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Tuesday, February 28, 2012

Speaker: The Honourable Andrew Scheer

Government Orders

[Business of Supply]

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Business of Supply

Opposition Motion—Charter of Rights and Freedoms

Hon. Bob Rae (Toronto Centre, Lib.)

moved:

That the House recognize: (a) the fundamental right of all Canadians to the freedoms of speech, communication and privacy, and that there must be a clear affirmation on the need for these rights to be respected in all forms of communication; (b) that the collection by government of personal information and data from Canadians relating to their online activities without limits, rules, and judicial oversight constitutes a

violation of the Canadian Charter of Rights and Freedoms' protections against unreasonable search and seizure; (c) that Canadians who have expressed deep concerns about Bill C-30 should not be described as being friends of child pornography or advocates of criminal activity; (d) that the Charter is the guarantor of the basic rights and freedoms of all Canadians; and (e) that the Charter is paramount to any provision of the Criminal Code of Canada; and accordingly the House calls on the Prime Minister to ensure that any legislation put forward by his government respects the provisions of the Charter and its commitment to the principles of due process, respect for privacy and the presumption of innocence.

Ms. Kerry-Lynne D. Findlay (Parliamentary Secretary to the Minister of Justice, CPC):

Mr. Speaker, I rise today to respond to the motion. As my previous colleagues have stated, the hon. Minister of Justice is required to inform the House of Commons of any legislation introduced that is not compliant with the Canadian Charter of Rights and Freedoms. I would like to emphasize this point. The Minister of Justice believes that Bill C-30 does not violate any of our charter rights.

Does that mean Bill C-30 will have absolutely no effect on the privacy rights of Canadians? Of course not. Any legislation that gives police new investigative powers will necessarily impact upon the privacy of Canadians. What is important, however, is whether the impact on privacy is justified to ensure the public safety of our country.

Our government firmly believes that we have proposed legislation to ensure Canada's laws adequately protect Canadians online, without breaching their constitutional rights. All of the new powers were carefully tailored to ensure that the proper level of scrutiny, whether it is transparency or oversight, was built into the specific powers sought.

I would like to remind hon. members on the other side of the House that similar legislation has not only been tabled by previous Liberal governments, in 2005, 2007 and 2009, as stated by others in this place as well, but the Liberals have supported these same changes with weaker oversight and weaker protections for privacy.

Bill C-30 is about providing police officers with the tools they need to fight crime today. It is about modernizing investigative techniques so they can catch those who would exploit technology for criminal purposes.

Thirty years ago computer crime was mostly a local crime that could be policed and prosecuted more or less in the same manner as traditional crimes. The Internet has changed that. The Internet is ubiquitous and so is computer-related crime. It knows no borders and we cannot investigate and prosecute it without the assistance of our international partners.

In fact, among the many things that Bill C-30 would do, it would allow Canada to ratify the Council of Europe convention on cybercrime. In order for Canada to ratify international treaties, it must first bring its law into conformity with the requirements of the instrument. In the case of this convention, for example, it requires a member state to have the ability to preserve computer data. Bill C-30 would respond to the requirement by creating the preservation order in Canadian law.

This convention, otherwise known as the Budapest convention, is the pre-eminent international treaty dealing with cybercrime. Canada was among the countries that negotiated this treaty and was instrumental to the inclusion of the child pornography provisions contained within it.

By putting Canada in the position to ratify the Budapest convention, Bill C-30 would do two things. First, it would answer our need for increased international co-operation in this area. Second, it would enhance the safety of Canadians by providing our police officers with the tools they needed.

The convention, which requires states to adhere to relevant international human rights standards and to create certain baseline substantive offences and procedural powers, also provides states with a mechanism for international co-operation. This increased ability to co-operate with our friends in the area of cybercrime, and especially child pornography, will increase our success rate in capturing criminals who use international borders to stymie investigations.

Finally, 32 countries have already ratified this convention, including two of our most important partners, the United States and the United Kingdom. Further, Australia, another important Canadian ally, has been asked to accede to the convention. The importance of this convention is underscored by their participation.

Canada's ratification of this convention will extend the reach of Canadian law enforcement around the globe as more and more non-European countries seek accession. This ability will ensure that more cybercriminals are brought to justice and will make Canada a safer place, especially for our children.

I would like to reiterate what I have previously said. This legislation is not new to Parliament. I find it very ironic that the Liberal leader would table a motion in the House that criticizes legislation that his party previously supported and tabled when the Liberals were in government. As I have

already stated, the previous Liberal legislation had weaker protections for the privacy of Canadians.

The Liberal Party is the last one that should lecture Parliament on how to better protect Canadians, while also ensuring the respect of their privacy. This is another clear example of the fact that the Liberals are completely void of values, principles and ideas. They simply adopt whichever position they think is popular on the issue of the day. This is not what Parliament is elected to do.

(1325)

Our government expects Parliament to have a thorough debate and conduct a thorough review of our proposed legislation to ensure we strike the right balance between protecting Canadians from crime while respecting Canadians' privacy rights.

Mrs. Carol Hughes (Algoma—Manitoulin—Kapusksing, NDP):

Mr. Speaker, I rise to speak to this important motion, and to Bill C-30 as well, because this is basically a reiteration of the previous Liberal bill. We know Bill C-30 is actually flawed. We know the privacy commissioners and experts are all already worried that the personal information of Canadians could be obtained without a warrant, violating the rights and freedoms of law-abiding citizens.

We talk about law-abiding citizens on this side of the House and on that side of the House the Conservatives talk about law-abiding citizens when it comes to guns. I am trying to get some sense from the government. If the Conservatives felt that the gun registry was so intrusive for law-abiding citizens, why are they tabling legislation such as Bill C-30, which is even more intrusive? It just does not make sense.

On the other side of the House, the Conservatives say that if members are not on their side, then they are on the side of pornographers or they are not on the side of law-abiding citizens. What are they trying to do? Does this not contravene the Charter of Rights?

Ms. Kerry-Lynne D. Findlay:

Mr. Speaker, what we are trying to do is what we committed to do, which is stand up for law-abiding Canadians. We are the only party in the House that consistently and continually stands up for law-abiding Canadians. We

are not those who speak of harming those who have already been convicted of criminality, as we often hear on the other side.

The bill does meet the Charter of Rights. The minister stands behind that. It is our duty to do that when proposing legislation and we have met that challenge. We have actually beefed up, or made stronger, any privacy concerns in the legislation from what was tabled by the Liberals.

Mr. David Wilks (Kootenay—Columbia, CPC):

Mr. Speaker, with regard to clause 17 of Bill C-30, which refers to the extenuating circumstances that police require to just get information, could she expound upon that? I think there is some confusion that police can get information without doing anything. There has to be extenuating circumstances. Could she explain that for the opposition?

(1330)

Ms. Kerry-Lynne D. Findlay:

Mr. Speaker, I thank the member for his hard work on justice files and his long-term service, both now in the House and before he came to this place.

Extenuating circumstances means exceptional circumstances, where there is perhaps, for an example, a very serious terrorist threat or something like that. It is important to understand and emphasize that we are actually joining other developed countries around the world, those which we do business with regularly, in terms of the provisions of the bill.

Many countries already have in place the ability for law enforcement, in limited circumstances, just as this, to get information from Internet service providers. They include many north European countries, as well as the U.S., U.K., Australia, New Zealand, the Netherlands, Germany, and a long list. We need to work co-operatively with our international partners in this regard.

[*Translation*]

Mr. Alain Giguère (Marc-Aurèle-Fortin, NDP):

Mr. Speaker, as our colleague clearly indicated, the question is whether the needs of police require privacy to be breached, given that police already have extraordinary means of obtaining this information without going to a judge.

What the member is presenting as a justification is not acceptable.

[*English*]

Ms. Kerry-Lynne D. Findlay:

Mr. Speaker, I understand the concerns of Canadians when it comes to privacy rights. They want to know that we are striking the right balance. That is why this government has referred the matter to committee so we can have a full and open airing of these issues and so the appropriate witnesses can be brought forward to ensure that we strike a balance with which all Canadians can be comfortable. There are serious international issues at play here that we need to address from a law enforcement perspective. We also want to protect the privacy of all Canadians.