information required for the various organizations that are required to use it.

[Translation]

**Senator Tardif:** Honourable senators, many researchers have expressed serious concerns about the government's decision to make the long-form census voluntary. Ellen Goddard, a professor of rural economics at the University of Alberta, even believes that some researchers will never receive funding and that they will have to spend more time applying for additional grants, rather than focusing on research.

University research is a vital engine of the Canadian economy. How does the government plan to ensure funding for university researchers who will have to spend more time and money collecting data given that the 2011 Census data will be of no use to them?

[English]

**Senator LeBreton:** To set the record straight, we have increased funding of three granting councils by an average of 20 per cent since 2005-06. We have also created new programs, such as the Canada Excellence Research Chairs and the Vanier Canada Graduate Scholarships. Canada is ranked number one in the G7 for supporting basic, discovery-oriented university research. Our science and technology strategy, which was launched in 2007, helps create jobs, improve quality of life for Canadians and build a stronger economy for future generations.

I remind the honourable senator that the record of the former Liberal government was to cut funding for science and technology by \$442 million in the mid-1990s. Therefore, we do not take a back seat to anyone with regard to support for our universities and research and development.

**Senator Tardif:** The Leader of the Government in the Senate has avoided the question and has not provided a suitable answer.

Let us sidestep here and speak about another complaint, this time from Aboriginal organizations and chiefs from Atlantic Canada. Their complaint is that questions about ethnicity and ancestry were changed in the 2011 long-form questionnaire. The new National Household Survey uses the term "First Nations" when asking whether a person is Aboriginal. Is that person an Aboriginal person; that is, First Nations, North American Indian, Metis or Inuit?

The complainants balk at the use of the term "First Nations," viewing it as an attempt to lower the number of respondents who identify as Aboriginals by suddenly excluding those who live off of the reserve. Is that the intent of the leader's government?

**Senator LeBreton:** First, the honourable senator has raised the issue with regard to First Nations people in Atlantic Canada, and as she has pointed out, it is before the courts and I, of course, cannot respond.

[Translation]

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I have the honour to present two answers to oral questions, the first by Senator Dallaire on November 2, 2010, concerning Citizenship and Immigration, personal information disclosure; and the second by the Honourable Senator Chaput on November 23, 2010, concerning Citizenship and Immigration, the French language and immigration services.

## CITIZENSHIP AND IMMIGRATION

### PERSONAL INFORMATION DISCLOSURE OF VISA APPLICANTS

(Response to question raised by Hon. Roméo Antonius Dallaire on November 3, 2010)

The questions on the new Temporary Resident Visa (TRV) application form are consistent with the objectives in the *Immigration and Refugee Protection Act*. This new TRV application form standardizes the various questions that have been asked before to ensure a consistent approach worldwide and eliminate the need for country-specific forms. Questions pertaining to the specifics of military service are asked in the accompanying document to the temporary resident form, Schedule 1, and have been requested in the previous version of the Schedule 1 application form for some time. Temporary resident applicants from a number of countries have been asked questions regarding military, security and political activities to ensure that officers have adequate information to determine admissibility to Canada. Visa officers outside Canada review Temporary Resident Visa applications and make their decisions based on review criteria outlined in the Act and its accompanying Regulations.

Under section 35 of the *Immigration and Refugee Protection Act*, a permanent resident or a foreign national is inadmissible on grounds of violating human or international rights for committing an act outside Canada that constitutes an offence referred to in sections 4 to 7 of the *Crimes Against Humanity and War Crimes Act*.

CIC relies on the expertise of CBSA to make decisions on section 35 cases. Children are a uniquely vulnerable population in regards to armed conflict and great care is taken when processing applications. Factors to be taken into consideration include conditions such as intoxication and duress, the age of the child when the crimes were committed, as well as a determination of whether the child possessed criminal intent in committing crimes against humanity and war crimes. In some cases, there may be compelling reasons for an officer to issue a Temporary Resident Permit to allow a person who does not meet the requirements of the IRPA to enter or remain in Canada.

**Annexes (2)**

- Application for Temporary Resident Visa made outside of Canada
- Schedule 1, Application for a Temporary Resident Visa Made Outside of Canada

(For text of Annex, see Appendix, p. 1625.)

**JUSTICE****FRENCH LANGUAGE AND IMMIGRATION SERVICES**

(Response to question raised by Hon. Maria Chaput on November 23, 2010)

The question arises as a result of an article published in *La Presse* on November 18, 2010. In the article the author makes several allegations. This response addresses the allegations by subject.

The IRB is the largest administrative tribunal in Canada and is a vital part of the immigration and refugee system. The IRB is committed to meeting the obligation set out in the *Official Languages Act* (OLA) to provide services in both of Canada's official languages.

**Language of Proceedings**

Every person who appears before the IRB has the right, under the OLA and the *Canadian Charter of Rights and Freedoms*, to choose the official language of the proceeding. The IRB is legally obligated to respect this choice. In addition, the IRB does not process a case until it has received all documents in the language of the proceeding. If a document is to be submitted that is not in the language of proceedings, the IRB requires that it be translated into the language of proceeding, in accordance with the Board's rules of practice.

**Unilingual Anglophone Members in Quebec**

In Montreal, we currently have 53 members: 43 are designated bilingual, 8 are unilingual francophones, and 2 are unilingual anglophones. Cases are assigned to members according to the language of the proceeding chosen by the person appearing before the tribunal. The Refugee Protection Division in Montreal rendered 6,013 decisions in 2009, 68% of which were in French and 32% in English, in accordance with the language chosen by the refugee claimant.

The Immigration Appeal Division in Montreal rendered 1,500 decisions in 2009, 49% of which were in English and 51% in French, while the Immigration Division in Montreal rendered 1,842 decisions, of which 54% were in English and 46% were in French. Again, this is in accordance with the language chosen by the person concerned or the appellant.

**Quality of Interpretation in IRB Proceedings**

Quality interpretation is very important to having fair hearings at the IRB. The IRB takes interpretation issues very seriously. Currently, the IRB in Montreal has access to

the services of 228 interpreters. The IRB makes all efforts to find an interpreter who can speak not only the language but the dialect of the person in the proceedings. The interpreter and person appearing before the Board speak for a few minutes before the start of the hearing and the person appearing and interpreter are asked if they understand each other.

On occasion an interpreter may not speak the same dialect as the person before the IRB, or they may have other difficulties communicating. In these cases the IRB makes efforts to find another interpreter. If counsel or claimant has concerns about the quality of interpretation, he or she can make an immediate request for an adjournment in order to find another interpreter.

**Language of Port of Entry Notes**

Finally, the language in which an officer at a port of entry writes a report in no way determines the language of the proceeding before the IRB. This choice is made by the person concerned, generally in consultation with his or her consultant or lawyer.

**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-58; third reading of Bill S-10; third reading of Bill C-36, followed by other items as they appear on the Order Paper.

[English]

**APPROPRIATION BILL NO. 4, 2010-11****SECOND READING**

**Hon. Elizabeth (Beth) Marshall** moved second reading of Bill C-58, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2011.

She said: Honourable senators, the bill before you today, Appropriation Act No. 4, Bill C-58, provides for the release of supply for Supplementary Estimates (B) and now seeks Parliament's approval to spend \$4.4 billion in voted expenditures. These expenditures were provided for within the planned spending set out by the Minister of Finance in its March 2010 budget.

Supplementary Estimates (B) was tabled in the Senate on November 4, 2010, and referred to the Standing Senate Committee on National Finance. These estimates are the second supplementary estimates for the fiscal year that ends on March 31, 2011.

The first, Supplementary Estimates (A), was approved in June 2010. Supplementary Estimates (B) 2010-11 was discussed in some detail with Treasury Board Secretariat officials during their appearance before the Standing Senate Committee on National Finance on November 23, 2010. Supplementary Estimates (B) reflects \$3.1 billion in budgetary spending, which consists of \$4.4 billion in voted appropriations and a decrease of \$1.2 billion in statutory spending.

The \$4.4 billion in voted appropriations requires the approval of Parliament and includes such major budgetary items as \$649 million for funding to continue the implementation of the investment plan in support of the Canada First Defence Strategy; \$308 million for funding for specific claims settlements in the Department of Indian and Northern Affairs; \$294 million for funding of awards to claimants resulting from the Independent Assessment Process and Alternative Dispute Resolution related to the Indian Residential Schools Settlement Agreement, including other settlement agreement costs that directly benefit claimants; and \$294 million for funding to meet operational requirements such as ensuring continued isotope production, health and safety upgrades, new-build reactor technology development, refurbishment and project shortfalls and one-time employee reduction costs for the Atomic Energy of Canada Limited.

There is also \$184 million of funding for the Municipal Rural Infrastructure Fund to support smaller-scale municipal infrastructure, such as water and wastewater treatment, and cultural and recreation projects in the Office of Infrastructure Canada. There is also \$173 million of funding to support maternal, newborn and child health programming activities in developing countries under the Canadian International Development Agency.

In addition, there is \$166 million of funding for the Building Canada Fund, consisting of a major infrastructure component relating to larger and strategic projects of national and regional significance in the Office of Infrastructure Canada. There is also \$162 million of funding for the Canada Strategic Infrastructure Fund to support large-scale projects of major federal and regional significance in areas that are vital to sustaining economic growth and enhancing the quality of life of Canadians, also in the Office of Infrastructure Canada.

There is \$137 million for compensation adjustments, which are transfers to departments and agencies for salary adjustments, for retroactive pay for the period prior to April 1, 2010, in the Treasury Board Secretariat.

• (1850)

In addition, in the Department of National Defence, there is \$112 million for funding for major capital projects. There is also \$102 million for funding for the Gas Tax Fund to support environmentally sustainable municipal infrastructure projects that contribute to cleaner air, cleaner water and reduced greenhouse gas. That is within the Office of Infrastructure of Canada.

These supplementary estimates also include a decrease by a net amount of \$1.2 billion in budgetary statutory spending that has previously been authorized by Parliament. Adjustments to projected statutory spending are provided for information

purposes only and are mainly attributable to the following forecast changes: \$2.9 billion for the provision of funds for the enhanced Employment Insurance benefits in accordance with the Budget Implementation Act in the Department of Human Resources and Skills Development; \$590 million for funding to support the Infrastructure Stimulus Fund in order to accelerate and increase the number of construction-ready provincial, territorial and municipal infrastructure projects; \$509 million, for Total Transfer Protection related to fiscal equalization in the Department of Finance; and also a decrease of \$2.9 billion in the revised forecast of the public debt charges in the Department of Finance.

Supplementary Estimates (B) also reflect a decrease of \$809 million in non-budgetary spending, primarily due to a decrease of \$1.1 billion in payments to Export Development Canada to discharge obligations incurred pursuant to section 23 of the Export Development Act, Canada Account, for the purpose of facilitating and developing trade between Canada and other countries in the Department of Foreign Affairs and International Trade. There is \$285 million for payment to the International Finance Corporation in support of the Fast-Start climate change funding initiative.

Honourable senators, Appropriation Act No. 4 seeks Parliament's approval to spend a total of \$4.4 billion in voted expenditures.

**Hon. Catherine S. Callbeck:** Will the honourable senator take a question?

**Senator Marshall:** Yes, I will.

**Senator Callbeck:** Honourable senators, my question concerns the Canada Account, and the money that was given to General Motors and Chrysler. When the government bought the stock, I understand that it wrote it off completely — 100 per cent. Then they readjusted the figure on the books, and then, of course, we had a public offering so that now there is a valuation to put on that stock.

Has the government made that adjustment on the books? That would affect the deficit.

**Senator Marshall:** Honourable senators, I do not know whether that adjustment has been made. It should show up in the Public Accounts of Canada, but I have not seen that yet.

**Senator Callbeck:** Would the honourable senator try to find out and present that to the Senate at a later date?

**Senator Marshall:** Yes, I will endeavour to find the answer to that question, although I am not certain whether it is available at this time.

**Senator Callbeck:** Honourable senators, I have another question in the report relating to the bill to which the honourable senator just spoke, and it is about the savings. It says that the government reviews approximately 25 per cent to 30 per cent of direct public spending in an effort to identify the savings.

Will the honourable senator attempt to find out exactly what those savings are and which department and programs were affected, as well as the amounts? Would she attempt to get that information and present it later?

**Senator Marshall:** Yes, I will endeavour to get that information for the honourable senator and report later.

**Hon. Joseph A. Day:** Honourable senators, I am pleased to contribute to the debate on this bill, and I thank the Honourable Senator Marshall for presenting it and her summary of what appears in it.

The bill is fairly short, and it is in standard form in the body. Attached to it are three schedules that outline where the proposed expenditure of \$4.3 billion would go.

Honourable senators will know that those schedules appear in the supplementary estimates, and that is based on Supplementary Estimates (B). This supply bill, Bill C-58, is based on that Blue Book that was distributed to honourable senators, and we have all had an opportunity to look at it, some of us in more detail than others have. In particular, the senators on the National Finance Committee have had an opportunity to look at the supplementary estimates.

Honourable senators will recall on Thursday of last week when we were sitting that I filed our seventh report on behalf of the Standing Senate Committee on National Finance, and that report outlines what the National Finance Committee found during its preliminary study of the supplementary estimates.

It is our practice not to send this particular Bill C-58 to committee because we have already studied the subject matter. It has been referred to us through the supplementary estimates. It is also our practice here, honourable senators, to study, debate and pass the report before we ask you to finish third reading of Bill C-58, the supply bill that relates to the report. The report relates to the schedules of Bill C-58.

I will be discussing the supplementary estimates report of the Finance Committee later this evening or tomorrow.

Looking at Bill C-58 that we are now dealing with at second reading, we always ensure that the schedules attached to Bill C-58 correspond with what we have been studying in committee over the past while.

Honourable senators, before we do third reading, I will be able to confirm for you whether, in fact, that is the case. At this stage, I prefer to hold my remarks until we deal with the report because it deals in more detail with the various categories that Senator Marshall has just read out, and I can confirm that all of those expenditures are detailed in the supplementary estimates.

**Hon. Lowell Murray:** Honourable senators, all I can say about this bill is that the Supplementary Estimates (B), which gave rise to it, received very careful attention at the Standing Senate Committee on National Finance, which had before it a number of important witnesses from the government that the committee examined in very considerable detail.

I intervene at this point because I want to take advantage of the latitude that parliamentary tradition affords members whenever a supply motion is before us to air grievances or to discuss almost any matter of public policy. The matter I want to intervene on is that of democratic representation in the House of Commons. As honourable senators have heard me say before, I reject at once and completely the notion that is sometimes put forward that matters of this kind, election law and representational law, ought to be the exclusive preserve of the elected members of the House of Commons, who, it is said, are directly affected.

• (1900)

On the contrary, history has shown that when it comes to matters affecting their own constituencies, members of the House of Commons need adult supervision, and plenty of it, and perhaps the only place they can get it is here in the Senate.

How well I remember Bill C-69, a few years ago, which, while it came forward as a government bill, was actually drafted in an all-party committee of the House of Commons. For back-scratching and axe-grinding, one could not find a more beautiful example than Bill C-69, which, to our credit, we did not allow to go through.

My intervention tonight is sparked by a report on Friday, December 3, in *The Globe and Mail* over the byline of John Ibbitson, speculating that the government and opposition parties in the House of Commons had quietly agreed to shelve — I think “sink” was the verb that was used — Bill C-12. Just for the record, and to remind honourable senators, Bill C-12 would add 30 additional seats to the House of Commons, of which 18 would go to Ontario, 7 to British Columbia and 5 to Alberta, thus going some distance to correcting the disproportionate allocation of seats among the provinces. When I say “disproportionate,” I mean the number of seats that provinces are allocated in proportion to their population.

When this report surfaced in *The Globe and Mail*, the immediate response of government and spokesmen for at least one opposition party in the other place was to deny, deny, deny. They were hurt and indignant. They were shocked that anyone would think that they had any ulterior motives in mind, even in respect of a bill that had been on the Order Paper over there for more than eight months, since April 1, 2010.

How dare anyone suggest that they were ragging the puck, even allowing for the fact that two predecessor bills had also died on the Order Paper. Bill C-56 had received first reading on May 11, 2007, and was never brought forward for a moment's debate at second reading and died on the Order Paper. Bill C-22 got first reading on November 14, 2007. It was brought forward for debate of one day at second reading in the House of Commons, that is February 13, 2008, and it, too, died on the Order Paper. Bill C-12, as I say, has been on that Order Paper over there since April 1, 2010. It has never been brought forward for a moment's debate, and, let me say, so far as I am aware, there has been no pressure whatsoever from opposition parties to bring it forward.

Honourable senators can see what we are up against. Mr. Ibbitson is a reliable and reputable reporter, so far as I know. However, we must take the spokesmen for the parties at their word.

Let me also say this: While this bill has been on the Order Paper since April 1, 2010, I have no hesitation in saying — and I think I can say it without challenge — that many less-important matters have gone through the House of Commons in three readings, the Senate in three readings and have received Royal Assent over those eight months.

The reason for intervening now is to emphasize the importance of moving ahead with this bill. I point out that the addition of those 30 seats is to take effect after the next decennial census. We know that decennial census will take place in 2011. It starts right after the turn of the new year. If past history is any guide, what happens is that Statistics Canada completes the census and turns over the data from that 2011 Census to Elections Canada before the spring of 2012. In the last exercise, which was after the 2001 Census, it was on March 12, 2002 that the population data were turned over to Elections Canada.

From that moment, the redistribution process begins and it is carried on according to a fixed schedule, fixed in the law. Commissioners have to be appointed, public notices have to be published, public hearings have to be held, and there are time frames for each of those things. The whole process takes about 15 months, until finally the new representation order is in effect.

The point of putting this information on the record is to underline that if Bill C-12 is not in place by early 2012, then the redistribution following the 2011 Census will be done on the basis of the present law, in which case Ontario would get not 18 additional seats, but four; British Columbia, not seven additional seats, but two; and Alberta, not five additional seats, but one. I point out what I think must be obvious to honourable senators: If that happened, the disproportionate situation would last right through the decade into the period following the 2021 Census. There is a lot at stake here.

**Senator Duffy:** Why are they delaying it?

**Senator Murray:** For the reason they always delay it: They do not like change. The addition of new seats will complicate for them the drawing of boundaries in the individual constituencies, and I will come to that in a minute.

They do not like change. Twice during the 1990s they tried to put off or manipulate redistributions to their own advantage, and I do not mean advantage to a particular party either. When it comes to this, there is a touching degree of inter-party harmony, and that is why they need some adult supervision from this place.

For the record, and not to reopen any sensitive spots, I should indicate that there is already a small — more than a small — imbalance by reason of the so-called Senate floor, which adds two seats to what Nova Scotia would, by strict rep by pop, be entitled; one seat to what Newfoundland and Labrador would be entitled; and three to what Prince Edward Island would be entitled. On top of that, there was the 1985 Representation Act, under which no province could have its representation in the House of Commons reduced below what it was in 1985. That has protected, and continues to protect, Saskatchewan to five additional seats; Manitoba, four; Quebec, seven; and Nova Scotia and Newfoundland and Labrador, one each on top of the additional seats that they already get by reason of the Senate floor.

Various people have tried to tackle that 1985 representation order, including the Lortie Commission back in the early 1990s. I think the government has proposed a fairly elegant way of dealing with it. They leave it there, but they add seats to the House of Commons to take account of the population growth in the faster-growing provinces.

• (1910)

I come to the point that I alluded to in my brief exchange with Senator Duffy, and that is the question of the constituencies. I draw honourable senators' attention to the third preamble in Bill C-12, which reads:

Whereas the populations of faster-growing provinces are currently under-represented in the House of Commons . . .

— and I draw your attention to these words —

. . . and members of the House of Commons for those provinces therefore represent, on average, significantly more populous electoral districts than members for other provinces;

If they do not get on with it over there in the House of Commons and have this bill passed through the House of Commons and Senate in time for it to be applicable after the 2011 decennial census, what will happen is that with fewer seats than Ontario would be entitled to — to take Ontario as the example — the constituencies, of course, will have to be larger in population and the under-representation of many ridings and of Ontario as a whole in comparison to other provinces will continue to worsen for another 10 to 15 years.

Let me say that after the 2001 Census and the redistribution in 2004, the commissions appointed for each province did a terrific job. There is this 25 per cent tolerance that is permitted in the population of any constituency, a 25 per cent variation from what should be the provincial quotient.

Too often in the past the commissions have availed themselves of it. I have always argued, and others have argued, that that tolerance should go down to about 10 per cent, or even 5 per cent.

I was delighted to see that in the reports that those commissions brought in, the maps they brought in after the 2001 Census, the vast majority of constituencies ended up with a variation from the quotient of less than 10 per cent, and a considerable number, a variation of less than 5 per cent — so hats off to them.

However, the interesting thing is the changes in population that have taken place even since the 2001 Census. I obtained the other day from Elections Canada the results of the 2006 Census, and Elections Canada took those populations and transposed them on to the electoral districts. I see that the populations have grown so considerably in some of those constituencies that they are way beyond what the quotient should be and what the quotient was as recently as 2001.

For example, the Quebec constituency of Montcalm had a variance from its quotient of 9.5 per cent in 2001, and in looking at what the quotient would be for 2006, it is 22.07 per cent. That reflects the growth of Montcalm in population. It has gone from 105,000 to 122,000.

I assure honourable senators that there are numerous such examples in the province of Ontario. The one that immediately comes to mind in alphabetical order is Barrie, where the constituency of 103,000 population was 3.65 per cent below the variance in 2001, and it is today 14.06 above the variance; and so it goes.

Bramalea—Gore—Malton was 11.3 per cent over the variance in 2001, and 35.6 per cent over what would be the 2006 quotient.

I do not think I have to say any more. The details are there for honourable senators to examine if they desire. It is quite remarkable how populations have grown in some provinces, but more particularly in some of those constituencies.

The point I make is that, unless the provincial imbalances are corrected, and corrected by proceeding with that bill in the House of Commons, the constituency imbalances will worsen to the great detriment of electoral democracy and representational democracy in this country.

**Hon. Grant Mitchell:** Honourable senators, I would like to make some comments under the tradition of some latitude with budget bills of this nature.

I would first say that mention was made of Alberta possibly getting five more seats. I began to think that if only we had five more seats about three weeks ago, we maybe would have had one of those new members of Parliament who could have prevailed upon the government to do something that the 27 we already had from Alberta, the Conservatives, could not do, and that would be to get funding for Expo 2017. Maybe we just do not have enough seats. Maybe that was it. Certainly, we do not have enough Liberal seats.

I had some trepidation and some reluctance as I thought about saying what I am about to say, but I was provoked in a positive way by Senator Marshall's question to our colleague Senator Day on Thursday when she said:

With the information that is being provided, does the honourable senator not think the government is on track with its expenditure plan?

I began to question which information could possibly be provided to give anyone any sense that this government is on track with its expenditure plan. I would like to discuss several areas where I think they are so clearly off track that I actually have no confidence, no evidence, and no indication that they will ever get back on track. What we have had for the last five years, which has not been very good, certainly will not improve over the next, hopefully, only weeks or months before they call an election, which they will lose.

The first area I would like to talk about is the question of managing the economy. The only claims that the government can make to managing the economy that I can catch are two kinds of claims that they repeat often and yet they cannot really take credit for them. One is their stimulus package. However, we all know that we would not have had a stimulus package had they not been brought to the brink of destruction for their government by the opposition during that tumultuous period two years or so ago which forced them to bring in a stimulus package.

In fact, just weeks before they came to that conclusion and announced it, the Minister of Finance had said, "There is no problem. We have no recession." The world knew there was a recession. Every economist in this country, except one, the Prime Minister, knew there was a recession. The opposition forced the stimulus package, which has led to some performance in the economy; nevertheless, not anywhere near the performance that it might have had had it been implemented properly. There is much evidence that when it was implemented, it was implemented in a biased fashion that was driven by politics.

Second, the Prime Minister often takes credit for the tremendous strength of our banking industry. Yes, we have a tremendously strong banking industry, but I remember this very same Prime Minister in the old days, before he was Prime Minister, saying that the banks should be far, far less regulated. In a very American Republican way and turn of phrase, that was the point he made.

The claim to economic management comes down to two things. One is the stimulus package, which was not their idea, and the second is a strong banking system, which would have been eroded by his first initial gut initiative on policy to deregulate banks.

What I want to say is that they are welcome. The Liberals gave them those two things, and thankfully they did. However, if one looks at the results, the growth in our economy is significantly down, and it can be blamed on the worldwide recession. Unemployment is up 30 per cent and, while some jobs have been recovered, many of those jobs are not quality jobs to replace the ones that have been lost. They are temporary, part-time and without the same strength and stability as the jobs that were lost.

When this government says that it can somehow manage an economy, I say, let us look at the facts. Let us look at the information we have before our very eyes. Let us look at results, because as many people in the private sector will know, results actually count, and they should count here, but they are not being counted by this government.

Next is the question of fiscal responsibility. I have absolutely no faith whatsoever that this government can manage the fiscal regime of this government. Why would I? There is absolutely no evidence that they have or that they can. Let me itemize that for honourable senators.

This is a government that increased spending by \$80 billion in four years — \$80 billion. That is a 40 per cent increase from the day they started to this fiscal year. That is the hard-nosed, tough-minded, fiscally-responsible government: \$80 billion. It is incomprehensible that they would do that. That resulted in a \$56 billion deficit, a record. They will say it is because they had to do the stimulus package, and I will say, again, they cannot add because the stimulus package is, what? We cannot really find out exactly, but maybe \$30 billion or \$40 billion. Let us say it is \$35 billion. Not all of that was spent last year. Only part of that was spent last year and a good chunk of it will be spent this year. Now, because the government has extended the March 31 deadline — and let me get to that because that is another serious problem the way they went about doing that — some of it will be spent there.

• (1920)

Let us say \$20 billion of stimulus was spent last year and would be, therefore, placed against the \$56-billion deficit. Take that \$20 billion out and you still have a \$36-billion deficit. That is bad management. That is not worldwide recession or responding to it. That is bad management. It is too much money that you do not have and borrowing to spend \$36 billion.

Honourable senators, this year the government wanted to get the cut-off for the March 31 stimulus package because they did not want to have to count any of that money in next year's because maybe just next year you can start to develop a better deficit profile. Again, what the government forgets — again because they do not know how to manage properly — is that all of those municipalities had to jam their projects to meet that deadline. When they do that, they push up their costs. They had to spend a lot of money that they might otherwise not have had to spend because the government was playing politics to make itself look better next year.

Honourable senators, that deficit will not be much lower this year, and I doubt that it will be much lower next year. When confronted with the problem of a \$56-billion deficit, what do you do? Well, we get jets that are not being tendered. That is not particularly fiscally responsible, and estimates are that it will cost us \$3 billion that it does not have to, minimum. Furthermore, you have billions of dollars for prisons that will not help make society any safer, but will make them worse. You also have the UAE, Camp Mirage, \$300 million — and that is only what we know. What will it cost us when we have to rent this new air base for the four years for the extension of Afghanistan? What is the Prime Minister's response to that? Honourable senators, his response is not to show leadership by reducing his costs. He bumps his costs 30 per cent of his office costs. Why does he do that? He does it not for some productive policy analysis or better, God knows, control of his cabinet and his government. He bumps his costs because he wants to spin the case and the message in ever-increasingly intense ways because he does not want to deal with the facts.

Honourable senators, I look at that and I say, what confidence would I ever have, would we ever have, that they will manage this any differently in the future? I think there are two problems at least. One is that the ideology does not work. Sometimes the government has to be in partnership with the private sector, with individuals in society, and so on, to make things work.

Government leadership is essential in many ways, in many times, appropriately done. You admit it because when the crunch comes you abandon your ideology and you intervene to create stimulus or you abandon your ideology and you intervene to save the Potash Corporation for Canada. I say it is some of that and it is some dogma as well, this black and white, the world should be simple because that is how we want to view it, but it does not work.

The third area where I have tremendous concern is with foreign relations. Honourable senators, look at what has happened to our stature in the world. We lost the seat in the UN and we lost the UAE air base at huge cost. We have much anecdotal evidence of people just looking at us completely differently when we are abroad, and you can see it in Cancun and how Canadians were being treated at Cancun. Why has that happened? One, we denied

any kind of respect for China for four years. When the Prime Minister finally went to China, he was actually reprimanded on an international stage in public by the Premier of China. It is incomprehensible, but that is what happened.

We have failed to understand and grasp the importance of international maternal health care, and because reproductive health care was forgotten in our policy, we lost tremendous credibility. I remember Secretary Clinton, again, being very cold with us at an international press conference and not doing a joint press conference with our minister; unprecedented to see that.

I see that we had no help from the U.S. in trying to win our seat in the UN. Why would that be? Because we were absolutely unhelpful at Copenhagen with, among other things, climate change. We provided them no support whatsoever, and I can go on.

Honourable senators, if we do not have this kind of stature in the world that we once had, what does that do for us back home, for Canadians? Who will have the stature, the power, the presence to defend the seal hunt? Who will have the stature, power, and the international presence to defend Alberta's oil sands? Who will have the stature and the power to get strong international trade agreements with countries that will look at us in a way that they have not looked at us before? Who will be able to defend Israel if we have no stature in the international community? Who will have the significance and where will that come from? We have lost that. We have lost it because it is a dogma that I believe simply does not work.

Honourable senators, I would say here are some structural problems that account for these difficulties that no amount of information that Senator Marshall has conjured up and has called to our attention will dispel. The fact of what has occurred is the information that dictates what, in fact, I believe we can expect. There is an ideological problem. You have to intervene sometimes. That ideology does not work all the time for sure. There is a dogma problem. The world is not black and white, and it is not clear all the time. There are complex issues that need complex decisions and complex solutions.

I think there is a real problem with the way the federal government has failed to collaborate with the provinces. In five years, the Prime Minister has met once, for two and a half hours, for dinner at 24 Sussex Drive with the premiers. Why would we not want to be meeting and working with and collaborating with the 10 provinces and the three territories? Is not there some synergy and strength we can get by working together? That is not happening; absolutely not happening. If you were the Prime Minister, anyone reasonable, would they not want to meet with the premiers to see how we could run this country together and collaborate and bring people together? You can only build strength this way.

This will be sensitive, and you will probably get mad at me, but, then, that is your steady state with me. The fact is that there is a problem — and I can only look at it from outside, but there is at least anecdotal evidence — with the leadership.

One, great leaders pursue great problems. They embrace them and they meet those challenges. Great leaders always do that. No great challenges here. Ask yourself the question: What is the

legacy of this government? What have they done to make this place better? How are people happier or more prosperous or more optimistic about the future? What have they done for climate change? Ask yourself that. Try to give yourself a legitimate answer to that question. I would say nothing is the legitimate answer.

Honourable senators, the second issue with leadership, I believe, is the sense that great leaders attract and hold great people. I am not saying he has not got some great people; maybe he has. One of the greatest that he had was Jim Prentice, a high-quality person. He has left. That is a red flag for me. One day, after Peter MacKay figures he is being undercut enough, he will probably go, too.

Finally, and this struck me starkly when I saw the Prime Minister calling for special reports on stimulus package signs, special reports on his desk, I said we have got a Prime Minister who is so worried about signs that he would take his time to look at reports on signs. Who is worried about the deficit of \$56 billion when he is worried about signs? Who is worried about the extension in Afghanistan when he is worried about signs? Who is worried about health care when he is worried about signs? This is appalling and this is really anecdotal, but, if you look at his desk, it is piled with files. I go into a CEO's office in this country; nothing on the desk. I have been into other prime ministers' offices; nothing on the desk because they are not bogged down in paper. They have time. They have cleared their desk and they can think. I believe that the Conservative government has a Prime Minister who wants to control and bind and hold, and it does not work.

In fact, this country is very obviously complex, and it is far too complicated for an individual, a single person, to try to control and run it, and I think that is a structural problem. I submit it. I may be wrong, but we will see in time. What I know right now is that we have structural problems in the way that this government has run itself for five years, and I do not see any evidence whatsoever as we approach giving them another \$4.2 billion that these structural problems will be solved. That, I think, is the nut of this debate.

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

**An Hon. Senator:** Question.

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

(Motion agreed to and bill read second time.)

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

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

• (1930)

## CONTROLLED DRUGS AND SUBSTANCES ACT

### BILL TO AMEND—THIRD READING

**Hon. John D. Wallace** moved third reading of Bill S-10, An Act to amend the Controlled Drugs and Substances Act and to make related and consequential amendments to other Acts, as amended.

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

**Hon. George Baker:** Honourable senators, I want to say a few words — and I am serious it will only be a few words. I thought Senator Wallace was planning to speak to the bill, but I presume he was attempting only to have the bill read a third time and that was it.

I will be brief because I know there are perhaps other people who want to speak on this bill and it is getting late, and we do not want to be too political here.

The subject of the bill is, of course, drugs. When I looked at the bill a few moments ago, I thought about the senator who recently has been addressed more than any other senator in Canadian court cases relating to drugs and impaired driving, and that is Senator Stratton.

This example is perhaps a lesson for all honourable senators in realizing that what they say in the Senate is often quoted in our courts. What they say in the House of Commons is never quoted; but what we say in the Senate is often quoted.

I see it in the case law that I read every day. I noticed, in the year 2008, that with the bill that we passed in 2007, Senator Stratton's name kept coming up. I will read for honourable senators when it started in 2008, with the Ontario Court of Justice, in *Her Majesty the Queen v. Mr. Van Corish*, the accused, 2008, Carswell Ontario 6529. It started this way with Senator Stratton's name, paragraph 28:

Senator Stratton, speaking as sponsor of the second session Bill C-2 in the Senate, also referred to the purpose of the legislation as restricting evidence to the contrary to “scientifically valid defences.”

Then there is a footnote that refers to footnote number 14. When we go to footnote number 14, it says:

Speech of the Senator Stratton, December 4, 2007, *Debates of the Senate*, Hansard, volume 144, number 19, second session, Thirty-ninth Parliament.

Here is the point. When we then look at the case law relating to drugs and impaired driving, drug-impaired driving, we notice that the same quote keeps coming up. Here is the British Columbia Supreme Court in 2009, in *R. v. Throug*, 2009 Carswell B.C. 33. In paragraph 28, it says, without a footnote:

Senator Stratton, speaking as sponsor of the second session Bill C-2 in the Senate, also referred to the purpose of the legislation as restricting evidence to the contrary to scientifically valid defences.



Then we see a whole group of cases in which the same words are used, which go back to 2007. We come to a month ago, 2010, Carswell Ontario 5685, the Ontario Court of Justice, at paragraph 10. It then goes into a larger quote:

Senator Stratton, speaking as sponsor of the bill, second session Bill C-2 in the Senate, also referred to the purpose of legislation as restricting evidence to the contrary.

The point is, honourable senators can imagine now a fellow who has gone through a trial and has been convicted. The judge reads the judgment and he says Senator Stratton says that your evidence to the contrary does not work because of such-and-such. I can imagine the numbers of people who are in jail today who are wondering who Senator Stratton is.

I want to mention that point, honourable senators, in passing because Senate proceedings are often referenced as they pertain to these bills, especially concerning the Criminal Code. We have one before us now and I imagine what will take place if Senator Wallace stands up to say a few words on behalf of the government. That speech will be read by judges in the future to try to figure out what exactly the purpose of the legislation is; and those people who are convicted and who are in jail will ask, "Who is Senator Wallace?"

It is important to keep in mind the purpose of the Senate. This bill is interesting from the point of view that this is the first sober thought, not the second sober thought; this bill was introduced in the Senate, not in the House of Commons. Whenever one is asked the role of the Senate, we normally say "sober second thought"; but with minority governments, as has been the tradition recently, it is sober first thought.

I think that tradition is a good thing. I think the government has started a good thing because this bill is amended. Interesting, is it not, that the bill was introduced into the Senate and it was amended in the committee by the committee members? It is a good amendment. If it were introduced in the House of Commons, it never would have been amended because the portion that was amended in this bill related to the reporting of the bill after an analysis of the effect of mandatory minimum sentences as it relates to the Controlled Drugs and Substances Act.

When the bill came before the committee, the committee members thought that what was in the bill was not sufficient because it said that an analysis will be done after two years of the implementation of the bill. Honourable senators heard evidence that we would have to wait for at least five years before we found out the effect of mandatory minimum sentences. Some of these cases take four and five years to prosecute after this bill comes into effect. That amendment was a major change that was made in the bill that was introduced by the government.

I think it is also important, honourable senators, that it was introduced into the Senate in this case — and in many other cases, it would be helpful — because it helps the members of Parliament. The Senate has witnesses before it that the House

of Commons do not call. For example, the Canadian Association of Crown Counsel was never called before the House of Commons Standing Committee on Justice and Human Rights. The Public Prosecution Service of Canada was never called by the House of Commons standing committees.

• (1940)

I do not know why that is. It appears as if the House of Commons deals more with different witnesses. The Canadian Defence Lawyers association is called before the House of Commons committee, as are interest groups. However, a better representation of evidence is given before the Senate.

After this bill passes, MPs can look at the evidence and actually see what the major concerns in the bill are. We are doing a function of first sober thought for the House of Commons.

As honourable senators know, I am not really in favour of this bill at all, on the basis of one of its provisions. I will not go into any extended logic on the provisions of the legislation. However, let me reference my major concern so that the MPs can perhaps look at it and make up their own minds as to whether or not this concern is worthwhile.

My concern is that it brings in mandatory minimum sentences. I am concerned that some people who are, for example, giving prescription drugs, such as Tylenol 3 or Tylenol 4, to someone who has pain, will be caught in this bill. I believe it was Senator Banks who attended one of the committee meetings and tried to pursue that question. There were police officers in the committee who were specialists, one in grow ops and the other in cocaine. I believe there were also two lawyers via video conference.

Senator Banks wanted to make the very point I just mentioned regarding prescription drugs. Senator Banks started off his questioning by asking, "Is Tylenol 3 or Tylenol 4 a narcotic?" Do you remember that, Senator Banks? Unfortunately, the people there did not know the answer to the question. I could understand that, because the police officers were specialists in other areas of drug enforcement, and perhaps the lawyers had never prosecuted such a case.

Therefore, he never went beyond that.

However, I want to assure Senator Banks that they are narcotics, because a narcotic is defined as any substance listed in the schedules of the Controlled Drugs and Substances Act, formerly the Narcotics Control Act.

For the benefit of other senators, I decided to look briefly at a couple of interesting recent cases where someone did give someone a Tylenol pill. One example is the case of *R v. Leduc*, 2008, ABPC 315.

With this bill, honourable senators, it is important that we and Canadians know the law. One cannot have in one's possession drugs that are prescribed to someone else. That violates the law. In this particular case, the substance is codeine, which is listed as a Schedule 1 drug. If one gives it to someone on a university campus, it carries a minimum two years in jail, if prosecuted on it.

The question arose as to whether prosecutions take place. In the case I just mentioned, at paragraph 21 of this public Alberta court document it states:

Mr. Thomaskjewski testified that the accused asked if he could give him something for the pain, some Tylenol 4's. As he felt sorry for the accused, he gave him the pill bottle in question as the accused needed 30-40 pills. Mr. Thomaskjewski testified that he got the prescription for the Tylenol 4's from Dr. Sawicki for pain resulting from medical problems that he would not give details of. He further advised that he gave the Tylenol 4's to the accused because the accused was his friend and was "in a bigger problem" than Mr. Thomaskjewski because the accused had a broken hand. . . .

What was the judgment of the court? As for all these cases, there was a lot of evidence. The accused had given evidence and shown the prescription from his own doctor. However, this was a prescription of Tylenol pills given by Mr. Thomaskjewski's doctor. The judge concluded on the basis of evidence:

. . . I am convinced beyond a reasonable doubt that the accused had possession of codeine, a prohibited substance, contrary to the provisions of Section 4(1) of the Controlled Drugs and Substances Act.

There are many cases. There is another one in which a gentleman had 43 Tylenol 4 tablets and he claimed he had a prescription for 30. He was convicted and the bottom line was 15 months in jail.

The point is this: It is not unusual to see prosecutions concerning Tylenol 3 or 4. In another case, Tylenol 3 was found inside a wooden box.

In answer to Senator Banks's question, when we pass laws that perhaps need to be passed, according to someone's opinion, it is important that we understand what they mean.

There are cases that deal with university campuses. Here is one: Guilty of trafficking two tablets of Ecstasy to an undercover police officer at the Pacific Coliseum. There is case after case of single pills, guilty of trafficking.

Honourable senators, my concern about this particular bill is that it introduces a two-year minimum sentence if someone is found at a school or near a school ground — a school of medicine, school of law, school of dentistry or a university. One of the witnesses said an advertising campaign really should accompany this bill, so that people would understand what the law is. As honourable senators know, ignorance of the law is no excuse and that is section 19 of the Criminal Code. That is not a defence and it is especially important when it comes to prescription drugs.

A moment ago, Senator Angus provided a bit of a solution to the problem. He put the questions forward to the Crown prosecutors, asking, "Is it not true that you have discretion?" A prosecutorial discretion is built into the bill such that if a Crown attorney feels that a prosecution should not take place, the Crown attorney can short-circuit the prosecution either by not producing

the evidence of the examination of the drug to prove it is codeine or, in the case of someone with a previous conviction, by not entering their record.

• (1950)

A bit of an argument ensued at committee, but I think Senator Angus had won the argument that, indeed, a leeway was present in the bill. That is a way for a Crown prosecutor to come to the conclusion not to prosecute. As honourable senators know, prosecutorial discretion is not questioned and is not appealable.

Honourable senators, I congratulate the Standing Senate Committee on Legal and Constitutional Affairs for the excellent work of Senator Joyal, Senator Fraser, Senator Chaput, Senator Carignan, Senator Boisvenu, Senator Angus, Senator Lang, Senator Rivest, Senator Runciman, Senator Wallace and Senator Watt. Senator Stewart Olsen was also at the committee and took great exception to remarks I made concerning the minimum number of cannabis plants that should trigger a mandatory minimum sentence. We provided a great service to the members of Parliament. I hope they read the transcripts of the committee meetings so that they will know more about Bill S-10 than if it were introduced in the House of Commons.

**Senator Wallace:** Honourable senators, I will comment briefly on Senator Baker's remarks. I compliment Senator Baker on his thoroughness. Regardless of the bill before the Senate Legal Committee, Senator Baker gives it deep thought; and his comments are helpful most often. I do not always agree with him, but he leaves no stone unturned; and I thank him for that.

I apologize somewhat because my comments are repetitious, in part, of what I said last week when responding to Senator Watt's proposed amendment to the bill. However, it is important to go back briefly and remind honourable senators of the key elements of this important bill. All bills are important to its sponsor, especially when the subject matter has great consequences for society.

As most honourable senators are aware, last year the Standing Senate Committee on Legal and Constitutional Affairs held several days of hearings on Bill C-15, the predecessor of Bill S-10. The committee heard from a wide variety of witnesses, including government officials, academics, and law enforcement representatives. More recently, the Legal Committee during its consideration of Bill S-10 heard from many other knowledgeable witnesses.

Honourable senators, after listening to Senator Baker raise the point about Tylenol pills, I must say that what cannot and should not be lost in all of this is that the focus is on serious drugs. The Honourable Rob Nicholson, Minister of Justice, sees the issue of serious drugs in this country that we must come to grips with. Are the solutions easy; no. Are there perfect solutions that will remedy the problem in each circumstance; no, probably not, but we have to put our best effort forward. We have to protect society, our communities and our families as best we can. I emphasize to honourable senators that Bill S-10 focuses on serious drug crimes, and I will provide more detail in a moment.

The serious drug crimes that Bill S-10 addresses include marijuana grow operations and clandestine methamphetamine labs that continue to pose serious threats to the safety of our streets and communities. In this respect, Bill S-10 is a critically

important component of our government's comprehensive strategy to address Canada's illicit drug problem. This bill is not a one-shot effort and does not stand unto itself. Rather, it is part of a comprehensive strategy to deal with the illicit drug problem.

Honourable senators will recall that this government stated clearly in its platform that it would introduce a national illicit drug strategy. As a consequence, the National Anti-Drug Strategy was launched by our government in October 2007. It is a focused approach to tackling illicit drug issues in this country. It includes three separate but interrelated action plans, the objectives of which are as follows: first, to prevent illicit drug use; second, to provide treatment to those with illicit drug dependencies; and third, to combat both the production and distribution of illicit drugs. The National Anti-Drug Strategy also provides the following funding requirements over a five-year period: \$30 million is designated specifically for the prevention of illicit drug use by young people; \$100 million for providing treatment for people with drug addictions; and \$102 million to combat both the production and distribution of illicit drugs in this country.

In total, our federal government's financial contribution toward all of these anti-drug initiatives over the five-year period is \$232 million. If Bill S-10 is enacted, the contribution will increase by another \$67 million for a total under the National Anti-Drug Strategy of close to \$300 million.

Of these three specific plans, the Prevention Action Plan supports efforts to prevent youth from using illicit drugs by enhancing their awareness and understanding of the harmful social and health effects of illicit drug use. It also seeks to implement effective community-based initiatives to prevent illicit drug use.

The Treatment Action Plan supports innovative and effective approaches for treating individuals with illicit drug problems as well as those who pose a risk not only to others but also to themselves. The Treatment Action Plan promotes collaboration among governments and non-governmental agencies to increase access availability to drug treatment services and facilities.

The Enforcement Action Plan enhances law enforcement efforts to investigate and prosecute drug crimes. It increases law enforcement's capacity to combat marijuana grow operations as well as synthetic drug production and distribution operations.

Once again, it is part of an integrated comprehensive plan. For example, the first Canadian drug initiative to focus specifically on a single class of drugs, known as the Synthetic Drug Initiative, is designed to eliminate both the production and distribution of illegal influence synthetic drugs in Canada and to reduce the overall of organized crime in the trafficking of drugs in Canada. This drug initiative is led by the RCMP, and targets the synthetic drug industry on three separate and interrelated fronts: first, enforcement; second, deterrence; and third, prevention. Coordinated action on all three fronts is absolutely necessary to combat effectively both the production and use of these illicit drugs.

The Enforcement Action Plan that combats production and distribution of illicit drugs contains a number of key elements, including ensuring that strong and adequate penalties are in place for serious drug crimes.

It is within this context that Bill S-10 must be viewed. Bill S-10 proposes amendments to strengthen the Controlled Drugs and Substances Act provisions in respect of penalties for serious drug offences by ensuring that they are punished by the imposition, in certain specific circumstances, of mandatory minimum terms of imprisonment.

With these amendments, the government clearly and effectively demonstrates its commitment to improving the safety and security of all communities across Canada.

Honourable senators, the government recognizes and acknowledges that not all drug offenders and not all drug activities pose the same degree of risk of danger and violence. Bill S-10 clearly recognizes this fact and that is why what is proposed in this bill is both a focused and targeted approach. Accordingly, the new penalties proposed in the bill would not apply to drug possession offences, nor would they apply to offences that involve all types of drugs. This bill focuses on the more serious drug offences that involve the more serious drugs.

• (2000)

Overall, the amendments proposed in this bill represent a tailored approach to the imposition of mandatory minimum penalties for serious drug offences, and in this regard the serious drug offences include drug trafficking, drug importation, drug exportation and drug production. As I have just mentioned, this bill does not target all drugs. Rather, its focus is on what is known as Schedule I drugs, that is, drugs that include heroin, cocaine, methamphetamine, and Schedule II drugs that include cannabis.

Finally, I want to make it clear that Bill S-10 proposes to impose mandatory minimum penalties only in those cases where serious aggravating factors are present in the commission of a drug crime.

Honourable senators, the mandatory minimum would only be applicable if one or more of the following factors is present in the crime: When the criminal offence is committed for the benefit of or at the direction of or in association with organized crime; when the offence involves violence or threat of violence or weapons or the threat of the use of weapons; when the offence is committed by someone who is a repeat drug offender, that is, someone who has been convicted within the previous 10 years of a designated drug offence; when the offence is committed by someone who abuses his or her authority or position; or when the offender has access to a restricted area and uses that access to commit the crime.

As you can see, honourable senators, the offences that could attract the mandatory minimum sentence are very specific, very limited and are targeted to the most serious circumstances that could involve drug trafficking and drug production.

For the offence of marijuana production, the bill proposes mandatory minimum penalties that are based upon the number of plants that are involved in the drug production crime. In cases where the drug production involves from six to 200 plants and if the Crown is able to prove to the satisfaction of the court that the plants were cultivated for the purpose of trafficking the bill provides for a mandatory minimum of six months imprisonment. In cases where the drug production involves from 201 to

500 plants and it can be proven that they were cultivated for the purpose of trafficking, the bill provides for a mandatory minimum of one year imprisonment. In cases where the drug production involves more than 500 plants, again cultivated for the purpose of trafficking, the bill provides for a mandatory minimum of two years imprisonment. Again, those offences are not offences of possession; they are offences that involve production for the purpose of trafficking, which must be proven by the Crown.

Cases involving the production of cannabis resin for the purpose of trafficking would result in a mandatory minimum of one year imprisonment. Mandatory sentences for the production of Schedule II drugs would increase by 50 per cent in those circumstances where certain other serious aggravating factors are present that relate to the health and safety of our citizens.

The Government of Canada recognizes that cannabis cultivation has become a very serious problem during the last several years. Indeed, over the last decade, domestic operations related to the production and distribution of marijuana have increased dramatically resulting in a problem that is so serious in some regions of Canada that law enforcement capacity is often overwhelmed.

These criminal drug operations pose very serious health and public safety hazards for those in and around them, and we heard clear evidence to that effect from the witnesses who appeared before us in committee. They produce environmental hazards, pose cleanup problems and endanger the lives and health of our communities. They are lucrative criminal businesses that attract a wide variety of organized crime groups. The huge profits made from these criminal grow operations are available with little risk to operators and result in profits that are then used to finance other criminal activities.

Most certainly Canadians expect to be protected from criminal offenders who are involved in these marijuana grow operations and who threaten their own personal safety and the safety of their families. They also expect protection from drug gang turf wars that have created fear and anxiety within many communities and neighbourhoods in our country. We do not have to go too far back in the newspapers to find evidence of what drug gang wars can lead to, and it is not good.

Accordingly, this bill not only proposes mandatory minimum penalties for the production of cannabis, but also doubles the existing maximum penalty for producing marijuana from seven years to 14 years imprisonment.

Honourable senators, the Government of Canada is very sensitive to the concerns of Canadians with regard to the levels of violence that are perpetrated against women, including the deplorable problems of dating violence and the use of date rape drugs.

Accordingly, under Bill S-10 the date rape drugs GHB and Rohypnol would be transferred from Schedule III of the Controlled Drugs and Substances Act to Schedule I, thereby allowing the courts to impose higher maximum penalties for offences involving these particular drugs.

Presently, the maximum penalty for administering these drugs is up to 10 years imprisonment. With the transfer of GHB and Rohypnol from Schedule III to Schedule I, the new maximum penalty for administering these drugs would be up to life imprisonment.

In August 2005, methamphetamine was transferred from Schedule III to Schedule I of the Controlled Drugs and Substances Act in order to provide access to higher maximum penalties for illegal activities involving methamphetamine. The production of synthetic drugs, however, is not limited to the production of methamphetamine.

The serious and negative impact of methamphetamine production in Canada is well known. However, there also exists what is known as a displacement effect in respect of certain drug offences. By that I mean that as penalties become more severe with respect to offences involving one type of drug that is within a particular class of drugs, there can be a shift by criminal offenders to illicit drug production of another drug that is within the same class of drugs and which drug may well cause a similar or greater level of harm for victims.

Intelligence received from law enforcement agencies in Canada and statistics on drug analysis maintained by Health Canada suggest that the production of the drug MDMA, which is a drug similar in chemical makeup to methamphetamine, is now on the rise. However, offences relating to MDMA and other similar chemical drugs within the methamphetamine class of drugs are not subject to the same level of penalties as are offences involving methamphetamine, a drug that was, prior to its transfer to Schedule I, within the amphetamine class of drugs.

Consequently, Bill S-10 proposes that the methamphetamine class of drugs be rescheduled from Schedule III to Schedule I in order to address the trends that have occurred with respect to MDMA, thereby reducing the risk of a future shift of production to other drugs within this class as a consequence of a lesser penalty.

Finally, I want to remind honourable senators of another extremely important fact, namely, that this bill does provide the courts with judicial discretion to impose a penalty that is other than the mandatory minimum sentence on a serious drug offender who enters and successfully completes a court-approved drug treatment program. This is very important to remember. An offender who submits to and successfully completes a drug treatment program, even though found guilty of the offence, can avoid the mandatory minimum sentence. There is an opportunity for the offender to take steps toward rehabilitation. The government wants to encourage and provide the opportunity for rehabilitation.

The protection of Canadian society from criminals and their criminal activities is a responsibility that this government has and will always continue to uphold and support. The safety and security of our communities, our neighbourhoods and our families demand and require that we never accept anything less. Bill S-10 is, without doubt, a critical component of our government's continued commitment to take the steps necessary to protect Canadians and to make our streets and communities safer places in which to raise our families.

• (2010)

Canadians expect and are entitled to live in a just, peaceful and safe society. To do so, they want, and must have, a justice system that encourages and supports both respect for the law and the administration of justice; that has clear, strong and effective laws that denounce and deter serious crimes, including, of course, serious drug crimes; that imposes penalties on criminal offenders that adequately and appropriately reflect the serious nature of their crimes; and that also removes and separates criminal offenders from the general public when it is necessary.

Honourable senators, Bill S-10 accomplishes all that. Consequently, I respectfully urge each of you to provide your support for the swift passage of this bill.

**Hon. Joan Fraser:** Would Senator Wallace take a question?

**Senator Wallace:** Yes, thank you.

**Senator Fraser:** I would like to begin by saying how much I have appreciated the honourable senator's consistently serious, thoughtful and diligent work, not only on this bill, but on all the bills that come before the committee.

This question is really for the record and for the information of senators who may not have followed the previous iterations of this debate, and it has to do with the understandable stress of Senator Wallace about trafficking as one of the targets of this bill.

Will the honourable senator confirm for us that, under the Criminal Code, the definition of trafficking includes giving or even offering to give something to someone, so that, under this bill, someone who grows six marijuana plants for the purpose of offering some to his brother-in-law at next summer's Saturday night barbecue, or a university student who grows six plants on his balcony for the purpose of celebrating with his friends the end of exams, would be guilty of trafficking if the offers were made?

**Senator Wallace:** I thank the honourable senator for that question. At the root of her question, the issue is one of production and trafficking of illicit drugs and whether we, as a society and as a government, should send out not just a signal but a strong position as to what we consider to be acceptable and unacceptable in our society. I believe that is exactly what Bill S-10 does.

I realize there are different opinions on the issue. We have had much debate about how many plants should fall into each category. With Bill C-15 in the other place, at one point the production number that would attract mandatory minimums was at one plant, and they increased it to five plants.

There is no magic as to what is the right number. I suppose the point in all this, to me, is that either we make a statement that we will encourage and accept drug production as a way of life in this country, and that is it and we get over it, or we do not.

Is the bill perfect? No. Will it solve all problems? No. With this bill, we are trying, in the most effective way we can, to clearly set out that the type of behaviour that Bill S-10 deals with is not acceptable in our Canadian society. We say that because, as best we can, we want to protect society. I know we all want to protect

our citizens, our families and our children. That is the root of the issue, and I do not think that should be lost when we consider the types of examples the honourable senator just provided.

Having said that, I would acknowledge that trafficking does not require money to exchange hands. That is true. Nonetheless, the point is that we take a serious approach to dealing with drugs in this country, and we do it in a way that society will understand where the line is drawn in terms of what is right and what is wrong. Then individuals can make their choice whether they want to comply with the law or take their chances.

**Hon. Sharon Carstairs:** Would the honourable senator accept a question?

**Senator Wallace:** Yes.

**Senator Carstairs:** I listened carefully to the honourable senator's presentation in which he talked about the \$30 million for youth programs, \$100 million for treatment and \$102 million to combat production, plus another \$67 million, for a total of \$300 million.

Can the honourable senator tell the chamber how much it is anticipated the additional incarceration costs will be as a result of this legislation? As I am given to understand from a recent study by Corrections Canada, the number of women who will be incarcerated will increase by 225 per cent as a result of this bill.

**Senator Wallace:** Honourable senators, I cannot provide any figures in terms of the direct impact this legislation would have on rates of incarceration. I know that is a question and an issue that has been dealt with on other bills that involve mandatory minimums. Certainly, through the Department of Public Safety and the Department of Justice, it has been acknowledged that rates of incarceration could well increase and that money will be required to provide the facilities to deal with that. We have had assurances that not only will that happen, but that it is happening now.

I realize that, on the other side, there is always the debate of whether the legislation is adequate. We heard from Mr. Don Head, who is responsible for correction facilities, that he is generally quite satisfied and encouraged by the response from the government in providing those facilities.

The honourable senator is quite right that this is a serious matter. If there is a need to separate criminals from society to protect society, there will be a cost of doing that. However, with the right considerations, this is a cost we have to pay to do the job properly.

**Senator Carstairs:** Many of the penalties will, in fact, result in two years less a day, and many of these offenders will be incarcerated in provincial institutions. What is the plan to compensate the provinces for this additional cost?

**Senator Wallace:** Honourable senators, this issue has come up before the committee. As I understand it, the issue is at the root of the preparation of Bill S-10 and its predecessor, Bill C-15. There have been extensive discussions and involvement of the provinces in the preparation of both Bill C-15 and Bill S-10. This is not a surprise to the provinces. This is something the provinces have

requested. Law enforcement across the country has requested this, and the departments of justice in the various provinces have been extremely supportive. They realize there is a consequence and that financial matters will have to be dealt with between the federal and provincial governments. Our understanding is that that will take place.

**Hon. Tommy Banks:** Honourable senators, I want to join Senator Fraser in thanking Senator Wallace for his careful consideration and exposition of the good parts of this bill, and there are many good parts of this bill; in fact, most of this bill is good. If one weighed the provisions, not to say the words in this bill, the vast majority of it is good. No one can argue with putting away for a long time, by whatever means, people who use guns in the commission of an offence and people who do the bad things that are spoken of in this bill.

If the bill did what it said it was going to do, I would have no trouble voting for it. However, I am obliged to vote against the bill because it does more than it says it will do. The purport of the bill, in its summary, says that it is for minimum penalties for serious drug offences.

I have said before how opposed I am to the idea of minimum penalties for anything, which I will address again in a minute, but this bill goes further than that. Senator Baker talked about this earlier, and Senator Wallace answered in response to Senator Fraser that, yes, there are circumstances that none of us would think of as trafficking in a controlled substance which are caught by this bill. Giving your friend a Tylenol because he or she has a headache is an offence under this bill. Growing six marijuana plants in order to have a party with your friends at graduation is an offence under this bill. No money made; just doing it for friends. I know that is not the intent of the bill because it says it is for serious drug offences in the summary.

• (2020)

As I keep trying to remind myself, and sometimes others, we in this place do not pass policy. We cannot rely on anyone saying, "We would not do that; we would not go there; we would not pursue that."

What we are passing is law, or not. We must be concerned, therefore, not with what the present police, judiciary and penology people will do with this law and with the assurances that they give us, but we need to be concerned with how this bill will be dealt with, administered and applied 25 years from now when not many of us will be here. Some of us will be, but not many of us.

We have to look at what the law says, and it says, among other things, that if I give Senator Baker a Tylenol 3 because he has a headache and if we happened to be near a school, whatever that means — "near" is not defined — that is trafficking and I can be prosecuted.

If we do this minimum sentence business, we are removing the discretion from judges about whether to proceed with something and relying instead, as Senator Baker has reminded us, on prosecutorial independence. It will be prosecutors who decide whether to prosecute me for giving Senator Baker a Tylenol and not others. That is the law we are passing.

Let me read you what it says in terms of the aggravating factor of being in or near a school. It says:

(ii) to a minimum punishment of imprisonment for a term of two years if

(A) the person committed the offence in or near a school, on or near school grounds or in or near any other public place usually frequented by persons under the age of 18 years,

It is talking about malls, theatres, concert halls and arenas, for example. That is what this law says.

Honourable senators, I know we must not let the perfect stand in the way of the good. Senator Wallace, most of this bill is good and we would all agree with most of what it says we ought to do. It addresses a problem in ways that Senator Wallace has accurately and fairly described as being not a magic bullet and part of a larger program. However, honourable senators, I must oppose the bill because of those small parts that do not do what the bill says it sets out to do. I know the honourable senator will understand that because we have talked about it before, but I wanted other honourable senators to hear my reasons.

**Hon. Charlie Watt:** Honourable senators, today I am standing here again to speak to Bill S-10 because I am stubborn, but overall because I am right. On this matter, I respectfully disagree with the position taken by Senator Wallace.

What I heard last week in this chamber was a misguided government plan to further penalize Aboriginal people in the Canadian justice system. There is only one way to take the action of removing a judge's ability to interpret. Senator Wallace called them "our Aboriginal brothers and sisters." In reality, they are victims of culturally intolerant government policy. It is a tough job to be a government spokesman, and I am sure there was a fair bit of holding his nose as he gave that speech last week.

Honourable senators, we must all remember that we have been called to this chamber to do the work that calls for study, integrity, courage, independent thought and action. We are called to vote on our conscience after doing hard work and reflection.

As I reflected on our time together, it struck me that Senator Wallace does not have an understanding of the Aboriginal community or its needs. How could he?

**Senator Munson:** Your Honour, I cannot hear the honourable senators. Could we bring some order to the chamber?

**The Hon. the Speaker *pro tempore*:** Senator Watt has the floor, and I would ask honourable senators to have one conversation only, and that conversation is of Senator Watt. Thank you.

**Senator Watt:** He has never lived with one of his Aboriginal brothers or sisters. His world view is simply shaped by different factors.

The English language has limitations. Aboriginal people define community differently. They live and work within the community, with their own values and cultural way of life. They are not a

uniform group. In fact, we used to have many hard feelings between Aboriginal nations, but we have been forced to work together in response to illogical and neglectful government policy over the years.

Honourable senators, our Aboriginal brothers and sisters have found themselves in desperate situations that created communities of people driven by hunger, poverty and racism. The other day, my honourable colleague displayed surprising insensitivity to the history of Aboriginal struggles and also seemed to ignore the foundation on which our Criminal Code was established.

Historically, our laws have not been created in a vacuum. Over the decades, many great thinkers have carefully forged the canon of our laws in this nation. Our Canadian Charter of Rights and Freedoms is the envy of millions of people around the world because it was created through consultation and open dialogue with representatives from many cultures within our nation. We also drew upon the finest legal opinions from around the world. The context of these living documents is very important.

Honourable senators, 20 years ago, the Solicitor General of Canada recognized Aboriginal overrepresentation in our prisons. In a paper entitled *Dimensions of Aboriginal Over-Representation in Correctional Institutions and Implications for Crime Prevention*, senior researcher Carol LaPrairie looked at the relationship between incarceration rates for Aboriginals and the links with socio-economic factors like education, unemployment, lack of skills, income and crime. It is frustrating as we are still talking about the same issues, and on a policy level, Parliament is passing regressive legislation.

As an Inuk, it constantly surprises me that such serious issues are looked at without context. In *Gladue*, the goal was to look at the social context and to respond to the acute problem of disproportionate incarceration of Aboriginal peoples and to encourage sentencing judges to apply principles of restorative justice alongside or in place of other more traditional sentencing principles.

• (2030)

*Gladue* reminds us that Aboriginal communities understand that offences have occurred, but they see the sanctions differently.

We must work with Aboriginal communities to find a way to deal with offences — on or off reserve — but we must recognize that the penalty must be meaningful and that rehabilitation can be transformative.

In my last speech, I mentioned the issue of Fetal Alcohol Spectrum Disorder and the impact this disorder is having on Aboriginal communities. Recently, Kim Pemberton in the *Vancouver Sun* wrote an article on Fetal Alcohol Spectrum Disorder. She said:

The number of people with fetal alcohol spectrum disorder in Canadian prisons isn't known, but estimates vary wildly — from 15 to 80 per cent.

Exact numbers are not known because no screening methods exist for inmates in either the provincial or federal corrections systems.

Recently, the Canadian Bar Association has also sounded the alarm regarding Fetal Alcohol Spectrum Disorder in our prisons. This association is a group of 37,000 lawyers that have passed a resolution to the effect that the government needs to act regarding Fetal Alcohol Spectrum Disorder. This disorder is a crisis in our jails, yet the government seems to be ignoring this issue.

In my culture, we celebrate the ability to listen and the ability to find consensus. Honourable senators, I am speaking to you today because our prison system is bursting with Aboriginal people. They are taking up too much space. Overrepresentation of Aboriginal offenders in our prison system is a crisis.

By passing Bill S-10 without amendment, it is clear to me that we have failed to recognize the bigger picture. This bill is not about amending the Criminal Code in a line-by-line manner; this bill is about doing the work that we were called to do.

It is my hope that minority circumstances in the other place will allow for more meaningful debate on this matter, and perhaps it will address this issue in a meaningful way, something that the Senate has failed to do. Thank you. *Nakurmiik*.

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

**Some Hon. Senators:** Question!

**The Hon. the Speaker pro tempore:** It was moved by the Honourable Senator Wallace, seconded by the Honourable Senator Mockler, that the bill, as amended, be read the third time now.

Are honourable senators ready for the question?

**Some Hon. Senators:** Agreed.

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

**Some Hon. Senators:** No.

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** On division.

**The Hon. the Speaker pro tempore:** Is it adopted on division, Honourable senators?

**Hon. Senators:** Agreed.

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

## CANADA CONSUMER PRODUCT SAFETY BILL

### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Martin, seconded by the Honourable Senator Kochhar, for the third reading of Bill C-36, An Act respecting the safety of consumer products;

And on the motion in amendment of the Honourable Senator Banks, seconded by the Honourable Senator Moore, that Bill C-36 be amended in clause 15, on page 9,

(a) by replacing line 13 with the following:

“information in relation to a consumer product to a person or a government that”; and

(b) by replacing lines 17 to 20 with the following:

“relates only if

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

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

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

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

(4) For greater certainty, nothing in this”.

**Hon. Elaine McCoy:** Honourable senators, before I begin speaking on the clock, your honour, may I ask for clarification on a point of procedure? I spoke with the Leader of the Government in the Senate and with the Leader of the Opposition in the Senate, and I believe the table officers are aware and had spoken to His Honour about it, but it has been a long-standing practice of the Senate to stack amendments. In the course of my comments, I propose to move amendments that are not sub-amendments to Senator Banks' amendment. With leave of the Senate, I will proceed; otherwise, I will wait until later.

**The Hon. the Speaker *pro tempore*:** The tradition in this house has been that in circumstances such as these, we do, in fact, stack amendments, and honourable senators are free to debate any of the amendments before the house.

Is it agreed, honourable senators, that the amendments be stacked?

**Hon. Senators:** Agreed.

**Senator McCoy:** Thank you very much. I appreciate honourable senators' agreement on that point.

I will invite all honourable senators to go on a little journey with me, and imagine for a moment how they would feel if suddenly a government official appears at their door, maybe

flashes a tiny identification card, which, if honourable senators are like me, they would have to peer at to read, and without a by-your-leave, enters their premises, sits down at their computer, starts to search, stands up, wanders around their premises, and even begins to seize files and other products that they might sell or produce. The government official not only does that without a by-your-leave, they also do it without any prior notice or warning. They can hold on to those goods for long enough to disrupt a business and maybe even send the owner into financial difficulty.

There are no means to prevent this activity. Imagine how honourable senators would feel. There is no judicial review, there is no recourse for action, and there is no due process.

The business owners ask themselves and probably this official, “What is happening; have I committed a heinous crime of some kind?”

Of course, the answer is no because if it were a serious crime, it would be a police officer at their door, and the police officer would have a warrant from a justice of the peace or a judge before entering, let alone seizing any files or goods.

Perhaps they have been found guilty already of some crime. Again, the answer is no. All we have here is a bureaucratic desire to peek, pick, poke and God knows what else at products and files — a fishing expedition, as Senator Banks and others have said.

It is simple curiosity, based on nothing solid like judicial review or scientific review, and not even an honest belief that the act or regulations have been contravened — nothing.

The worst part is that there is nothing they can do about it and no one they can talk to until well after the fact.

With respect to that little movie, you might be thinking, “Oh, my goodness, no, no, no; that is a Cold War scenario; that is only in Eastern Bloc countries; that is one of the terrible situations that used to exist on the other side of the Great Wall.”

However, it is not true. That can happen to anyone in Canada in the 21st century, not because they are a drug smuggler, as Senator Wallace and others were discussing, a human trafficker or a porn producer. They are someone whose occupation it is to make or sell consumer products in Canada — ordinary consumer goods — and they may be completely innocent of any wrongdoing. Think of it, honourable senators: they may be completely innocent.

The folks at their door who are demanding entry are not even trained police officers. They are Health Canada inspectors, for heaven's sake, and the only thing someone can do after the fact is complain to other Health Canada inspectors, who probably have their office or desk next to each other and who are about as likely to overturn a colleague's commandments as one might expect.

So we are clear, I will say again what we have all been saying. At its heart, the bill has honourable goals, much as Senator Banks said about Bill S-10, and much as Senator Day, Senator Banks, Senator Cordy and others have said about Bill C-36. The goal of keeping safe products on our shelves, in our homes and in our businesses is a good one.



• (2040)

We also endorse the idea that they should be withdrawn from circulation, and there should be some teeth in that, if they are considered to be dangerous or likely to have a serious problem.

However, embedded in the minutia of the legislation are disturbing new powers given to bureaucrats that, in their present wording, would go against the tradition which started about 800 years ago — in 1215 in the Magna Carta, to be precise. It is going against the tradition of common law in Canada, for example, the right to due process. It is those powers that I am concerned about, and I would expect honourable senators would be concerned about as well.

The crux of the matter is this: Do we need to rescind our long-standing, established rights and freedoms in the name of consumer safety? My answer is no. That is a false choice, a false dichotomy.

The Meat Inspection Act, for example, is a similar piece of legislation, but the Meat Inspection Act requires inspectors to believe that something is wrong before they enter, seize or inspect products. That is the normal practice in our country, and we have fought hundreds of years to establish and maintain those kinds of rights. Everyone wants a safe world for their families, but I do not think we have to give up our rights and freedoms to achieve that.

I am inviting all honourable senators to join us in voting against this bill, or at least voting for it with some amendments tonight. We should resist unchecked bureaucratic powers and resist the ability of the state to intervene at will in our private business. We should, in fact, stop criminalizing our world. Let us make our world safer, by all means, but let us not lose our rights and freedoms along the way.

#### MOTION IN AMENDMENT

**Hon. Elaine McCoy:** Honourable senators, therefore, I move that Bill C-36 be not now read a third time, but that it be amended in the following particulars, and I will summarize those particulars first, and then read them into the record: first, that they reinstate the requirement that an inspector must believe that the act or regulations have been contravened before entering or seizing or searching; second, that a warrant be required before entering; and third, that the common-law defences of due diligence and belief in fact be restored.

Let me read the amendment:

That Bill C-36 be not now read a third time but that it be amended

(a) in clause 21(1), on page 10, by replacing lines 34, 35, 36 and 37 with the following:

“(1) Subject to subsection 22(1), if an inspector has reasonable grounds to believe there has been non-compliance with this Act or the regulations, he may, at any reasonable”;

(b) in clause 22, on page 12,

(i) by replacing lines 19, 20 and 21 with the following:

“(1) An inspector may not enter the place mentioned in subsection 21(1) without the consent of the occupant”;

(ii) by replacing lines 27 and 28 with the following:

“person who is named in it to enter the place if the justice of the peace is satisfied by”,

(iii) by replacing line 30 with the following:

“(a) the place is a place described in”,

(iv) by replacing line 32 with the following:

(b) entry to the place is necessary”,

(v) by replacing line 35 with the following:

“(c) entry to the place was refused”.

(c) by deleting clause 59, on page 31, lines 28 to 41.

I would invite all honourable senators to uphold our rights and freedoms and to accept these amendments this evening.

**The Hon. the Speaker *pro tempore*:** Honourable senators, it has been moved in amendment by Honourable Senator McCoy, seconded by Honourable Senator Poy, that Bill C-36 be not now read a third time but that it be amended, (a) —

**Some Hon. Senators:** Dispense.

**The Hon. the Speaker *pro tempore*:** Shall I dispense, honourable senators?

**Some Hon. Senators:** Agreed.

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

**Some Hon. Senators:** Agreed.

**The Hon. the Speaker *pro tempore*:** All those in favour of the amendment moved by Senator McCoy and seconded by Senator Poy will signify by saying “yea.”

**Some Hon. Senators:** Yea.

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

**Some Hon. Senators:** Nay.

**The Hon. the Speaker *pro tempore*:** In my opinion, the “nays” have it.

*And two honourable senators having risen:*

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

Have the whips made a decision as to the time?

**Hon. Jim Munson:** Yes.

**Hon. Consiglio Di Nino:** Yes, a one-hour bell.

**The Hon. the Speaker *pro tempore*:** The vote will be at a quarter to 10. The bells will ring for one hour.

• (2140)

**The Hon. the Speaker:** Honourable senators, just before I put the question, I will invite all honourable senators to require that I have an obligation, pursuant to rule 18, that during the taking of the vote honourable senators will remain in their place and will refrain from undue noise.

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

**The Hon. the Speaker:** Honourable senators, the question before the house is as follows: It was moved by the Honourable Senator McCoy, seconded by the Honourable Senator Poy, that Bill C-36 be not now read a third time but that it be amended:

(a) in clause 21(1) on page 10 by replacing lines 34, 35, 36 and 37 —

Shall I dispense?

**Some Hon. Senators:** Dispense.

Motion in amendment of Senator McCoy negated on the following division:

#### YEAS THE HONOURABLE SENATORS

Banks	Joyal
Callbeck	Mahovlich
Carstairs	Massicotte
Chaput	McCoy
Cordy	Mercer
Cowan	Mitchell
Dallaire	Munson
Dawson	Murray
Day	Pépin
Downe	Poulin
Dyck	Poy
Eggleton	Ringuette
Fairbairn	Rompkey
Fox	Smith
Fraser	Tardif
Furey	Watt
Jaffer	Zimmer—34

#### NAYS THE HONOURABLE SENATORS

Andreychuk	LeBreton
Angus	MacDonald
Ataullahjan	Manning
Boisvenu	Marshall
Braley	Martin
Brazeau	Meighen
Brown	Mockler
Carignan	Nancy Ruth
Champagne	Neufeld

Cochrane  
Comeau  
Demers  
Di Nino  
Dickson  
Duffy  
Eaton  
Finley  
Fortin-Duplessis  
Frum  
Greene  
Housakos  
Johnson  
Kinsella  
Kochhar  
Lang

Ogilvie  
Oliver  
Patterson  
Plett  
Poirier  
Raine  
Rivard  
Runciman  
Segal  
Seidman  
Stewart Olsen  
Stratton  
Tkachuk  
Wallace  
Wallin—49

#### ABSENTIONS THE HONOURABLE SENATORS

Nil

• (2150)

**The Hon. the Speaker:** Honourable senators, the question now is the motion in amendment of the Honourable Senator Banks, seconded by the Honourable Senator Moore, that Bill C-36 be amended in clause 15, on page 9.

(a) by replacing line 13 with the following: —

**An Hon. Senator:** Dispense!

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

**Some Hon. Senators:** Yea.

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

**Some Hon. Senators:** Nay.

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

*And two honourable senators having risen:*

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

Do the whips have advice as to when the vote will take place?

**An Hon. Senator:** Now.

**The Hon. the Speaker:** Is it agreed, honourable senators, that a standing vote will be called now?

**An Hon. Senator:** Now.

**The Hon. the Speaker:** Based on the agreement and the house order, I will —

**Senator Munson:** I am sorry; I could not hear anything. Now I can hear. Thank you.

**The Hon. the Speaker:** Do I have a clear understanding from the house that this vote will be taken now?

**Senator Di Nino:** Your Honour, I confirm that from our side.

**Senator Munson:** Yes, sir.

Motion in amendment of Senator Banks negated on the following division:

#### YEAS THE HONOURABLE SENATORS

Banks	Mahovlich
Callbeck	Massicotte
Carstairs	McCoy
Chaput	Mercer
Cordy	Mitchell
Cowan	Munson
Dallaire	Murray
Dawson	Pépin
Day	Peterson
Downe	Poulin
Dyck	Poy
Eggleton	Ringuette
Fairbairn	Robichaud
Fox	Rompkey
Fraser	Smith
Furey	Tardif
Jaffer	Watt
Joyal	Zimmer—37
Lovelace Nicholas	

#### NAYS THE HONOURABLE SENATORS

Andreychuk	LeBreton
Angus	MacDonald
Ataullahjan	Manning
Boisvenu	Marshall
Braley	Martin
Brazeau	Meighen
Brown	Mockler
Carignan	Nancy Ruth
Champagne	Neufeld
Cochrane	Ogilvie
Comeau	Oliver
Demers	Patterson
Di Nino	Plett
Dickson	Poirier
Duffy	Raine
Eaton	Rivard
Finley	Runciman
Fortin-Duplessis	Segal
Frum	Seidman
Greene	Stewart Olsen
Housakos	Stratton
Johnson	Tkachuk

Kinsella  
Kochhar  
Lang

Wallace  
Wallin—49

#### ABSTENTIONS THE HONOURABLE SENATORS

Nil

• (2200)

**The Hon. the Speaker:** Honourable senators, we are now back to third reading.

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, I wish to make a few comments at this stage in our proceedings, not so much on the substance of the bill but on the way in which we have handled it. I suggest there are some lessons which all of us, but particularly the government, can learn from the legislative process of this bill and its predecessor, Bill C-6.

We all agree that Canadians need a new consumer products safety law. Everyone agrees that the provisions set out in the Hazardous Products Act are outdated and fail to adequately protect Canadians. Legislation to modernize and update the regime has been in preparation for a number of years, beginning under a Liberal government.

This should not be a partisan issue, but rather a matter of parliamentarians of all political parties in both houses working constructively to produce the best legislative and regulatory regime. That is our Canadian parliamentary tradition at its best, and we in the Senate have our part to play.

The first bill that was introduced was Bill C-52, tabled in the other place on April 8, 2008. It had companion legislation, Bill C-51, which would have introduced amendments to the Food and Drugs Act. Those amendments were quite controversial. Indeed, a significant proportion of the strong opposition to the bill before us today seems to have arisen because of confusion amongst Canadians as to whether Bill C-36 contains provisions that were contained in Bill C-51, and specifically, whether it impacts on the sale of natural health products. It does not.

Both bills, Bill C-51 and Bill C-52, died when the Prime Minister prorogued Parliament in September 2008. Bill C-52, the original precursor of Bill C-36, had been referred to committee in that place. Bill C-51, the bill dealing with amendments to the Food and Drugs Act, was still being debated at second reading.

To date, the government has not sought to reintroduce the provisions of Bill C-51. Liberal senators tried to learn the status of that legislation at committee, without success. When officials testified before the Standing Senate Committee on Social Affairs, Science and Technology on Bill C-36, those officials would only say it is the government's decision as to when it will introduce legislation — and, of course, it is.

I suspect many Canadians' fears would have been allayed if the government had been more forthcoming about its plans. No doubt, the government's known penchant for secrecy and history

of burying controversial clauses in bills have not helped the progress of this legislation. Certainly, it is clear from the emails and letters from numbers of Canadians that all of us received that Canadians are deeply concerned that this bill will impact on their access to natural health remedies. As I said earlier, it does not.

Meanwhile, as I have also said, Bill C-52, the consumer products safety bill, died with the 2008 election, and it was some months before the government reintroduced it. No bill was reintroduced in the first session following the election. Honourable senators will recall that that session was cut short when the Prime Minister again prorogued Parliament, this time to avoid a non-confidence motion.

On January 29, 2009, the government reintroduced the bill, this time numbered Bill C-6. There were several months of further delay before the government brought the legislation forward for debate. Nevertheless, eventually it made its way through the legislative process in the House of Commons and reached the Senate on June 16, 2009.

After second reading, the bill was sent to the Standing Senate Committee on Social Affairs, Science and Technology. The committee, as is its role, closely examined the provisions of the bill, listened to the views of experts and other interested Canadians who came to testify about the bill, and considered various amendments to address the expressed concern and to improve the bill.

In the end, the committee reported the bill with several amendments. However, that report containing the amendments was defeated in the Senate amidst allegations that the proposed amendments would gut the bill. Several other amendments proposed by my colleagues at third reading were adopted and the bill, as amended, was returned to the House of Commons on December 15, 2009, almost a year ago today.

Unfortunately, the House of Commons had recessed by that point; and then, as we know, the Prime Minister prorogued Parliament again on December 30, killing the bill again. To date, then, for those who are keeping count, this bill has been delayed by three prorogations by the Prime Minister.

Parliament returned to session on March 3, 2010. However, it was not until June 9 that the minister reintroduced the proposed consumer product safety act, this time relabelled as Bill C-36, the bill we are dealing with today.

Once again, the government delayed bringing the bill forward for debate, this time waiting until October. Lo and behold, despite the minister's previous protestations against the Senate's amendments, many of those changes had been incorporated into the bill, albeit without credit or attribution. Evidently, upon examination, the government realized that those amendments did not gut the bill after all.

A number of other amendments suggested by the Senate in its committee report, the ones that were defeated when the bill was reported here, for some reason — and these were primarily technical amendments — were not reflected in Bill C-36. Honourable senators, I find it strange and rather disconcerting

that the government had not caught and corrected these rather basic mistakes in their legislation, even after we had brought those mistakes to their attention.

Be that as it may, after we pointed out the mistakes again to government representatives, the government introduced the necessary amendments at committee stage in the other place. As a result, the bill which arrived here on November 2 was a significantly improved version of Bill C-6 — not perfect, but certainly better than before.

In the view of many observers, it was a significant advance over the provisions of the Hazardous Products Act that it was designed to replace. The minister herself acknowledged the positive and valuable role of the Senate in improving the bill. In her words, the bill was stronger, clearer and better as a result of the Senate's work.

As is our practice and responsibility, after second reading, the bill was sent again to the Standing Senate Committee on Social Affairs, Science and Technology for study. Honourable senators, my expectation — and I think the expectation of most of those who are following the legislative process — was that while there would be some witnesses who were opposed to some or perhaps all of the provisions of the bill and some who would prefer further amendments, there was sufficient overall support for the bill to permit it to move through the committee report stage, to third reading and on to Royal Assent with a minimum amount of controversy.

• (2210)

Unfortunately, I was wrong. I underestimated the appetite of this government to politicize everything, even the basic protection of Canadians with a new consumer protection product safety law.

The first sign of trouble appeared when the government majority on the steering committee moved to restrict the witness list; in particular, it refused to allow several critics of the bill to appear. This stubborn refusal fuelled the fires of opposition and we all have been deluged with a virtual tsunami of emails protesting, not only what the Senate is doing, but how we were doing it. All of us, and those who follow our work on CPAC, are aware of the scenes of uncharacteristic testiness and partisanship that marked the committee hearings on this bill.

In my view, honourable senators, most or all of this rancour could have been avoided if the government had demonstrated a little flexibility in its approach to the witness list and a little more patience in its approach to the bill itself. There were Canadians who wanted to be heard and many more Canadians who wanted those voices heard. That is the democratic way. Listening to Canadians and reflecting on their views and concerns is what has allowed us to improve this legislation before and is what we should have been allowed to do this time. That is our job. By slamming the door on those witnesses, we have failed Canadians and we have failed to do the job that under the Constitution we were called upon to do.

Honourable senators, the government repeatedly delayed this legislation, waiting for months to bring it forward in the other place and then killing it over and over with its three prorogations. Yet the Conservative members of the committee were unwilling to allow even one more committee hearing to hear from critics on this bill.

**Senator Mercer:** Shame on them.

**Senator Cowan:** Once again, this is a government that demands “my way or the highway,” that refuses to listen to criticism and that only wants to silence dissent.

Had the government adopted a more reasonable and enlightened attitude, we would find the tone of this debate quite different. Instead of criticism from colleagues and abuse from observers, we could have pointed to Bill C-36 as an example of Parliament working as it should; of the Senate doing what it does best — careful study of legislation and giving Canadians an opportunity to be heard before providing its advice to the elected House of Commons —; and of the government listening to reasoned and evidence-based suggestions for improvements to its legislation with the result of better legislation for Canadians.

Honourable senators, this was an opportunity lost. I regret that fact and I hope that all of us, and particularly the government majority, will learn a lesson.

On a final note, I want to repeat what I have said many times since I became Leader of the Opposition in this chamber. We on this side take our role as an opposition very seriously. We are committed to fulfilling our constitutional responsibility. We will support legislative measures that we believe are in the best interests of Canada. We will oppose and we will seek where possible to improve measures that in our view are contrary to that interest. However, let there be no doubt in anyone’s mind: We will not be bullied by the government that now has the majority of members in this place.

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

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

**An Hon. Senator:** Question!

**The Hon. the Speaker:** It was moved by the Honourable Senator Martin, seconded by the Honourable Senator Kochhar, that this bill be read the third time.

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

**Some Hon. Senators:** Agreed.

**An Hon. Senator:** On division.

**The Hon. the Speaker:** Carried, on division.

**Senator McCoy:** Your Honour, three honourable senators rose when the question was called.

**The Hon. the Speaker:** I am afraid I did not see any honourable senator rise.

**Senator McCoy:** I think there might have been others who witnessed it, Your Honour.

**The Hon. the Speaker:** Honourable senators, I will put the question more formally.

Those in favour of the motion will please say “yea.”

**Some Hon. Senators:** Yea.

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

**Some Hon. Senators:** Nay.

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

*And two honourable senators having risen:*

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

Do the whips have advice as to the length of the bell?

**Senator Di Nino:** Your Honour, from our side, we would call the vote now.

**Senator Munson:** Now would be an appropriate time. We are all here.

**The Hon. the Speaker:** Honourable senators, I will put the question now.

It was moved by Honourable Senator Martin, seconded by the Honourable Senator Kochhar, that Bill C-36 be read the third time.

Motion agreed to and bill read third time and passed on the following division:

#### YEAS THE HONOURABLE SENATORS

Andreychuk	LeBreton
Angus	MacDonald
Ataullahjan	Manning
Boisvenu	Marshall
Braley	Martin
Brazeau	Meighen
Brown	Mockler
Carignan	Murray
Champagne	Nancy Ruth
Cochrane	Neufeld
Comeau	Ogilvie
Demers	Oliver
Di Nino	Patterson
Dickson	Plett
Duffy	Poirier
Eaton	Raine
Finley	Rivard
Fortin-Duplessis	Runciman
Frum	Segal
Greene	Seidman
Housakos	Stewart Olsen
Johnson	Stratton
Kinsella	Tkachuk
Kochhar	Wallace
Lang	Wallin—50

• (2220)

NAYS  
THE HONOURABLE SENATORS

Banks	Lovelace Nicholas
Callbeck	Mahovich
Carstairs	Massicotte
Chaput	McCoy
Cordy	Mercer
Cowan	Mitchell
Dallaire	Munson
Dawson	Pépin
Day	Peterson
Downe	Poulin
Dyck	Poy
Eggleton	Ringuette
Fairbairn	Robichaud
Fox	Rompkey
Fraser	Smith
Furey	Tardif
Jaffer	Watt
Joyal	Zimmer—36

ABSTENTIONS  
THE HONOURABLE SENATORS

Nil

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

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

Leave having been given to revert to Notices of Motions:

**Hon. Art Eggleton:** 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 Social Affairs, Science, and Technology be authorized to sit on Thursday, December 16, 2010, even though the Senate may then be adjourned for a period exceeding one week.

FEDERAL LAW—  
CIVIL LAW HARMONIZATION BILL, NO. 3

THIRD READING—DEBATE ADJOURNED

**Hon. Claude Carignan** moved third reading of Bill S-12, A third Act to harmonize federal law with the civil law of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law.

**The Hon. the Speaker:** Honourable senators, on debate.

**Hon. Charlie Watt:** Honourable senators, I rise to speak to Bill S-12. A bill earlier this year made me think about the 2007 report issued by the Standing Senate Committee on Legal and Constitutional Affairs on the subject of a non-derogation clause in federal legislation.

In previous years, we have used non-derogation clauses extensively, but this use has dwindled. In the context of this bill, non-derogation is an important tool for the Aboriginal people as an instrument to deal with the harmonization of indigenous legal tradition.

MOTION IN AMENDMENT

**Hon. Charlie Watt:** Therefore, honourable senators, I move:

THAT Bill S-12 be not now read the third time, but that it be amended, on page 1, by adding after line 5 the following:

“ABORIGINAL RIGHTS”

1.1 For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of those rights in section 35 of the *Constitution Act, 1982*.”.

**The Hon. the Speaker:** Honourable senators, on debate on the amendment?

**Hon. Tommy Banks:** Honourable senators, I thank Senator Watt for the proposed amendment. The honourable senator has heard arguments before in this place, some of them by me, of the many versions of non-derogation clauses that appear from time to time in Canadian statutes. Senator Watt’s proposed amendment will add to Bill S-12 the most sensible and clearest version of a non-derogation clause of the various wordings of non-derogation clauses that appear in Canadian statutes. For that reason, I happily support Senator Watt’s proposed amendment.

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

**An Hon. Senator:** Question.

**The Hon. the Speaker:** Honourable senators, it is moved by the Honourable Senator Joyal, seconded by the Honourable Senator Fairbairn, that further debate be continued at the next sitting of the Senate.

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

**Hon. Senators:** Agreed.

(On motion of Senator Joyal, debate adjourned.)

[ The Hon. the Speaker ]

## OLD AGE SECURITY ACT

### BILL TO AMEND—THIRD READING

**Hon. Judith Seidman** moved third reading of Bill C-31, An Act to amend the Old Age Security Act.

(On motion of Senator Seidman, bill read third time and passed.)

• (2230)

## NATIONAL DAY OF SERVICE BILL

### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Wallin, seconded by the Honourable Senator Marshall, for the second reading of Bill S-209, An Act respecting a national day of service to honour the courage and sacrifice of Canadians in the face of terrorism, particularly the events of September 11, 2001.

**Hon. Joseph A. Day:** Honourable senators, I would like to speak on this matter. I have spoken to Senator Peterson and he is agreeable that I take the adjournment so that I can prepare to speak on it. I would like to be able to speak this evening, but I have been somewhat preoccupied with other matters and have not had the opportunity to properly prepare myself to speak on it.

Given that, honourable senators, and with your indulgence, I request that the matter be adjourned for the balance of my time.

(On motion of Senator Day, debate adjourned.)

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

### THIRD REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the third report of the Standing Committee on Rules, Procedures and the Rights of Parliament (*amendments to the Rules of the Senate—standing committees*), presented in the Senate on December 7, 2010.

**Hon. David P. Smith** moved the adoption of the report.

He said: Honourable senators, I rise to speak very briefly on the third report of the Standing Senate Committee on Rules, Procedures and the Rights of Parliament. It is quite simple. It would delete the Standing Joint Committee on the Restaurant of Parliament and the Standing Joint Committee on Printing from our Rules.

By way of background, these committees have been inactive for a quarter of a century, and even then they had not made reports for some decades. The Senate has not appointed members to either joint committee since 1984. The House of Commons last appointed members to the Restaurant Committee in 1980. References to the Printing Committee were deleted from the Commons Standing Orders in 1986, and they never referred to the Restaurant Committee. As far as has been ascertained, the Printing Committee last reported in 1948 and the Restaurant Committee last reported in 1920.

It is time to clean things up. It is high time that we bring the *Rules of the Senate* into line with reality. While we are rightly cautious about amending our rules, we must recognize that they are the key instrument for governance of Senate in the field of procedure. Transparency and clarity are not served if the rules continue to refer to non-functioning bodies.

The Rules Committee is currently engaged in a review of the committee structure, but the small changes proposed in this third report can be made now independently of that larger effort.

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

**Some Hon. Senators:** Question.

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

(Motion agreed to and report adopted.)

[Translation]

## STUDY ON RISE OF CHINA, INDIA AND RUSSIA IN THE GLOBAL ECONOMY AND THE IMPLICATIONS FOR CANADIAN POLICY

### SEVENTH REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the consideration of the seventh report (interim) of the Standing Senate Committee on Foreign Affairs and International Trade entitled: *A Workplan for Canada in the New Global Economy: Responding to the Rise of Russia, India and China*, tabled in the Senate on June 28, 2010.

**Hon. Suzanne Fortin-Duplessis:** Honourable senators, I would have liked to speak to the seventh interim report of the Standing Senate Committee on Foreign Affairs and International Trade.

Since I have not finished preparing my speech, I would like to adjourn the debate until the Senate returns after the holidays.

(On motion of Senator Fortin-Duplessis, debate adjourned.)

[English]

**CONFLICT OF INTEREST FOR SENATORS**

COMMITTEE AUTHORIZED TO REFER PAPERS  
AND DOCUMENTS FROM SECOND SESSION  
OF FORTIETH PARLIAMENT  
AND INTERSESSIONAL AUTHORITY

**Hon. Terry Stratton**, pursuant to notice of December 8, 2010,  
moved:

That the papers and documents received and/or produced  
by the Standing Committee on Conflict of Interest for  
Senators during the Second Session of the Fortieth  
Parliament, and Intersessional Authority be referred to the  
Standing Committee on Conflict of Interest for Senators

(Motion agreed to.)

COMMITTEE AUTHORIZED TO MEET DURING  
SITTINGS OF THE SENATE FOR DURATION  
OF CURRENT SESSION

**Hon. Terry Stratton**, pursuant to notice of December 8, 2010,  
moved:

That, for the duration of the current session, the Standing  
Committee on Conflict of Interest for Senators be  
authorized to sit even though the Senate may then  
be sitting and that rule 95(4) be suspended in relation  
thereto.

(Motion agreed to.)

(The Senate adjourned until tomorrow at 2 p.m.)



**Appendix**  
(See p. 1602.)



Citizenship and  
Immigration Canada

Citoyenneté et  
Immigration Canada

**PROTECTED WHEN COMPLETED - B**  
PAGE 1 OF 4

**APPLICATION FOR TEMPORARY RESIDENT VISA  
MADE OUTSIDE OF CANADA**

1 UCI/Client ID	2 I want service in	3 Visa requested	<b>OFFICE USE ONLY</b>
			Validated

**PERSONAL DETAILS**

1 Full name (as shown on your passport or travel document)				
Family name			Given name(s)	
2 Nick names/Alias				
Family name			Given name(s)	
3 Sex	4 Date of birth	5 Place of birth		
	YYYY MM DD	City/Town Country		
6 Citizenship				
7 Current country of residence:				
Country	Status	Other	From	To
			YYYY-MM-DD	YYYY-MM-DD
8 Previous countries of residence: During the past five years have you lived in any country other than your country of citizenship or your current country of residence (indicated above) for more than six months? <input type="checkbox"/> No <input type="checkbox"/> Yes				
Country	Status	Other	From	To
			YYYY-MM-DD	YYYY-MM-DD
			YYYY-MM-DD	YYYY-MM-DD
9 Country where applying: Same as current country of residence? <input type="checkbox"/> No <input type="checkbox"/> Yes				
Country	Status	Other	From	To
			YYYY-MM-DD	YYYY-MM-DD
10 a) Your current marital status				
b) (If you are married or in a common-law relationship) Provide the date on which you were married or entered into the common-law relationship			Date	
			YYYY-MM-DD	
c) Provide the name of your current Spouse/Common-law partner				
Family name			Given name(s)	

FOR OFFICE USE ONLY - DO NOT WRITE IN THIS SPACE

Application Name	PAGE 2 OF 4
Date of Birth	

**PERSONAL DETAILS (CONTINUED)**

<b>11 Have you previously been married or in a common-law relationship?</b> <input type="checkbox"/> No <input type="checkbox"/> Yes Provide the following details for your previous Spouse/Common-law Partner:		
Family name	Given name(s)	
Type of relationship	From YYYY-MM-DD	To YYYY-MM-DD

**PASSPORT**

<b>1</b> Passport number	<b>2</b> Country of issue	<b>3</b> Issue date YYYY-MM-DD	<b>4</b> Expiry date YYYY-MM-DD
--------------------------	---------------------------	-----------------------------------	------------------------------------

**CONTACT INFORMATION**

<b>1 Current mailing address</b> - All correspondence will go to this address unless you indicate your e-mail address below. - Indicating an e-mail address will authorize all correspondence, including file and personal information, to be sent to the e-mail address you specify. - If you wish to authorize the release of information from your application to a representative, indicate their address below and on the IMM5476 form.					
P.O. box	Apt/Unit	Street no.	Street name		
City/Town	Country	Province/State	Postal code	District	
<b>2 Residential address</b> Same as mailing address? <input type="checkbox"/> No <input type="checkbox"/> Yes					
Apt/Unit	Street no.	Street name		City/Town	
Country	Province/State	Postal code	District		
<b>3 Telephone no.</b> <input type="checkbox"/> Canada/US <input type="checkbox"/> Other Type Country Code No. Ext.					
<b>4 Alternate Telephone no.</b> <input type="checkbox"/> Canada/US <input type="checkbox"/> Other Type Country Code No. Ext.					
<b>5 Fax no.</b> <input type="checkbox"/> Canada/US <input type="checkbox"/> Other Country Code No. Ext.					
<b>6 E-mail address</b>					

**DETAILS OF VISIT TO CANADA**

<b>1 a) Purpose of my visit</b>		<b>b) Other</b>	
<b>2</b> Indicate how long you plan to stay	From YYYY-MM-DD	To YYYY-MM-DD	<b>3</b> Funds available for my stay (\$CAD)
<b>4</b> Name, address and relationship of any person(s) or institution(s) I will visit:			
Name			
<b>1</b>	Relationship to me	Address in Canada	
Name			
<b>2</b>	Relationship to me	Address in Canada	

Application Name		PAGE 3 OF 4	
		Date of Birth	

  

<b>EDUCATION</b>				
Have you had any post secondary education (including university, college and apprenticeship training)? <input type="checkbox"/> No <input type="checkbox"/> Yes				
If you answered yes, give full details of all post secondary education you have had.				
1	From	Field of study	School/Facility name	
	YYYY MM			
	To	City/Town	Country	Province/State
YYYY MM				
2	From	Field of study	School/Facility name	
	YYYY MM			
	To	City/Town	Country	Province/State
YYYY MM				
3	From	Field of study	School/Facility name	
	YYYY MM			
	To	City/Town	Country	Province/State
YYYY MM				

  

<b>CURRENT OCCUPATION</b>				
Give full details of your present job. If retired, not working or student, please indicate.				
1	From	Activity/Occupation	Company/Employer/Facility name	
	YYYY MM			
	To	City/Town	Country	Province/State
YYYY MM				

  

<b>BACKGROUND INFORMATION</b>	
You must complete this section if you are 18 years of age or older.	
1	<p>a) Within the past two years, have you or a family member ever had tuberculosis of the lungs or been in close contact with a person with tuberculosis? <input type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>b) Do you have any physical or mental disorder that would require social and/or health services, other than medication, during a stay in Canada? <input type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>c) If you answered "yes" to question 1a) or 1b), please provide details and the name of the family member (if applicable).</p> <div style="border: 1px solid black; height: 80px; width: 100%;"></div>
2	<p>a) Have you ever previously applied for any Canadian visas (e.g. Permanent Resident, Student, Worker, Temporary Resident (Visitor), Temporary Resident Permit)? <input type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>b) Have you ever been refused any kind of visa to travel to Canada? <input type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>c) Have you ever been refused admission or been ordered to leave Canada or any other country? <input type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>d) If you answered "yes" to question 2a), 2b), or 2c) please provide details.</p> <div style="border: 1px solid black; height: 80px; width: 100%;"></div>

Application Name		PAGE 4 OF 4
		Date of Birth
<b>BACKGROUND INFORMATION (CONTINUED)</b>		
<b>3</b>	Have you ever committed, been arrested for or been charged with any criminal offence in any country?	<input type="checkbox"/> No <input type="checkbox"/> Yes
<b>4</b>	a) Have you ever been in a military, militia or civil defense unit or the police?	<input type="checkbox"/> No <input type="checkbox"/> Yes
b) If you answered "no" to question 4a) and military service is mandatory in your country and you did not serve, please explain why you did not serve. Then proceed to question 5)		
<b>5</b>	Have you ever been employed by a government in a security-related capacity?	<input type="checkbox"/> No <input type="checkbox"/> Yes
<b>6</b>	Have you ever held a position of authority in any government, or judiciary or a political party?	<input type="checkbox"/> No <input type="checkbox"/> Yes
<b>7</b>	Have you ever in periods of either peace or war, been involved in the commission of a war crime or crime against humanity, such as: willful killing, torture, attacks upon, enslavement, starvation or other inhumane acts committed against civilians or prisoners of war, or deportation of civilians?	<input type="checkbox"/> No <input type="checkbox"/> Yes
If you answered "yes" to any of questions 3 to 7 above, or upon request of a visa officer, you MAY BE REQUIRED to fill out IMM 5257 Schedule 1.		
I consent to the release to Citizenship and Immigration Canada (CIC) and Canada Border Services Agency (CBSA) of all records and information for the purpose of processing my request that any government authority, including police, judicial and state authorities in all countries in which I have lived may possess about me. This information will be used to evaluate my suitability for admission to Canada or to remain in Canada pursuant to Canadian legislation.		
I declare that I have answered all questions in this application fully and truthfully.		
_____ Signature of Applicant or Parent/Legal Guardian's for a person under 18 years of age.		_____ Date: YYYY-MM-DD
<div style="display: flex; align-items: center;"><b>IMPORTANT NOTE:</b> This application must be signed and dated before it is submitted. Do not forget to include: your passport, photos, the fees, your signature.</div>		
<small>The information you provided in this application is collected under the authority of the <i>Immigration and Refugee Protection Act</i> and will be used to maintain a record of applications and sponsorship undertakings for the purpose of the administration of the Act. It will be retained in the Personal Information Banks CIC PPU 053 or CIC PPU 054 or CIC PPU 055 depending on the type of application made. The information may be shared with other organizations such as the Canada Border Services Agency (CBSA), the Royal Canadian Mounted Police (RCMP), the Canadian Security Intelligence Service (CSIS) and foreign governments in accordance with subsection 8(2) of the <i>Privacy Act</i>. In accordance with the <i>Privacy Act</i> and the <i>Access to Information Act</i> individuals have the right to protection of and access to their personal information. Details on these matters are available at the Infosource website (<a href="http://www.infosource.gc.ca/">http://www.infosource.gc.ca/</a>) and through the Citizenship and Immigration Canada Call Centre. Infosource is also available at Public Libraries across Canada.</small>		



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## 2. C) Did you ever participate in any form of combat?

Avez-vous déjà participé à des combats, sous quelque forme que ce soit?

- ☐ No ☐ Yes ☐ Give details, including dates and locations.  
Non Oui Veuillez fournir plus de détails, y compris les dates et les lieux.

From - De Y - A M	To - À Y - A M	Location - Lieu	Details - Détails

## D) Why did your service end?

Pourquoi votre service a-t-il pris fin?

- ☐ Completed service ☐ Deserted  
Service terminé Désertion  
☐ Medical problems ☐ Other (please specify)  
Problèmes médicaux Autre (veuillez spécifier)

## 3. Have you ever witnessed or participated in ill treatment of prisoners or civilians, looting or desecration of religious buildings?

Avez-vous déjà assisté ou participé à de mauvais traitements infligés à des prisonniers ou à des civils, à des actes de pillage ou à la profanation d'édifices religieux?

- ☐ No ☐ Yes ☐ Provide details of the circumstances below.  
Non Oui Veuillez fournir des détails sur les circonstances ci-dessous.

Date Y - A M	Location - Lieu	Details - Détails

## 4. Were you ever a member of a political party or other group or organization?

Avez-vous déjà été membre d'un parti politique ou d'un autre groupe ou organisation?

- ☐ No ☐ Yes ☐ Give details of organizations you have supported, been a member of or been associated with. Include any political, social, youth or student organization, trade unions, professional associations. Do not use abbreviations.  
Non Oui Veuillez fournir des détails sur les organisations que vous avez appuyées, dont vous avez été membre ou avec lesquelles vous avez entretenu des liens. N'oubliez pas les organisations politiques ou sociales, les regroupements de jeunes ou d'étudiants, les syndicats et les associations professionnelles. N'utilisez aucune abréviation.

From - De Y - A M	To - À Y - A M	Name of organization Nom de l'organisation	Type of organization Genre d'organisation	Activities and/or positions held within organization Activités et/ou poste(s) au sein de l'organisation	City and country Ville et pays

## 5. Have you ever held a government position?

Avez-vous déjà occupé un poste au sein d'un gouvernement?

- ☐ No ☐ Yes ☐ If you have held a position in any government, judiciary or state enterprise (e.g., mayor, member of parliament, counsellor, judge, managing director, etc.) or have ever been employed by a government, the judiciary or political party in a position of responsibility or supervision (e.g., hospital administrator, police officer, elections official, civil servant, etc.), provide details below (do not use abbreviations).  
Non Oui Si vous avez occupé un poste au sein d'un gouvernement, de l'appareil judiciaire ou d'une entreprise d'État (p. ex., maire, député, conseiller, juge, directeur général, etc.) ou si vous avez déjà été à l'emploi d'un gouvernement, de l'appareil judiciaire ou d'un parti politique et que vous occupiez un poste où vous deviez vous acquitter de certaines responsabilités ou de fonctions de supervision (p. ex., directeur général d'un hôpital, agent de police, fonctionnaire électoral, etc.), veuillez fournir des détails ci-dessous (n'utilisez pas d'abréviations).

From - De Y - A M	To - À Y - A M	Country and level of jurisdiction (e.g. national, regional, municipal) Pays et niveau d'administration (p. ex., national, régional, municipal)	Department/Branch and city Ministère/direction générale et ville	Activities and/or positions held Activités et/ou poste(s) occupé(s)

PAGE 3 OF/DE 3

6. Have you or an accompanying family member ever committed, been arrested for or been charged with any criminal offence in any country?  
Est-ce que vous-même ou un des membres de votre famille qui vous accompagne avez déjà commis ou été arrêté pour avoir commis ou été accusé d'avoir commis une infraction pénale quelconque dans n'importe quel pays?

☐ No ☐ Yes ☐ Non ☐ Oui ► If you answered "yes" provide details and the name of the family member (if applicable).  
Si vous avez répondu « oui », veuillez fournir des détails et le nom de membre de la famille (s'il y a lieu).

--

## 7. Declaration

I (your full name), \_\_\_\_\_,  
declare that all of the above statements are true, complete and correct, and I  
make this declaration knowing that it is of the same effect as if made before a  
court of law.

**Signature**

---

► Signature of applicant or parent/legal guardian's for a person under 18 years of age.  
Signature du demandeur ou du parent/tuteur légal pour une personne âgée de moins de 18 ans.

## Déclaration

Je (votre nom au long), \_\_\_\_\_, déclare que tous les énoncés ci dessus sont véridiques, exhaustifs et justes, et je fais cette déclaration en toute connaissance de cause, sachant qu'elle a la même valeur que si elle était faite devant un tribunal.

Date \_\_\_\_\_

Y-A	M	D-J
-----	---	-----

The information you provide on this form is collected under the authority of the *Immigration and Refugee Protection Act* and will be used for the purpose of assessing your application according to the requirements of the Act. It will be retained in a Personal Information Bank identified in *InfoSource*. It may be shared with other organizations in accordance with the consistent use of information under the *Privacy Act*. Under the *Privacy Act* and the *Access to Information Act* individuals have the right to protection of and access to their personal information. Details on these matters are available at [infosource.gc.ca](http://infosource.gc.ca) and through the Citizenship and Immigration Call Centre. *InfoSource* is also available in Canadian public libraries.

Les renseignements fournis dans ce formulaire sont recueillis en vertu de la Loi sur l'immigration et la protection des réfugiés et seront utilisés afin d'évaluer votre demande conformément aux critères prévus dans la Loi. Ils seront conservés dans une banque de renseignements personnels tel que prévu par la Loi. Ils peuvent être communiqués à d'autres organisations conformément aux lois sur l'accès à l'information et sur la protection des renseignements personnels. Au principe d'usage complet de la Loi sur l'accès à l'information, les personnes ont le droit de s'attendre à ce que leurs renseignements personnels soient traités avec confidentialité. Il est possible d'obtenir plus d'information à ce sujet en visitant le site [www.aadcan.gc.ca](http://www.aadcan.gc.ca) ou en communiquant avec un agent de la citoyenneté et de l'immigration. On peut aussi accéder à l'information à partir de bibliothèques

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