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Wednesday, October 21, 1998

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THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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THE SENATE

Wednesday, October 21, 1998

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

Prayers.

SENATORS' STATEMENTS

WOMEN'S HISTORY MONTH

MARY ELLEN SMITH—
FIRST WOMAN CABINET MINISTER IN COMMONWEALTH

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, today in honour of Women's History Month I wish to present yet another woman who has made a considerable contribution to Canada. Her name is Mary Ellen Smith. She was Canada's first woman cabinet minister and the first woman Speaker in the entire Commonwealth.

When I first began to research women's firsts in politics, I must say I had never heard the name Mary Ellen Smith. She was born in England in 1862 and moved with her husband to Nanaimo, British Columbia, shortly after her marriage. It was her husband who was the first politician in the family, serving both in the provincial legislature and in Parliament. In 1916, he became the Minister of Finance for British Columbia, but it was his wife who supported him, and made speeches when he was not available.

Mary Ellen Smith had her own interests as well. She was a member of the Suffrage League of Canada; president of the Women's Canadian Club and of the Women's Forum; a regent of the Imperial Order of the Daughters of the Empire; an executive member of the Red Cross. She organized the funding for the Returned Soldiers Club of Vancouver and helped in the establishment of factories for the blind and of industrial schools for delinquent children. An active churchgoer, she was president of the committee in charge of women's work in the Methodist Church.

She and her husband were both actively interested and involved in the issue of women's suffrage. Eleven bills were introduced before suffrage was finally achieved in the province of British Columbia.

Ralph Smith died in 1917. It was believed that his logical successor would be none other than his wife. She won in a by-election in January of 1918 by a wide margin as an independent, on the slogan: Women and children first. In her very first session, she piloted through legislation for a minimum wage law for women. Over the next 10 years she would be responsible for legislation that included the Juvenile Courts Act, making it possible for women to sit as judges; the Deserted Wives Maintenance Act; the Equal Guardianship Act; the Nurses Act; the Act Regulating Night Employment for Women; and the Mothers Pension Act.

During her tenure in office in British Columbia, she was one of the most outstanding members for the passage of progressive legislation. Her presence in the house, her constant advocacy for change, and her introduction of both government and private bills was cardinal in securing those changes.

In 1921, she accepted the invitation of the premier to join the cabinet as a minister without portfolio. However, after only eight months in cabinet, she resigned. She felt that the rules governing both cabinet secrecy and discipline were far too limiting. Above all else, Mary Ellen Smith wanted to represent her constituents, and she said she had to be free to do so.

There was another significant first for her: On Wednesday, February 22, 1928, the words "Madam Speaker" were first heard in the British Commonwealth as she took her chair to preside over the Legislative Assembly of British Columbia because the designated Speaker was absent. Mary Ellen Smith was yet another very important woman in our history.

Senator Lynch-Staunton: Well said.

SOLICITOR GENERAL

SECURITY ISSUES RAISED BY INCIDENT AT
APEC CONFERENCE IN VANCOUVER

Hon. William M. Kelly: Honourable senators, I have listened for some time with a great deal of interest to the debates and questions on APEC. There are certain elements of these exchanges which I found disturbing.

•(1340)

No one in Canada can possibly dispute the right of Canadians to freely express dissent. This is enshrined in the Constitution. My concern has to do with the way in which this particular dissent was carried out. What I saw briefly, in one short TV clip, was a group of young people carrying sticks and large placards, breaking through barriers which had been put in place by the RCMP. These people were apparently surging forward toward those against whom they were protesting. I understand, in fact, that the protesters had begun to push down the security fence that had been erected by the police.

In my opinion, the dissenters then became a mob. I had the distinct impression that some were almost insisting that they be arrested. The incident in Vancouver was at that stage, in my opinion, a threat to the security of Canada as defined in section 2 of the Canadian Security Intelligence Service Act.

In this country, the RCMP is responsible for the safety and security of internationally protected persons. In order to carry out that responsibility in this instance, they were obligated, in my opinion, to disperse that crowd and move them back behind the lines that had been established. The RCMP was able to carry out that responsibility, and now we have the method used, namely, pepper spray.

Honourable senators, I do not mean to trivialize this incident, but over the past few years many of us have urged our wives and daughters to carry pepper spray in their purses in order to protect themselves from unwanted intrusion. Up until now, we have not found that circumstance to be particularly sinister.

As far as I know, there have been no charges laid against those protesters who clearly defied the law. However, the protesters who defied the law have decided to make a complaint against the RCMP, and there seems to be some expectation that the legal cost of their complaint should be borne by you and me. Just imagine if one of our wives used pepper spray to fend off an attacker, and the attacker laid charges against her and wanted her husband to pay the cost of the proceeding.

Honourable senators, respect for the law is fundamental in any democracy. In my opinion, the RCMP met their responsibilities in every respect.

Yesterday, I spoke to one senator and mentioned my point of view. He pointed out that, in a book by former U.S. ambassador Blanchard, the FBI had expressed some lack of confidence in the RCMP in connection with a visit by President Clinton. Honourable senators, what we see here is a simple turf battle which exists among police forces in instances such as this. I remember that during a visit that the Premier of Ontario took to the United States, his OPP officers insisted on being allowed to carry small arms because they were not too sure about the FBI. Similar incidents, I am sure, occur when our Prime Minister moves outside this country. My point is that the Canadians should not take the FBI, in this instance, too seriously. Each national police force is understandably jealous about the protection of its own particular leader, and we understand that.

My overriding concern about this whole situation is that some members of Parliament seem to condone what I consider to be violent protests. Where internationally protected persons are concerned, a would-be assassin would like nothing better than the sort of thing we witnessed in Vancouver. The crowd can surge close enough to the person against whom the protest is being made, and then a small calibre handgun is all he needs to complete an assignment. You would not even hear the shot. All Canadians would then be saying, "Where were the police?"

Honourable senators, the RCMP is a force with a long and glorious history. It is held in the highest esteem amongst the democratic countries of the world. It is time that we establish clear limits on what constitutes lawful dissent in this country. Otherwise, I believe we will all have cause to regret some serious event which will inevitably occur.

EDITH STEIN AND THE HOLOCAUST

CANONIZATION OF CARMELITE NUN WHO DIED AT AUSCHWITZ

Hon. Jerahmiel S. Grafstein: Honourable senators, the theory of sainthood rests on elevating noble examples of miraculous lives lived by devout, innocent persons, exemplary and extraordinary in both character and conduct. Last week, the canonization of Edith Stein, a German woman of Jewish birth from an orthodox family who, well before World War II, chose to become a Carmelite nun, came as no surprise.

Edith Stein was not only a friend of Simone Weil, a great twentieth century Jewish writer and thinker who herself contemplated Catholicism at one time, but also she was a student of that outstanding Jewish philosopher Edmund Husserl, who wrote of Edith Stein:

...she was the finest student I ever taught...there was no more I could teach her...

Edith Stein's special Carmelite Order allowed no talk. Hence there is sparse written record of her thoughts or concerns. A selection of her ideas called "writings," and a book, *The Science of the Cross*, was published posthumously several decades ago. The Pope, both as a youthful philosophy student and then as a Polish priest, was said to have been deeply influenced by her teachings.

What do we know? We know that after her conversion in the 1920s, she taught philosophy and that special branch called phenomenology until she lost her teaching positions in 1933 because of her Jewish ancestry. We know that, in 1938, she was transferred from a convent in Germany to Holland to protect her from the Nazis. Later, she sought refuge in Switzerland, but no room could be found for her sister in Swiss convents.

We are told that in 1941 she returned to her convent in Echt, Holland, after a failed attempt in Göttingen, Germany, to save her parents from being transported to Bergen-Belsen. Shortly after her return to the convent in Holland, the Gestapo arrived. When the Mother Superior forbade the Gestapo entry, denying the presence of Edith Stein, the convent's heavy oak door was broken down. In the ensuing search, Edith Stein was discovered by her bedside, praying. She was quickly transported to Auschwitz.

There, in that dismal, devilish place, we are told she witnessed a rabbi forced to light his beard. When it burned, he was ordered to cut it off. She volunteered to substitute herself for that rabbi in the gas chambers. Later, when a Polish priest was to be taken, again she volunteered to replace him in the gas chambers and was refused again. In her own weakened, distressed state, we are told that she tended to the needs of others — the ill, the old, the starving. Selflessly, she risked her own fragile health against the rampant diseases of cholera and diphtheria, all to help others.

As a learned friend wrote me last week so sensitively about Edith Stein:

Finally they came for her, and so her invisible name was written in the smoke of the sky.

When they led Edith Stein away, her last words to her sister were:

Come Rosa, we are going on behalf of our people.

We are now told that copies of her letters pleading for an audience with Pope Pius XII to warn him of the onset of the Holocaust and beseeching an encyclical on the evils of Nazism have yet to be published, and may reside in a library in Breslau, Poland.

We are also informed that she was taken to Auschwitz after Hitler was shown a photograph of Edith Stein at the head of a group of Dutch churchmen, Protestant and Catholic alike, who marched to protest the mass deportation of Jews to the extermination camps. As a reprisal for that event, 694 Jews were sent to the gas chambers.

Last week, the Vatican announced that Edith Stein would be elevated to sainthood. August 9 would be commemorated as the Roman Catholic Church's annual memorial to the "Shoah," the Holocaust. That date, the Pope declared, was ever to be the saint day of Edith Stein — Saint Teresia Benedicta.

What is one to make of these events? On the one hand, no one can question, Jew or Catholic alike, sainthood granted to Edith Stein. No one can question the Catholic Church's desire to commemorate the "Shoah," the Holocaust. However, what will Catholics or Jews take from this awesome convergence of sainthood and commemoration? What is the message to the Catholic masses? Will it be seen as another step in the reconciliation between faiths after centuries of studied, Catholic-led enmity towards Jews that, from a historian's point of view, lies amongst the corrosive root causes of the Holocaust? Will it be read as another attempt to colour or dilute or deny those root causes?

It is too early to judge. It is not too soon to ask the question. For me, the question remains blocked by blank memories of my many relatives who were consumed by the Holocaust, merely and only because they professed Judaism.

As for me, each so condemned to death only for the sake of Jewish blood or Jewish faith became worthy of sainthood.

WEEK WITHOUT VIOLENCE

THIRD ANNUAL EVENT SPONSORED BY
YOUNG WOMEN'S CHRISTIAN ASSOCIATION

Hon. Mabel M. DeWare: Honourable senators, I am pleased to rise today in support of the YWCA's third annual Week Without Violence. It is being observed this year from October 18 to 24, and I urge all Canadians to participate.

•(1350)

When we open a newspaper or turn on the television, it can sometimes seem that violence is a fact of life — even here in our peaceful nation. However, the Week Without Violence reminds us that that does not have to be so.

By focusing on violence, we can identify its causes and, more important, find solutions to it. We can consider what each and every one of us can do to combat violence in our homes, workplaces and communities. We can teach our young people to express their emotions and opinions by using constructive alternatives to violence, so that one day the cycle may end.

Honourable senators, instead of simply hiding behind locked doors, we must confront the violence that exists in our society, because it will not go away unless we take positive action. The YWCA Week Without Violence gives us the opportunity to think about it. Each day of this week focuses on a special theme to

help us think about different types of violence, its perpetrators and its victims.

For example, today's theme is "Confronting Violence Against Women." It is a very appropriate theme because during October we are also celebrating Women's History Month. Yet when it comes to violence, Canadian women have little cause to celebrate. Far too many Canadian women live in fear of violence when they venture out into their communities — at work, at school, or while walking down the street. Many of them experience the same fear even in their own homes. By taking the opportunity during this Week Without Violence to confront the violence that threatens women, we can help to prevent it.

Honourable senators, I should like also to take this opportunity to congratulate the YWCA for its initiative in helping our communities build solutions to violence. This year, 42 YWCAs and YMCA-YWCAs across Canada will organize events and activities, from information displays to candlelight vigils, to encourage Canadians to consider and address the violence they face in their everyday lives.

Honourable senators, let us join with the thousands of Canadians and people in over 20 other countries during this year's Week Without Violence by praying that the senseless bombings and killings that we have witnessed in our news over the last week will stop.

As we seek solutions, let us remember that together we can make a difference. We can help make the world a safer, better place to live.

THE LATE HAROLD EDWIN JOSEPH PELHAM

TRIBUTE

Hon. Wilfred P. Moore: Honourable senators, I rise today to pay tribute to Harold Edwin Joseph Pelham, a fellow Haligonian who departed this life at home, in peace, and surrounded by his loving family on Tuesday, October 13, 1998, two days after his 73rd birthday.

Born in the north end of Halifax, Harold served in the Royal Canadian Navy and in World War II; he fought in the Battle of the Atlantic, for which he was awarded the Atlantic Star and other decorations. After the war Harold worked as an electrical estimator at the HMCS dockyard in Halifax until 1967, when he founded his own business, Pelham Electric and Refrigeration Limited. He was a devout family man, a man of deep faith and a fervent small businessman.

Harold was also a man of untold generosity. For nearly 40 years he coached and sponsored minor hockey teams, and minor and senior baseball teams in Halifax, many of which were Nova Scotia champions. In 1976 the National Baseball Team of Cuba visited Halifax. When others shied away, Harold stepped forward and sponsored that visit. He did so not for personal recognition but for the pure sport of it. He wanted to see how the young men who made up his Pelham Electric senior team would fare against the Cubans. The visitors won; however, Harold's team was never out of the game. Later that day, he and his wife, Mary, hosted a reception for the Cuban team and coaches at their Purcell's Cove home. Despite health problems that would have slowed most, Harold never wavered in his commitment to, and support of, the youth of metropolitan Halifax.

The mass in celebration of Harold's life was held in St. Theresa's Roman Catholic Church in Halifax's north end, one block from where Harold grew up. St. Theresa's swelled with family, friends and athletes — athletes both young and old, from all walks of life, all of us having benefited from Harold's lessons in teamwork, generosity, perseverance and pursuit of excellence. In his homily, Father Terrance O'Toole, a boyhood friend and adult confidant, echoed Harold's obituary, which read in part:

He shared his opinions and modest wealth generously. No one who asked was denied.

When the Lord created Harold Pelham, he hit a grand slam home run. It is people like Harold Pelham who make Canada the wonderful motherland that she is.

Thus it is with the utmost respect for the passing of a good man that we convey our deepest sympathy to Harold's wife, Mary, and their children, Patricia, Marie, Theresa, Harold Jr., James and Donald. We thank them for sharing Harold with us.

SOLICITOR GENERAL

INCIDENT AT APEC CONFERENCE IN VANCOUVER—
STATUS OF PEPPER SPRAY AS PROHIBITED WEAPON

Hon. John G. Bryden: Honourable senators, I spoke to Senator Kelly before he had to leave the chamber. While I concur with virtually everything he had to say, I thought it would be useful to put on the record — and I believe I am correct — that pepper spray is considered to be a prohibited weapon. If a wife or a daughter were to carry it, they would be arrested for carrying a concealed weapon.

Senator Kinsella: And rightly so.

Senator Bryden: I wanted to make sure that Senator Kelly was aware of that fact.

ROUTINE PROCEEDINGS

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

ORGANIZATION FOR SECURITY AND COOPERATION
IN EUROPE—SEVENTH ANNUAL MEETING OF
PARLIAMENTARY ASSEMBLY, COPENHAGEN, DENMARK—
REPORT OF CANADIAN DELEGATION TABLED

Hon. Jeremiah S. Grafstein: Honourable senators, I have the honour to table the report of the Canada-Europe Parliamentary Association (OSEC), which represented Canada at the seventh annual meeting of the Parliamentary Assembly of the Organization for Security and Cooperation in Europe, held in Copenhagen, Denmark, from July 7 to 10, 1998.

ASIA-PACIFIC REGION

FOREIGN AFFAIRS COMMITTEE AUTHORIZED TO EXTEND
DATE OF TABLING OF FINAL REPORT ON STUDY

Hon. John B. Stewart: Honourable senators, with leave of the Senate, I move:

That notwithstanding the order of the Senate adopted on October 28, 1998, the Standing Senate Committee on Foreign Affairs, which was authorized to examine and report on the growing importance of the Asia-Pacific Region for Canada, be empowered to table its final report no later than November 25, 1998; and

That the committee be permitted, notwithstanding usual practices, to deposit its report with the Clerk of the Senate if the Senate is not then sitting; and that the report be deemed to have been tabled in the chamber.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

SOLICITOR GENERAL

COMMISSION OF INQUIRY INTO TREATMENT OF PROTESTORS
AT APEC CONFERENCE BY RCMP—PROVISION OF FUNDS
FOR DEFENCE OF STUDENTS—FORMALITY OF PROCESS—
GOVERNMENT POSITION

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, I have a question for the Leader of the Government in the Senate. Yesterday we learned from the government that the RCMP Public Complaints Commission was "an informal process" and, therefore, the students did not require legal counsel.

Honourable senators, anyone watching the first few days of the hearings where the RCMP and government lawyers cross-examined only one witness would have difficulty with the concept of that being an informal hearing.

•(1400)

If this process is an informal one, as the government is maintaining, why has it felt the need to hire Mr. David Scott, a prominent Ottawa lawyer, to represent its interests at the commission?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, obviously it is because there are complaints against the government. There are no complaints against the students. It is the actions of the RCMP that are under investigation and scrutiny.

As I mentioned yesterday, RCMP officers have government funded counsel because they may be subject to disciplinary measures.

Senator Kinsella: Honourable senators, if this is the position of the government, how does the government explain that the complaints of the students speak directly to allegations of violations of fundamental human rights which concern every Canadian; rights which are articulated in so fundamental a document as the Canadian Charter of Rights and Freedoms?

If that is the allegation, is there not a public interest at stake here? Are the students not victims just like other victims who have been identified and supported in other inquiries under the Inquiries Act?

How will the issue of whether fundamental Canadian rights, such as freedom of association and freedom of expression, be ascertained if there is not an appropriate level playing field before this body?

Senator Graham: Honourable senators, the very fact that the commission was established is in the public interest. Carrying out their responsibilities and duties is exactly what the members of the commission are doing.

Senator Kinsella referred to the students as "victims." They generally have been identified as complainants and witnesses. We have been assured, by both the commission and commission counsel, that their interests will be well looked after and protected by commission counsel.

Senator Kinsella: Honourable senators, how much money has the government budgeted for lawyers representing the government? Also, how much money has been budgeted for the lawyers who will be representing the RCMP?

Senator Graham: Honourable senators, my honourable friend will understand that I do not have a figure at hand. However, I would be happy to report on the progress of the hearings, and I hope to make an interim report on what the costs are, as they accrue.

ASIA-PACIFIC ECONOMIC COOPERATION CONFERENCE

MEETING TO BE HELD IN MALAYSIA—NUMBER
OF CANCELLATIONS BY PARTICIPANTS BECAUSE OF
HUMAN RIGHTS RECORD OF HOST—GOVERNMENT POSITION

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, the deep background to the tragedy of APEC held in Vancouver is, of course, the participation of the office of the Prime Minister in responding to concerns of possible embarrassment of a human rights violator, namely, the former president of Indonesia.

The next meeting of APEC, which is currently at the planning stage, is to be held in Malaysia. Could the Leader of the Government advise the Senate on how many governments to date have declined to participate in the Malaysia meeting of APEC

because of concerns about human rights violations in that country?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I am not aware of any APEC member country that has thus far declined to participate in the pending conference in Malaysia.

Senator Kinsella: In the formulation of its decision on whether the Prime Minister of Canada will participate in the meeting of APEC to be held in Malaysia, will the Government of Canada take into consideration the human rights record in that country, which is appalling?

Senator Graham: Honourable senators, it is the intention of the Prime Minister to attend the APEC meeting. Attendance at that APEC conference does not represent an endorsement of Malaysian policies and practices. The current financial and economic difficulties afflicting the region and its impact on the global economy dictate that the APEC process be preserved and advanced and that Canada be a participant.

We are concerned about events in Malaysia. We follow them closely. Furthermore, attendance at APEC could provide an opportunity to express views on the subject directly to the Prime Minister of Malaysia.

NATIONAL DEFENCE

REQUIREMENT FOR INTERIM HELICOPTERS FOR
SEARCH AND RESCUE SERVICE—RELIABILITY
OF SEA KING EQUIPMENT—GOVERNMENT POSITION

Hon. Gerald J. Comeau: Honourable senators, my question is also directed to the Leader of the Government in the Senate. During the 1993 election campaign, Jean Chrétien bragged that, "If elected, I will take out my pen and I will write, 'Helicopters cancelled'." This earned him great respect and admiration in Canada's urban centres where most of the votes are, and showed that he could not care less about the less populated regions and coastal regions of Canada where the service is needed. As well, it showed a lack of care for the courageous military people who fly the very unreliable 35-year-old helicopters.

The minister has now said that he will not lease helicopters until the order for the EH-101s is filled. What does the government intend to do for a search and rescue helicopter in the meantime?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I thank the honourable senator for bringing this matter to my attention. The crash of the Labrador helicopter on October 2 was very regrettable. Along with the Minister of National Defence, I attended the memorial services which were held at CFB Greenwood. It was a very sad occasion.

It is to be hoped that a decision on the future operations of the Labrador fleet will be made within the next few days. In the interim, the government and the Department of National Defence will continue to maintain our search and rescue capability. We will use other Canadian Forces assets to do so, including the Sea King helicopter fleet which has now returned to service.

Senator Comeau: Honourable senators, my question was with regard to the reliability of the equipment. I assume that the minister is suggesting that the assets are reliable. We learned last week that the Sea Kings had been grounded due to fuel line problems. None of the other assets seem capable of handling the job required of search and rescue helicopters. Fixed wing aircraft cannot lower winches to pick people out of the sea. The remaining helicopters of the fleet are incapable of the job. Ground teams cannot swim out to sea when boats start to flounder there. In other words, the question is one of reliability.

Given that we are getting closer to winter when the rough seas of the Atlantic, the Bay of Fundy and the West Coast of Canada can be very unforgiving, what will we do until we get proper equipment for search and rescue and patrol and surveillance requirements as well?

Senator Graham: Honourable senators, as I just indicated, other equipment is being used by the Canadian Armed Forces.

Senator Berntson: What is it?

Senator Graham: Senator Berntson wants to make an intervention. He knows something of this because of his past service. I ask that he hear me out carefully.

The Sea King has now been cleared for service. I want to emphasize that safety is the first concern of people in the Armed Forces as it is the first concern of the government. The final decision on whether those helicopters should be airborne is made by the people who fly them.

Senator Comeau: Honourable senators, I am still uncomfortable with the responses I have received. I am not questioning whether those in command and those who fly the equipment would put into jeopardy any of the military people who have to use the equipment.

•(1410)

My question concerns reliability. If the equipment cannot go up in the air, what do we do to meet our requirements not only in search and rescue but also in patrolling for narcotics out at sea, patrolling the fishery and patrolling for spills? At the present time, we do not have reliable equipment.

I am not questioning the senior administrator's decision to keep helicopters on the ground if they are unsafe. It is their reliability which concerns me.

Senator Graham: Honourable senators, you could buy a new Cadillac and not know whether it is more reliable than a 30-year-old one. In fact, some of the Labrador helicopters are 35-years old. I personally went to look at how these helicopters are refurbished and restored. There is hardly a piece of equipment in any of those machines that is 30- or 35-years old. They have all been replaced, including the engines.

What the government is attempting to do, through a careful process, is have those helicopters replaced. The Cormorants have been ordered, whether honourable senators opposite agree or not. Attempts have been made to advance the production schedule, if at all possible.

In the meantime, despite the complications for the Armed Forces, we are sure that they are able to carry out their search and rescue and surveillance duties as they would be expected to do.

SEARCH AND RESCUE SERVICE—NUMBER OF FLIGHT
HOURS UNDERTAKEN BY SEA KING EQUIPMENT—
REQUEST FOR PARTICULARS

Hon. Paul Lucier: Honourable senators, I keep hearing about the age of these helicopters. Up North, and in many parts of the world, old DC-3 and DC-4 airplanes which are much, much older than these helicopters are being used. The Americans are flying helicopters that are, perhaps, the same age but which have many more hours. I was always under the impression that an airplane's performance and reliability is based on the number of flying hours.

Could the Leader of the Government in the Senate bring back to us a report outlining the average hours of the Canadian helicopter and the average hours of the same American helicopter? It is a matter of the number of hours that they have been flown, not how old they are.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, that is an interesting comparative question. Sometimes it is startling to learn the number of hours that are spent on maintenance of aircraft and helicopters.

Senator Berntson: Five hours for every one flown?

Senator Graham: More than five hours.

Senator Lynch-Staunton: Are you proud of that?

Senator Graham: No, I am not proud of that. It simply indicates the care with which these problems are being addressed to ensure that the aircraft that are flown by our Armed Force's personnel are adequate and safe. Measures and steps are being taken to have them replaced.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I have a response to questions raised in the Senate on September 29, 1998 by the Honourable Senator Spivak, regarding the report of the Auditor General on the effect of cash advance programs on farmers.

AGRICULTURE

REPORT OF AUDITOR GENERAL ON EFFECT OF CASH ADVANCE PROGRAM ON FARMERS—GOVERNMENT POSITION

(Response to questions raised by Hon. Mira Spivak on September 29, 1998)

Parliament was informed of the 1993 evaluation study as indicated in the Auditor General Report tabled on September 29, 1998: “The Department included a summary of the evaluation findings in the 1994-95 Estimates Part III”, (paragraph 11.46 of the Auditor General’s Report). However, the Auditor General (paragraph 11.47) suggests that broader and more comprehensive dissemination of the findings of such studies may be appropriate: “the case of the cash advance program illustrates why these summaries although useful, ought to be augmented by other means of alerting those outside the Department to the existence and findings of evaluations.”

In its response to the Auditor General, Agriculture and Agri-Food Canada explains that, during its extensive consultation, stakeholders were informed of the main findings and recommendations of the 1993 evaluation. In addition, Agriculture and Agri-Food Canada is committed to finding new and better ways to serve the emerging information needs of its clients and has been working on a project to consult with its stakeholders in order to gain a better appreciation of those information needs, expectations and preferences.

The Auditor General concluded (Paragraph 11.68): “It would be inappropriate to conclude from this limited evidence that the program does not provide additional financing to producers. These statements, however, do raise questions that suggest the need for a systematic analysis of actual participant financing experience to establish whether there is indeed a significant problem of access to credit at harvest time and whether the program provides significant additional financing to producers.

Ongoing data needed for such a study could be collected when producers apply for an advance. The study could also examine how financing availability may vary over time.”

In preparing for the five year review of the legislation, scheduled for 2002, program management is already working with Review Branch of Agriculture and Agri-Food Canada, to develop an evaluation framework and to identify information that should be collected in order to ensure proper analysis, performance measurement and reporting. The area of “access to credit” would be analysed as part of the evaluation framework.

ANSWERS TO ORDER PAPER QUESTIONS TABLED

PRIME MINISTER’S RESIDENCE—COST OF ENTERTAINMENT

Hon. Sharon Carstairs (Deputy Leader of the Government) tabled the answer to Question No. 70 on the Order Paper — by Senator Phillips.

SHEARWATER DEVELOPMENT CORPORATION

Hon. Sharon Carstairs (Deputy Leader of the Government) tabled the answer to Question No. 126 on the Order Paper — by Senator Forrestall.

NATIONAL DEFENCE—TRANSFER OF AMMUNITION

Hon. Sharon Carstairs (Deputy Leader of the Government) tabled the answer to Question No. 131 on the Order Paper — by Senator Forrestall.

PRIME MINISTER’S RESIDENCE—COST OF ENTERTAINMENT

Hon. Sharon Carstairs (Deputy Leader of the Government) tabled the answer to Question No. 134 on the Order Paper — by Senator Bryden.

ORDERS OF THE DAY

DNA IDENTIFICATION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Bryden, seconded by the Honourable Senator Stewart, for the second reading of Bill C-3, respecting DNA identification and to make consequential amendments to the Criminal Code and other Acts.

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, I am pleased to rise to lend support to the general principle of Bill C-3, respecting DNA identification.

If any right must be protected when exercised at great risk, it is the right to physical security. In the absence of physical security, people are unable to use or enjoy any other human right. Being physically secure is the *conditio sine qua non* for the exercise of any other right; and guaranteeing physical security must be part of guaranteeing anything else as a human right.

Canadians have a basic right not to be subject to murder, torture, mayhem, rape or assault. The responsibility of Parliament in assuring the physical security rights of all involves the maintenance of an effective, efficient and contemporary system of law enforcement and justice. The exercise of that responsibility of Parliament challenges the legislator to establish the system to protect our right to physical security in a balanced manner that respects the other human rights and liberties which are equally fundamental to our free and democratic society.

Advances in science have made available to police investigators and others the deoxyribonucleic acid analysis. DNA is found in the chromosomes of people and has great appeal for those responsible for criminal investigations. The issue for parliamentarians is to determine whether or not DNA analysis will be an instrument that is wielded as a scalpel to deal with those guilty of serious crimes and not used to vilify all in society.

Honourable senators, this is the second time since 1995 that the Senate is examining the matter of DNA in police investigations. Bill C-104 in 1995 was, in a sense, a first phase. At that time, we dealt with the provision of legislative authority for the collection of bodily substances for DNA analysis.

Bill C-3 represents a second phase in the process of Parliament ensuring that Canada has a modern framework for the use of DNA analysis to facilitate the investigation of crimes and the protection of the physical security rights of Canadians. I am confident that the work of the Senate helped to complete phase one correctly and that the same level of study will now be undertaken by the Senate on phase two.

One of the tests that we shall employ during our examination of this bill is whether the legislative framework provided by the bill respects the rights and liberties of Canadians. It is, therefore, that our attention is drawn to clause 4 of the bill which, in an upfront manner, articulates the need to strike a balance between the requirements of protecting society, on the one hand, and the other human rights of individuals, such as the right to privacy, on the other.

The Privacy Commissioner has raised some important questions in this regard. Therefore, it will be helpful to the committee that will be studying this bill clause by clause to hear from Mr. Bruce Phillips. We would also want to learn from the Privacy Commissioner whether or not, for example, he is satisfied with the grouping of designated offences, given the Privacy Commissioner's statement that DNA analysis is simply too powerful a weapon to be aimed at every petty crime.

•(1420)

Another question that I would like to raise with the Privacy Commissioner relates to his concern with what he called "function creep." In this regard, the Privacy Commissioner has paraphrased a quotation from the work of my namesake, W.P. Kinsella, *Shoeless Joe*, an appropriate book given this time of the year, in which he writes, "If we build it, they will come."

According to Bruce Phillips:

The mere existence of such a data bank will beg further, unrelated uses of DNA samples taken from offenders. Could measures other than a bank of DNA samples enhance public safety without the intrusions characteristic of DNA data banking?

There is a further matter around privacy. Section 37 of the Privacy Act authorizes the Privacy Commissioner to carry out investigations in respect of personal information under the control of government institutions. In the case of the bill before us, it seems to me crucial that the Privacy Commissioner has

some authority to audit not just the holding of information gathered in DNA profiles but the entire DNA data bank, including the holding of the samples. It is not clear to me from my first reading of this bill what role the Privacy Commissioner will have in providing the kind of oversight I believe he should have. I would hope that at committee stage we would delve into the matter of the kind of auditing role that the Privacy Commissioner could play.

Legislative authority is also given by this bill to the Solicitor General to establish this proposed national DNA data bank, but, once established by the Solicitor General, the bank is to be maintained by the Commissioner of the RCMP. However, honourable senators, there is very little detail in the bill as to how the bank is to be established by the Solicitor General, nor do we have much detail as to the structural or operational management of the bank, or how it will be functionalized, as the statute will require, by the Commissioner of the RCMP.

We are told, for example, in clause 5 of the bill that the DNA data bank will consist — as Senator Bryden pointed out — of two important indices: a crime scene index, which will contain DNA profiles obtained from unsolved crime scenes; and a convicted offenders index, which will contain the DNA profile of adult and young offenders convicted of designated Criminal Code offences. The bill requires that the Commissioner of the RCMP is to set up these two indices in such a manner to include, in relationship to each of the profiles, information from which can be established the case number of the investigation relating to a crime scene and the identity of the person for whom the convicted offender index contains respective profiles.

It seems to me, honourable senators, that it will be important for us to learn from the Commissioner of the RCMP whether or not these statutory requirements that will be imposed upon him can, in fact, be met by him from an administrative standpoint. It would be wrong for us to impose a statutory obligation on a public official, only to discover that it is physically impossible for that public official to be able to meet that responsibility.

Further, for example, clause 6 of the bill provides that the Commissioner of the RCMP "shall" compare DNA profiles that he receives pursuant to section 487.071(1) of the Criminal Code with the DNA profiles in the data bank.

If that is what he must do — since the word used is "shall" — we will want to find out from the Commissioner of the RCMP how he would plan to meet that requirement.

Indeed, honourable senators, some of the other questions for which I should like to have answers are ones that only the Commissioner can answer, and they again relate to those statutory obligations that are placed by this bill on the Commissioner of the RCMP for maintaining the DNA data bank. They include the following:

How many person-years would he need to have assigned to the DNA data bank maintenance to meet that statutory obligation? As we know, all agencies of government are going through a period of restraint. We should also know whether the RCMP would need additional resources to be able to staff the data bank which we are imposing a statutory obligation on him to maintain.

I also want to know what the Commissioner's estimate will be of the capital expenditures required in setting up the bank, and how much he estimates will be required on the operational side.

We want to know these things because while we see it as a priority that such a bank be put in place, we should not be imposing requirements by law if those requirements cannot be met in practice.

How much, for example, would the Commissioner of the RCMP need to spend on computers, or on expanding DNA analysis laboratories? Will the data bank place additional pressures on the RCMP laboratories to do the DNA profiles? What would be the cost of this? Would he be forced to use private labs? If we get to the private labs scenario, what are the privacy safeguards that it would be his responsibility to impose? How would those private laboratories be identified? Would there be a tendering process?

There are a number of questions on detail of this sort that I would hope the committee would delve into with the Commissioner.

Clause 10(2) of the bill also raises an interesting question in my mind. At first reading, it struck me as somewhat of a "Henry VIII" type of measure. Honourable senators will recall that the classic Henry VIII bill says little about a subject area, and leaves it all to the government to make regulations. In this instance, if you look at clause 10(2) of the bill, it does not even provide for the limited protection of regulations which, as we know, can be scrutinized by our Joint Committee on the Scrutiny of Regulations. What we have in clause 10(2) is the power of the state to legislate or make regulations being transferred to a public servant.

The matter relates to the application of new analyses on the retained bodily substances should advances in science warrant such applications, in the opinion of the Commissioner of the RCMP. In other words, we feel that Parliament should have an opportunity, through the regulation process, to determine that, yes, the science has advanced and we want to use the advances of science to analyze the bodily substances that we have retained, in which case Parliament would be able to make a judgment in terms of the objectives of the bill, and also in terms of the public interest. However, that power will not be for Parliament to exercise, as it is based on "the opinion of the Commissioner of the RCMP." The committee might want to take a close look at that.

•(1430)

If the Commissioner were of the opinion that the analysis is justified because of significant technological advances, one would wish to learn how such an opinion is to be formed and how he will measure significant or important technology. This is an awesome responsibility to place on the shoulders of a senior public servant. Perhaps we will want this power to store bodily substance information for future testing if new technology presents itself to rest, not on the shoulders of a public servant, but to remain with Parliament.

We will want to look at the question of who are the authorized users of the automated criminal conviction records maintained by

the RCMP and the criteria as to who may have access to the DNA data bank.

I want to understand much better than what I can glean from a reading of the bill the system the Commissioner envisages to control the communication of DNA profiles. What privacy safeguards would be implemented? Would a computer be used to transfer technology for the information? Would there be some kind of encryption?

Finally, honourable senators, we had an opportunity to raise this with Senator Bryden yesterday. Clause 13 provides for a review of the proposed legislation within five years. However, as the clause is presently worded, that review may be conducted by any committee of the House of Commons or by a joint committee of both Houses. Honourable senators will want to amend that wording so that it is also permissible for a committee of the Senate to conduct the review. All honourable senators must be alert to the fact that we have a bicameral Parliament and that the Senate is an equal house with the other place.

Therefore, if there is to be a review of the proposed legislation and the argument is advanced as to why that is a proper thing to do, the review should be available not simply to the House of Commons or to a joint committee of the House of Commons and the Senate but also to a committee of the Senate. It is important that we look at that proposed section as it appears not only in this bill but in other bills. The Senate should not take a back seat role as long as our Constitution assigns the responsibility in our bicameral system of Parliament the way it does. We have a duty to respond to these oversights, and the word soon will be received in the places where it should be received that the Houses must be treated equally. Let us start with this proposed section to ensure the integrity of the Senate.

On motion of Senator Kinsella, for Senator Nolin, debate adjourned.

MULTILATERAL AGREEMENT ON INVESTMENT

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Spivak calling the attention of the Senate to the differences between the proposed Multilateral Agreement on Investment and the NAFTA.—(*Honourable Senator Di Nino*).

Hon. Consiglio Di Nino: Honourable senators, I had intended to speak on this issue as it is of some interest to me. Senator Eyton had also expressed an interest in addressing this issue, and I thought he would do so this week. However, I saw him earlier and he will not be speaking today. Although the senator and I have exchanged some thoughts on the matter, I will not be speaking on it since he will.

My purpose for rising today is to ensure that this item does not drop off the Order Paper and that we get the clock ticking again.

On motion of Senator Di Nino, for Senator Eyton, debate adjourned.

NATIONAL REVENUE

TREATMENT OF TAXPAYERS—INQUIRY

On the Order:

Resuming debate on the inquiry of the Honourable Senator Gigantès calling the attention of the Senate to the shameful way Canadians are treated by the procedures of the personal income tax system. He will suggest that the Senate propose corrective steps.—(*Honourable Senator Di Nino*).

Hon. Consiglio Di Nino: Honourable senators, I rise today to continue debate on the inquiry brought forth by our former colleague Senator Gigantès, concerning the unfairness of the Canadian income tax system and the often cavalier fashion in which officials of the Department of National Revenue seem to treat the average Canadian.

I must admit that when Senator Gigantès first raised the subject, I was intrigued. My first reaction was to agree with him. After all, we all know Revenue Canada is out to get us. However, upon reflection, I realize that I did not have any concrete examples of excess or harassment on the part of the department on which to base my opinion. Therefore, I re-read Senator Gigantès' remarks to ensure I heard him correctly.

While I was doing so, I felt that I had heard this argument before, not the exact words, but the same type of argument. I felt it was like reading *The Toronto Star* or the "Red Star," as we call it. It is the same type of what I call "capital L Liberal argument"; namely, the idea that everywhere countless Canadians, whether they be immigrants, small business people or the average person, are suffering under the boots of faceless, heartless civil servants.

I had someone from my office contact Senator Gigantès to find out if he could provide me with copies of material he may have collected which helped him to arrive at his conclusion or questions. Unfortunately, he had nothing.

•(1440)

Faced with this situation, we made several dozen inquiries among chartered accountants and others who may have had some knowledge of this issue. What these people said about Revenue Canada was not necessarily flattering, but neither was it completely negative. They painted a portrait of a major government department, efficiently run but largely impersonal. That is perhaps normal when you consider it employs some 40,000 people.

We heard that people find it difficult to deal with Revenue Canada on a personal level. They often have trouble finding someone to talk to on a one-on-one basis about their problems. Others feel there is a lack of continuity in the information that department officials give to the public, with different officials often giving diverging interpretations of the same rules and regulations. Still others commented on the long delays they or their clients had endured at one point or another; delays which went largely unexplained.

Conversely, we were told that when the shoe is on the other foot, when the department decides it wants someone's money, things seem to go much more quickly, with letters demanding payment and telephone calls from collectors arriving in quick succession.

Where do these comments leave us? Are all accounts of bad treatment at the hands of Revenue Canada simply the result of an active Liberal imagination? Obviously not. I am sure cases do exist of breach of trust or heavy-handed treatment of the type we hear of happening to our neighbours to the south and, indeed, to our neighbours in this chamber. In general, however, we have a decent, equitable, if somewhat cumbersome, tax collection system.

Before retiring, Senator Gigantès suggested that the Senate look at the issue of income tax collection in this country in greater depth. From the limited research my office has done, I have concluded that this is not necessary. Our correspondence seemed to indicate that Revenue Canada treats Canadians fairly well. Here we are not talking about the Department of Finance when they issue tax increases, but of Revenue Canada as a tool of the Department of Finance.

We could obviously go on a witch-hunt and muckrake about for horror stories. I am sure we could find some examples of abuse if we dug deeply enough. However, these would likely be exceptions rather than the rule.

I thank Senator Gigantès for raising this issue, but I am pleased to suggest that, in the absence of meaningful data to the contrary, an investigation into the procedures of the income tax system is unwarranted at this time.

The Hon. the Speaker: If no other honourable senator wishes to speak, this inquiry will be considered debated. It is interesting to note that this is an inquiry initiated by a senator who is no longer in the Senate.

The Senate adjourned until tomorrow at 2 p.m.

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