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(HANSARD)

Tuesday, September 25, 2001

THE HONOURABLE DAN HAYS
SPEAKER

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THE SENATE

Tuesday, September 25, 2001

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

RACISM AGAINST MUSLIMS AS A RESULT OF TERRORIST ATTACKS ON UNITED STATES

Hon. Laurier L. LaPierre: Honourable senators, last Friday, the Prime Minister of Canada, accompanied by members of Parliament, went to a mosque to demonstrate clearly the revulsion of all Canadians and Canadiens to the racist attacks against our people of Muslim faith and of Arab descent. These racist assaults made him, as he said, "feel shame as a Prime Minister."

[*Translation*]

We share the Prime Minister's feelings. As a Canadian society, we are calling for the provincial authorities to tolerate no racist act within their borders, and for the police forces under their control to act accordingly.

[*English*]

Too many terrorist acts of racism are being committed in Canada at this time. The responsibility to punish the perpetrators of such action is that of the provinces. They must act.

[*Translation*]

What is more, the actions taken by the Prime Minister fit in very well with the policy of freedom that characterizes Canada.

[*English*]

If I may be permitted, I remind honourable senators that on June 29, 1887, Wilfrid Laurier wrote to Ernest Pacaud, his friend and editor of the liberal newspaper *L'Électeur.* The letter stated:

> My dear Ernest, the repeated attacks of Quebec citizens upon the Salvation Army must cease. They are unworthy of the liberal society which I pride myself in representing. The Army must be able to hold its parades without interference — in full liberty and in peace. If necessary, I am prepared to march at their head to protect them.

It is interesting to note, honourable senators, that Wilfrid Laurier's first official act as Leader of the Liberal Party, to which he was elected six days earlier, was to defend the rights and liberties of a small group of people in the capital city of the province of Quebec. It spoke well for the future of Canada. We must guard it so.

Long live Canada!

PRINCE EDWARD ISLAND

ENERGY CORPORATION WIND FARM

Hon. Catherine S. Callbeck: Honourable senators, as many of you know, the continuing evolution of what has come to be known as "green power" is gaining importance both here in Canada and in nations around the world.

Of course, oil and gas continue to lead the way in terms of our energy usage here at home, while coal-fired energy makes up 18 per cent of our nation's power. However, as we know, the use of fossil fuels does not come without some environmental impact. We have 14 CANDU reactors presently operating in Canada. These have been successful in contributing about 13 per cent of our nation's energy needs, but again there continue to be concerns associated with nuclear power. That is why there is growing interest in alternatives to our traditional energy sources. I am pleased to report that one such option is currently being explored with some success in my home province.

On the northwestern tip of Prince Edward Island, in a community called North Cape, there is rarely a day without wind, as anyone who has visited there can attest. That natural resource is in the process of being harnessed at the Prince Edward Island Energy Corporation's wind farm. When this facility is fully operational, enough power will be produced there to supply about 4 per cent of the province's yearly energy needs.

It is anticipated that the facility will be generating power for sale by July 2002. When all eight windmill turbines are up and running, officials expect them to produce about 19 million kilowatt hours of power. When that energy becomes available, Prince Edward Islanders will have the option of purchasing it instead of what is currently generated from fossil fuels or nuclear reactors.

I wish to commend both the federal and provincial governments for their joint participation in this project. It is my hope that this development is just a beginning and will serve as a positive indicator to promote further "green energy" development both in Prince Edward Island and throughout Canada.

EDITORIAL COMMENT BY FORMER JOURNALIST GORDON SINCLAIR IN SUPPORT OF UNITED STATES

Hon. Gerry St. Germain: Honourable senators, widespread but only partial news coverage was given recently to a remarkable editorial broadcast from Toronto by Gordon Sinclair, a Canadian TV commentator. Since the September 11 terrorist attacks on our neighbour and ally, dozens of British Columbians have asked me to read into Canada's parliamentary record the comments expressed by Gordon Sinclair.

Given the time constraints of Senators' Statements, I will read only select passages of his statement. I believe the following is appropriate in light of what has happened. Not only do I remember the content of this statement, I happen to be old enough and privileged enough to have heard the live broadcast.

The subject of his comment was "Good Neighbours."

> This Canadian thinks it is time to speak up for the Americans as the most generous and possibly the least appreciated people on all the earth.

• (1410)

> Germany, Japan and, to a lesser extent, Britain and Italy were lifted out of the debris of war by the Americans who poured in billions of dollars and forgave other billions in debts. None of these countries is today paying even the interest on its remaining debts to the United States.
>
> When France was in danger of collapsing in 1956, it was the Americans who propped it up, and their reward was to be insulted and swindled on the streets of Paris. When earthquakes hit distant cities, it is the United States that hurries in to help. This spring, 59 American communities were flattened by tornados. Nobody helped.
>
> I can name you 5,000 times when the Americans raced to the help of other people in trouble. Can you name me even one time when someone else raced to the Americans in trouble? I don't think there was outside help even during the San Francisco earthquake.
>
> Our neighbours have faced it alone, and I'm one Canadian who is damned tired of hearing them get kicked around.
>
> They will come out of this thing with their flag high. And when they do, they are entitled to thumb their nose at the lands that are gloating over their present troubles. I hope Canada is not one of those.
>
> Stand proud, America!

Honourable senators, as a senator and a Canadian, I stand shoulder to shoulder with the Americans, unconditional in my support. Regardless of the risk or the danger involved, I will put my life on the line for my neighbours and friends, the Americans. Long live America!

[*Translation*]

UNFURLING OF FRANCO-ONTARIAN FLAG

Hon. Marie-P. Poulin: Honourable senators, in early summer, a major event warmed the hearts of all francophones in Ontario, who witnessed the unfurling of the Franco-Ontarian flag at Queen's Park only a few days after it had been recognized as their official emblem.

This historic ceremony took place during the afternoon of June 24, a very symbolic occurrence, as this was St. Jean Baptiste Day, the official celebration of our French-Canadian heritage.

This event came about as a result of the ceaseless efforts of Jean-Marc Lalonde, the MPP for Glengarry—Prescott—Russell, whose unfailing determination led to the speedy and unanimous passage by the Ontario legislature of a bill to recognize the white and the green.

The flag became the seventh official symbol of the province of Ontario, along with the Ontario flag, the white trillium, the white pine, the common loon, and the coat of arms.

Honourable senators, this flag was first unveiled on September 25, 1975, at my alma mater, Laurentian University, in Sudbury. Twenty-six years have since gone by, and today we are delighted to see this dream come true: our colours flying over the provincial capital.

Customs, rites and traditions are a unifying factor. Moreover, a flag has special connotations that elicit deep emotions commanding allegiance to a tradition.

All Franco-Ontarians can now view their own flag with pride and dignity. They will be eternally grateful to Mr. Lalonde.

[*English*]

NATIONAL DEFENCE

PRESENT LOCATION OF HMCS *CHARLOTTETOWN*

Hon. J. Michael Forrestall: Honourable senators, had the Leader of the Government in the Senate been here, I would have engaged her in a bit of a dialogue. Inasmuch as she is unavoidably absent, I will make the following comment.

We were told that the President of the United States did not ask Canada for any military support. That is fine. There are probably other things that we can do as well, perhaps even better. However, it is passing strange that about an hour ago, I called the naval establishment in Halifax to find the whereabouts of HMCS *Charlottetown* and one of our tankers. I did that because I had been told that the *Charlottetown* and a tanker put to sea one day last week. The person in Halifax put me on hold for several minutes. When that person returned, they gave me the terse rejoinder to call Ottawa because they could not talk about the subject.

I would have asked the minister whether there were a couple of ships being put to sea. I would also have asked if these two ships were travelling with the USS *Theodore Roosevelt* carrier battle group, or if they were due to join it or any other multinational force in the coming days or weeks. Finally, I would have asked if the *Charlottetown* and the support ship were deploying to the Mediterranean Sea, the Persian Gulf or the Indian Ocean as part of a war on terror, or relieving American ships on overseas duty so that American ships could go off to war in the Indian Ocean. The matter, as senators will appreciate, is of great consequence to the families of the men and women who serve aboard our Canadian warships on both the East and West Coasts.

Honourable senators will appreciate my concern in bringing this issue to the attention of the government and expressing the hope that someone will read and take notice of the matter. When next the government leader returns, she may be able to supply me with a fuller answer.

LITERACY AWARENESS PROGRAMS

Hon. Joyce Fairbairn: Honourable senators, over the last few years, September has become essentially a literacy month in our country in which reading, writing, communications and understanding is shared from coast to coast.

I had the privilege of spending International Literacy Day, September 8, in St. John's, Newfoundland, with an enthusiastic group of individuals, including Senator Cochrane, beginning what may be one of the most lively awareness programs in our country. This was after the better part of a week spent visiting the villages along the coast of Labrador. What an inspiration it was to see what those smaller communities are doing in the field of literacy for adults and children.

On Sunday, I was in Calgary at a festival called "Word on the Street," which also attracted tens of thousands of Canadians in Halifax, Vancouver and Toronto, where it began 12 years ago. The collection of literacy groups, authors, poets, entertainers and publishers that this festival brings together is a tribute to the literacy efforts being made in our country.

In this chamber, honourable senators, are many advocates for literacy, and I thank them from the bottom of my heart. What we are talking about is neither special treatment nor privilege; the issue is that access to learning must be a right of citizenship in this country. All individuals should be given a fair chance to contribute and participate, to have a good job and to earn a decent living for themselves and their families.

Literacy is a huge issue, honourable senators. More than 40 per cent of adult Canadians have difficulty every day with routine reading, writing and numeracy tasks that we in this chamber take for granted.

Literacy is the foundation of our ability as a nation to take advantage of the opportunities and benefits that this new world order is giving to us. I encourage all senators, in their communities, to give a hand to those groups working so hard to help Canadians to learn.

[Senator Forrestall]

[*Translation*]

• (1420)

ROUTINE PROCEEDINGS

OFFICIAL LANGUAGES

ANNUAL REPORT OF COMMISSIONER TABLED

The Hon. the Speaker: Honourable senators, pursuant to section 66 of the Official Languages Act, I have the honour to table the 2000-01 Annual report of the Office of the Commissioner of Official Languages, entitled "Our Official Languages: As a Century Ends, a Millennium Begins."

TRANSPORT AND COMMUNICATIONS

REQUEST FOR AUTHORITY TO STUDY ISSUES FACING INTERCITY BUSING INDUSTRY— REPORT OF COMMITTEE PRESENTED

Hon. Lise Bacon, chair of the Senate Standing Committee on Transport and Communications presents the following report:

Tuesday, September 25, 2001

The Standing Senate Committee on Transport and Communications has the honour to present its

FIFTH REPORT

Your Committee, in accordance with its Order of Reference of Thursday, May 3, 2001, has heard the Minister of Transport in order to receive a briefing on busing regulations and now reports thereon.

Your Committee recommends as follows:

That the Standing Senate Committee on Transport and Communications be authorized to examine and report on issues facing the intercity busing industry;

That the Committee submit its final report no later than December 20, 2002; and

That the Committee be permitted, notwithstanding usual practices, to deposit any 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.

Respectfully submitted,

LISE BACON
Chair

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

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

[*English*]

STUDY ON EMERGING DEVELOPMENTS IN RUSSIA AND UKRAINE

BUDGET—REPORT OF FOREIGN AFFAIRS COMMITTEE PRESENTED

Hon. Peter A. Stollery, Chairman of the Standing Senate Committee on Foreign Affairs, presented the following report:

Tuesday, September 25, 2001

The Standing Senate Committee on Foreign Affairs has the honour to present its

SIXTH REPORT

Your Committee was authorized by the Senate on March 1st, 2001 to examine and report on emerging political, social, economic and security developments in Russia and Ukraine; Canada's policy and interests in the region; and other related matters.

Pursuant to section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget application submitted was printed in the *Journals of the Senate* of April 25, 2001. On September 25, 2001, the Senate approved the release of $30,000 to the Committee. The report of the Standing Committee on Internal Economy, Budgets and Administration recommending the release of additional funds is appended to this report.

Respectfully submitted,

PETER A. STOLLERY
Chairman

(*For text of report, see today's* Journals of the Senate, *Appendix "A", p. 783.)*

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

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

DEFENCE AND SECURITY

BUDGET—REPORT OF COMMITTEE PRESENTED

Hon. Colin Kenny, Chair of the Standing Senate Committee on Defence and Security, presented the following report:

Tuesday, September 25, 2001

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

SECOND REPORT

Your Committee was authorized by the Senate on May 31, 2001, to conduct an introductory survey of the major security and defence issues facing Canada with a view to preparing a detailed work plan for future comprehensive studies.

Pursuant to section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget application submitted was printed in the *Journals of the Senate* of June 7, 2001. On June 11, 2001, the Senate approved the release of $100,500 to the Committee. The report of the Standing Committee on Internal Economy, Budgets and Administration recommending the release of additional funds is appended to this report.

Respectfully submitted,

COLIN KENNY
Chair

(*For text of report, see today's* Journals of the Senate, *Appendix "B", p. 784.)*

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

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

[*Translation*]

ADJOURNMENT

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

That when the Senate adjourns today, it do stand adjourned until Wednesday, September 26, 2001 at 1:30 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

CARRIAGE BY AIR ACT

BILL TO AMEND—FIRST READING

Hon. Fernand Robichaud (Deputy Leader of the Government) presented Bill S-33, to amend the Carriage by Air Act.

Bill read first time.

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

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

QUESTION PERIOD

THE SENATE

ABSENCE OF LEADER OF THE GOVERNMENT

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, the Leader of the Government in the Senate is absent today. She is working on the palliative care issue. As a government minister, she is the only one who can answer your questions. In her absence I can only offer to take note of your questions and bring them to her attention when she is back in the Chamber.

[*English*]

Hon. Gerry St. Germain: Honourable senators, could the Deputy Leader of the Government in the Senate indicate when the minister will return to the Senate?

• (1430)

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, the government leader will be here tomorrow for Question Period.

Senator St. Germain: Honourable senators, I will ask my question tomorrow.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table in the house delayed answers to two questions: the question raised in the Senate on June 12, 2001, by Senator Forrestall regarding Maritime helicopter procurement; and a question raised in the Senate on June 13, 2001, by Senator Comeau regarding the meeting of state ministers in Stockholm, Sweden, on the structured management of fish stocks.

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—SEA STATE OPERATION AND DITCHING REQUIREMENTS

(Response to question raised by Hon. J. Michael Forrestall on June 12, 2001)

Sea-state three refers to waves of approximately 1.25 metres in height and sea-state six refers to wave action of approximately 6 metres in height.

The Maritime Helicopter Statement of Requirements (SOR) states that the Maritime Helicopter must be capable of operating from a ship at up to sea-state six. Operations at up to sea-state six conditions are possible because of established Canadian Forces flight techniques and the use of a haul-down and traverse system which pulls the helicopter down onto the flight deck and holds the aircraft in place in high seas.

The ditching requirement makes it mandatory that following an emergency water ditching and shutdown the Maritime Helicopter float upright at the surface for a minimum of two minutes in conditions up to sea-state three to allow for normal exit of the crew and passengers. The SOR also directs that the helicopter make provision for emergency exit lighting, and stowage of a rapidly deployable life raft of at least six person capacity and single place life rafts for each crew member. It is accepted that conditions between sea-states three and six are too severe to guarantee normal exit conditions for the crew. Accordingly, crews are trained in emergency exit to enable them to safely exit the helicopter if it is unable to maintain an upright position.

FISHERIES AND OCEANS

MEETING OF STATE MINISTERS IN STOCKHOLM, SWEDEN—COMMENTS BY MINISTER ON STRUCTURED MANAGEMENT OF FISH STOCKS IN INTERNATIONAL WATERS

(Response to question raised by Hon. Gerald J. Comeau on June 13, 2001)

The objective of the meeting in Stockholm, Sweden was to share experiences and exchange information on approaches envisaged for current fisheries management problems within waters under national jurisdiction. The Minister of Fisheries and Oceans used this opportunity to inform other countries of the evolution of the Canadian approach towards Objectives-based Fisheries Management.

The management of fisheries in Canada is continuing to evolve. The Department of Fisheries and Oceans is striving to set out a more structured approach to the management of fisheries through the introduction of measurable objectives and performance measurement. This new concept, referred to as Objectives-based Fisheries Management, will introduce a uniform and practical risk analysis process, operationalize the precautionary approach and refine our work with respect to ecosystem-based fisheries management.

The Department is working with the industry to develop the objectives-based management concept and will use a number of pilot fisheries across Canada to test this concept. It is not the intent to leave behind traditional fishing communities. A key aspect of objectives-based management will be the ability of government, industry and fishing communities to work together to clearly define and understand fish management objectives. The end product envisaged is government and industry working together more closely to ensure that conservation of resources is achieved.

ORDERS OF THE DAY

YOUTH CRIMINAL JUSTICE BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Pearson, seconded by the Honourable Senator Poy, for the second reading of Bill C-7, in respect of criminal justice for young persons and to amend and repeal other Acts.

Hon. Pierre Claude Nolin: Honourable senators, I rise today to share my doubts with respect to Bill C-7, entitled the Youth Criminal Justice Act. This legislation will replace the Young Offenders Act.

Our society cannot remain indifferent to juvenile delinquency and the negative effect it has on our communities and our families. As Canada's future and its future prosperity rest in large measure in the hands of young people, we must ensure, as parliamentarians and parents, that the principles underlying this reform will respect the particular needs and rights of adolescents, so they may become full-fledged citizens.

In recent decades, Canadians' perceptions of young offenders have helped shape the principles that enable us to better understand the bases and directions the legislator intends in applying the decisions on Bill C-7.

The *Petit Robert* defines "principle" as, and I quote:

> A cause, origin or element constituting a rule of action based on a value judgment and serving as a model, a rule or a goal.

Honourable senators, since 1908, the year the Juvenile Delinquents Act was passed, the main principles behind government and community action in this area, making young people accountable for their acts, rehabilitation, re-integration and, especially to establish a system of justice separate from that of adults in order to provide for the particular needs of young people. The passage of the Young Offenders Act in 1984 added the protection of society to this list.

Honourable senators, over the years, the importance of each of these principles has been influenced by Canadians' perception and understanding of the phenomenon of juvenile crime, publication of scientific studies on the phenomenon by experts and representatives in the field, the effectiveness of the system, Canadian legal and constitutional traditions and international conventions. After considering all these factors, and following several years of consultation with the provinces and the public, the Minister of Justice decided to include a series of principles in the preamble to Bill C-7. The preamble recognizes that society must:

> ...address the developmental challenges and the needs of young persons and to guide them into adulthood.

The preamble then mentions that communities, families, parents and others concerned must unite their efforts to prevent youth crime and help young offenders.

The third part of the preamble points out that Canadians must have:

> ...access to information on youth justice, youth crime and the effectiveness of measures taken to address youth crime.

Finally, the preamble provides that the youth criminal justice system should command respect and foster responsibility through measures that provide effective opportunities for reintegration, while reserving its most serious intervention for the most serious crimes.

Honourable senators, at first glance the text of the preamble seems to indicate that the government hopes to maintain and even improve the approach developed in the Young Offenders Act to fight youth crime. However, when we apply the principles to the arguments used by the Liberal government to explain the need, if not the urgency to reform the youth criminal justice system, a number of concerns come to mind regarding Bill C-7.

Over the next few minutes, I will ask four questions to the Minister of Justice, in the hope of getting answers during the proceedings of the Standing Senate Committee on Legal and Constitutional Affairs.

My first question is: Do Canadians really have access to objective information to assess the effectiveness of the youth criminal justice system? All too often, Canadian public opinion on youth crime is shaped by highly publicized cases of young people who commit violent crimes. The result of the sensationalism used by the media regarding such cases is that, generally speaking, the public is struck by the seriousness of the offence, but does not take into account the inherent causes of the young offender's actions. Yet, while they may not be very representative, these examples contribute to a growing feeling of insecurity among the public and strengthen the feeling that the Young Offenders Act is ineffective. This leads Canadians to ask for ever more repressive measures to deal effectively with youth crime. In this regard, the document released by the Department of Justice and entitled "A Strategy for the Renewal of Youth Justice," which forms the basis of Bill C-7 states:

> The lack of complete and accurate information can lead to misunderstandings that undermine confidence in the youth justice regime.

Prior to the unveiling of this strategy in 1998, the federal-provincial-territorial working group on youth justice looked at the issue. In a report released in 1996, the group concluded:

> If the general public's confidence in the youth justice system is to be restored, it is essential that the information disseminated with respect to youth crime, youth courts, and the corrections systems be objective.

Naturally, protecting society against youth crime must be a constant concern of governments and the public.

However, does youth crime really represent such a threat to the safety of our communities? I think not. According to figures from the Canadian Centre for Justice Statistics, between 1991 and 1997, the number of charges against young Canadians between the ages of 12 and 17 dropped by 23 per cent. In 1997 alone, the number of Criminal Code offences committed by youth dropped by 7 per cent. After peaking in 1995, charges against young people for violent crimes dropped by 3.2 per cent in 1996 and 2 per cent in 1997.

These statistics show that youth crime is on the decrease in this country. In addition to the figures, research studies done in Canada, the United States and elsewhere show that increasing the period of detention for young offenders is ineffective in fostering their responsibility and rehabilitation, and ensuring the long-term protection of society.

• (1440)

This brings me to my second question for the Minister of Justice. Does the problem of youth crime in Canada justify passing new legislation?

According to a CROP poll done for the Minister of Justice in June 2000, in Quebec, 77 per cent of Quebecers felt that the federal government should give greater priority to reducing youth crime.

Over 66 per cent of those polled presumed that youth crime had gone up in the previous five years. Finally, 47 per cent of Quebecers urged the government to replace the Young Offenders Act. When the first version of Bill C-7 was introduced in March 1999, the minister said:

> I pointed out that Canadians had lost confidence in the Young Offenders Act. Fifteen years of experience have shown us that the youth criminal justice system was not working as well as it should in a number of important areas.

The preamble to the first version of Bill C-7, better known as Bill C-68, was very clear as to the government's intentions. The second "whereas" said that Canadians would be better protected against youth crime:

> ...by replacement of the *Young Offenders Act* with a new legal framework for the youth criminal justice system.

Honourable senators, the figures from the poll seem to demonstrate that Quebecers were not aware of the rather encouraging statistics on the drop of the youth crime rate in Canada. Is it not the responsibility of the Minister of Justice, as outlined, incidentally, in Bill C-7's preamble, to make available to the Canadian public objective information that would allow them to judge the effectiveness of youth courts?

[Senator Nolin]

If the government had provided more inforation, it is quite likely that Quebecers would have given quite different answers. One interesting fact from the poll is that 70 per cent of those interviewed had never heard of Bill C-7. Quebecers therefore did not have the whole picture of the provisions contained in the legislation, nor of the effects that it could have on the youth justice system in Quebec.

Yet, since 1999, the Coalition pour la justice des mineurs has been warning that the reforms proposed by the Minister of Justice threaten Quebec's approach to dealing with juvenile delinquency. This coalition groups together more than 25 organizations and specialists working in the field, not only in Quebec, but also across Canada.

In addition, Quebec's National Assembly passed two resolutions unanimously, asking the federal to withdraw Bill C-7. With good reason.

The system developed by Quebec is unique in Canada and cited as an example around the world. While the Criminal Code, the law and criminal proceedings that apply to young people aged 12 to 17, falls under federal jurisdiction, administration of the justice system for adolescents is a provincial responsibility. At the moment, the Young Offenders Act provides that criminal penalties may be replaced by extra-judicial or alternative measures. In this case, the law sets guidelines that must be followed. The development and administration of such measures are left to the discretion of the provinces.

The Young Offenders Act came into effect in 1984. Following the passage of the Youth Protection Act in 1977 and the establishment of the alternative measures program in 1982, Quebec set up a number of services specific to young offenders. Over the years, this network developed an expertise in the field. As a result, Quebec is the only province that fully applies the alternative measures provided in the act.

However, this desire to do things differently has cost Quebec coffers over $96 million since 1984, since the majority of federal funds allocated to the provinces to apply the legislation goes to the penal budget.

This fact has discouraged a number of Canadian provinces, with the exception of British Columbia, from following Quebec's approach. However, the benefits Quebec draws from this model are significantly greater than the additional cost it creates. The system allows the needs of adolescents to be better met while protecting society and providing for prevention and rehabilitation.

In fact, the success achieved through this approach is confirmed by the data gathered by the Canadian Centre for Justice Statistics. In 1995 and 1996, Quebec's young offenders accounted for only 10 per cent of the total number of young offenders in Canada, even though Quebec's population accounts for 24 per cent of Canada's overall population.

By comparison, Ontario, which accounts for close to 36 per cent of Canada's population, accounted for close to 42 per cent of the total number of young offenders in the country. In 1997, Quebec also had the lowest custody rate in Canada for young people.

This did not prevent the setting up, in 1992, of a working group chaired by Mr. Justice Michel Jasmin, deputy chief justice for the youth court component of the Quebec court, to review the implementation of the components of the Young Offenders Act in Quebec.

This is the most important and comprehensive study ever conducted by a Canadian province on this issue. In a 1996 report entitled "Au nom et au-delà de la loi," the working group concluded the following:

> The exercise that we conducted convinced us that the Young Offenders Act is a good act. In fact, we were struck by the consensus that exists among the various Quebec stakeholders in this regard.

Honourable senators, statistics on youth crime in Canada and the success of the Quebec approach in the implementation of the Young Offenders Act lead me to think that the changes proposed by the Minister of Justice could easily have been made through the existing act.

The 1999-2000 federal budget allocated more than $206 million to the Minister of Justice over the next five years for the implementation of Bill C-7, particularly for the alternative justice programs the provinces may implement. Although a step in the right direction, this measure could have been announced as part of the current legislation, the Young Offenders Act.

Had Canadians been properly informed by the Liberal government of the drop in youth crime and had the provinces had the necessary financial resources to apply the alternative measures set out in the legislation, we would have avoided a reform that calls into question the principles underlying our system.

The Hon. the Speaker *pro tempore***:** Senator Nolin, I regret to inform you that your allotted 15 minutes are up.

Senator Nolin: Honourable senators, I request leave to continue.

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I would like to know how much more time Senator Nolin requires to finish his speech.

Senator Nolin: I need only a few minutes.

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

Hon. Senators: Agreed.

Senator Nolin: This leads me to a third question to the Minister of Justice. Is the declaration of principle contained in the Young Offenders Act contradictory to such an extent that it complicates its application?

The renewal strategy for youth criminal justice identifies three weaknesses as justification for an in-depth reform of the legislation. First, the present efforts to keep young people out of the justice system are insufficient. Second, violent young offenders do not benefit sufficiently from intensive rehabilitation services. Last, the system is based too much on placing most non-violent young offenders under custody.

According to the government, these problems are caused by the lack of clarity in the declaration of principle set out in section 3 of the Young Offenders Act. The presence of these inconsistent and contradictory principles is apparently what makes it impossible to determine the system's main objective.

• (1450)

According to the bill, young offenders ought not under any circumstances e considered the same as adults as far as their degree of criminal responsibility is concerned, but they must nevertheless assume responsibility for the offences they commit. Society must be able to protect itself against any illegal behaviour and to take the necessary steps to prevent it. Although young offenders do need supervision, discipline and organization, they also have "special needs" requiring advice and assistance.

At first glance, it may be hard to reconcile the objective of societal protection with the specific needs of youth. As a result of this contradiction, a number of Canadians have trouble understanding that young people need to be handled differently from adults when they commit a similar offence.

Far from being harmful, however, this contradiction is necessary to the proper operation of the youth court system, for two reasons. First, the 1982 Young Offenders Act transformed a regime that used to lift all responsibility from the young offender. It establishes a detailed and explicit code governing criminal procedure as it applies to young people. The accent is not so much on social intervention as on setting out rights and obligations.

As former Supreme Court Chief Justice Antonio Lamer stated in the *Reference on the Young Offenders Act:*

> The Act (Young Offenders Act) is not meant to be a replica of the Criminal Code. It sets up a complete and comprehensive scheme specially designed for an age group.

Second, contradictions among certain principles in law merely reflect the complexity of the phenomenon of youth crime. As in adult cases, adolescent crime may be linked to poverty, difficult interpersonal relationships with friends and family, a history of mistreatment or abuse, or mental problems.

Certain offences are more serious than others, and society must react promptly to punish young offenders and make them accountable. To this end, Canadians must be aware that the justice system for young people must take a different approach than the adult system.

It must be understood that young offenders lack the responsibility of adult offenders, since they are still learning about social standards. The process is influenced by age, level of maturity, level of education and parents, family and friends. A young offender appearing in court will not be as knowledgeable as an adult about his obligations and rights.

As a result, youth court must take into consideration, in addition to the seriousness of the offence, all of the specific circumstances surrounding the case in which the adolescent is involved and his particular needs. The chances of rehabilitation and reintegration are better, and this, in the long term, will protect society.

Honourable senators, the Supreme Court has already ruled on the contradiction in principle inherent in the Young Offenders Act. In 1993, in *R. v M.*, Madam Justice l'Heureux-Dubé said:

> While it may not be inaccurate to suggest that the Declaration of Principle reflects a certain societal ambivalence about young offenders, it is also important to appreciate that it represents an honest attempt to achieve an appropriate balance for dealing with a very complex social problem. The YOA does not have a single, simple underlying philosophy, for there is no single, simple philosophy that can deal with all situations in which young persons violate the criminal law.

The judge goes on to say:

> Judges and the other professionals who work with young persons who violate the criminal law require a complex and balanced set of principles like those found in the YOA.

I therefore do not believe that the contradiction which now exists between the various principles of the Young Offenders Act complicates its enforcement. On the contrary, the experience of Quebec shows this to be possible.

Honourable senators, this brings me to my fourth and final question for the Minister of Justice. The preamble to Bill C-7 reaffirms the importance of having a youth criminal justice system which is focussed on their particular needs. Do the provisions in Bill C-7 reflect this principle? The preamble to the first version of this legislation provided that, from that point on, the ultimate goal of the system was the protection of society.

The rehabilitation, reintegration and crime prevention measures in the new act were supposed to make young offenders accountable in order to attain this goal. There was no longer any reference to the particular needs of youth. This proposal provoked a reaction from a number of stakeholders in the youth criminal justice system. They feared that youth courts would start opting for a criminal approach.

In light of the concerns raised, the preamble to Bill C-7 was amended to make respect for the particular needs of youth the purpose of the reform, both in terms of sentencing and extra-judicial measures. All reference to the notion of protecting society was dropped from the preamble.

Honourable senators, I am not convinced that this amendment is enough to ensure that the particular needs of youth are at the heart of Bill C-7. I will tell you why.

As it is worded, this legislation seems to distance itself from the principle of individualizing the measures designed to make young offenders accountable, regardless of the offence involved, in order to get closer to the justice system defined in the Criminal Code. The amendments made to the Young Offenders Act in 1995 already confirmed this pattern. This is a cause for concern, since Bill C-7 uses an approach based on an automatic increase in the sentences imposed, from a simple police warning for a minor offence to the placing in custody in the case of a more serious crime.

In the case of murder, attempted murder or aggravated sexual assault, a 14-year-old may be given an adult sentence. The youth criminal justice system will punish a young offender based first and foremost on the seriousness of the offence.

This is not all. Leaving aside the notion of individualized measures, the principles defined in clause 38 of Bill C-7 on sentencing provide, among other things, that the youth justice court imposes a sentence which must:

> ...be proportionate to the seriousness of the offence and the degree of responsibility of the young person for that offence...

Only after taking this principle into consideration can a judge impose a sentence that is the one most likely to rehabilitate the young person and reintegrate him or her into society, while also promoting a sense of responsibility in the young person.

In the case of a minor offence, the specific needs of young offenders seem to take precedence in the youth justice system. In the case of a serious crime, it is the protection of society that prevails. Is this really an improvement over the Young Offenders Act?

In order for such a system to work, the legislator did not hesitate to borrow a large number of procedures from the Criminal Code, including measures such as preliminary hearing and parole. Adjusting these measures to the spirit that governs youth justice courts results in an bill that is so complex that lawyers specializing in this area are saying that they cannot see its objectives or how it will work.

Will Canadians be better served by the provisions of Bill C-7? I doubt it. Does a police officer have the expertise required to take into account the specific needs of a young person when the time comes to choose between issuing that person a warning or formally charging him or her with committing a criminal offence for a crime against property?

• (1500)

When we talk about the need to take quick action to punish a young person and make him or her accountable, this does not mean issuing a warning as quickly as possible. What is needed is for his parents, his family and specialists to step in immediately afterwards in order to make him realize the seriousness of his crime. He will thus realize more quickly the consequences of his action. He will be better able to accept the punishment meted out, whether it be a simple warning, community work, or detention. In some cases, shoplifting may be the precursor to more serious criminal behaviour if not addressed quickly.

This model of criminal law based solely on the seriousness of an offence cannot in and of itself provide society with effective protection against youth crime. Furthermore, the report by the working group chaired by Mr. Justice Michel Jasmin was very clear on the ineffectiveness of this approach. We read on page 35 of the report:

> The ill-considered escalation of measures, based on the adult system, goes against the spirit of the Young Offenders Act, reducing a young person to the sum of his offences, through a sort of simplistic mathematics, with no regard for the underlying causes.

Rather than ensuring the protection of society, Bill C-7 will aggravate the problem of youth crime. The approach it recommends will increase the risk of recidivism, drag out court proceedings in cases of serious crimes, and make the rehabilitation process much more difficult.

In conclusion, honourable senators, an analysis of the preamble and the provisions of this legislation shows one thing. Far from clarifying the broad principles which should underlie the youth criminal justice system, Bill C-7 is vaguer than ever about what the bill's primary purpose should be.

Will the reform proposed by the minister serve the particular needs of young offenders, victims, or families, or protect society? No one has the answer. For political reasons, there is a danger that this vagueness could transform the youth criminal justice system into a bureaucratic monster. Who will pay the price? Young people, stakeholders and the provinces. The latter will have the heavy responsibility of implementing a costly and complex reform.

Will the funding promised by the Minister of Justice be sufficient to convince the provinces to adopt Quebec's approach to youth crime? As they say, if you try to please everybody, you will please no one. No legislation is perfect, I agree. On an issue as complex as young offenders, the Liberal government should have put the interests of young people and society ahead of policy and polls. Demonstrating leadership does not mean passing popular measures.

Hon. Lise Bacon: Honourable senators, Bill C-7 is certainly an ambitious bill. It is also a highly complex bill. It is aimed at a substantial reform to the present young offenders system. I will, if I may, make a few observations and comments on this legislation, which was initiated by the Minister of Justice.

There are some laudable objectives in this bill. In particular, that it seeks to lower the rate of incarceration of young offenders and to encourage the application of diversion measures for offences that are deemed to be less serious. To be perfectly candid, as a senator from Quebec, I have a duty to express some concerns about certain implications of the implementation of this bill.

Honourable senators, as you are aware, this past May 23 the Quebec National Assembly unanimously passed a motion calling upon the federal government to make provision within the criminal justice system for young persons for a special system for Quebec under the Young Offenders Act, in order to fully reflect its particular intervention model.

[*English*]

We as Canadians can be proud that we live in a federal system that, by definition, respects the regional and local differences that together make up our country, a system that links the concepts of unity and diversity. When we act in our capacity as legislators, we must always strive to take into account the differences between our country's various regions and the characteristics that make each of those regions unique.

Honourable senators, we must recognize that there can be differences in the way federal legislation is applied. Criminal law in its application constitutes an area in which a balance can be established between national interests and local concerns — thanks to constitutional structures that allow and, indeed, encourage cooperation between the federal government and the provinces.

[*Translation*]

Honourable senators, the system in place in Quebec to apply the Young Offenders Act has yielded results that are worthy of mention. Young Quebec men and women account for only one-tenth of cases brought before youth courts throughout Canada. How can this be explained? I believe it is essentially because Quebec has succeeded in putting in place a youth-centred system that places the young person's specific needs at the centre of the decision-making process.

Honourable senators, the Quebec youth justice system has proven itself. It is not perfect, certainly, but it is a rehabilitation-based system, one focussed on the offender, not just the offence. In addition to the nature of the offence, I believe other considerations such as the development of young people, their degree of involvement in criminal behaviour, and the level of risk for society, are also factors that are very important in determining punishment.

Bill C-7 introduces into the criminal justice system for young offenders certain elements taken from the adult criminal justice system. I clearly understand that the young person who commits a serious offence must face the consequences of it, and the legal system is obliged to protect society. As the bottom line, however, there are some very specific reasons for separating the youth and adult criminal justice systems. The principles of rehabilitation and responsibility must not be subordinated to the principle of criminal justice. I hope we will continue to give precedence to rehabilitation for the highest possible number of young offenders. This will be far better for our society.

Honourable senators, I doubt overuse of the courts in the system will make young offenders more responsible in society, even when serious crime is involved. I consider the principle of individualization very important, especially when young people are involved. We must avoid over standardization and, instead, keep the individual situation of each person clearly in mind. The problem of juvenile delinquency does not involve just the law courts and the young offenders. It is a problem that affects us all. It is a common problem. Facile solutions must be rejected, and those needing our support must not be marginalized.

[*English*]

I earnestly hope that application of the extrajudicial measures provided for in Bill C-7 will bring down incarceration rates and enable more young people to find their way out of trouble.

I also hope that the provinces will have the flexibility they need to tailor the application of such measures to the special features of their own systems.

Above all, I hope they will be given the means and the resources to achieve the objectives inherent in these ambitious proposals.

• (1510)

[*Translation*]

I also hope that the new system of criminal justice for young people, which will come out of Bill C-7, will enable those involved in the field to look after prevention and the welfare of young people involved in criminal behaviour. We must not forget that the community and social workers will play an essential role in implementing this legislation. All too often in the past, we failed to take this sufficiently into account.

[Senator Bacon]

Honourable senators, I also wonder about the negative effects of the skewing caused by certain principles underlying this bill. I refer, among other things, to clause 61, which permits a province to fix by order the minimum age for the application of provisions relating to presumptive offences for adults between 14 and 16.

Specifically, this means that, for the same crime, in identical circumstances, a youth aged 14 in Nova Scotia could be judged differently from another youth aged 14 in British Columbia. This provision strikes me as rather unfortunate.

Honourable senators, there you have the essence of my remarks on Bill C-7. I felt it my duty to express to you some of my concerns.

Hon. Serge Joyal: Honourable senators, there are four points I wanted to share with you in regard to Bill C-7. Some of the points were already raised earlier by Senator Nolin and Senator Bacon.

The first point is the constitutionality of this legislation. The Honourable Senator Nolin clearly explained how, under some provisions of Bill C-7, young offenders are treated like adult criminals and subjected to the provisions of the Criminal Code.

The study of this bill is a complex exercise. I hope my colleagues will not have to spend as many hours as I did trying to understand the content of this legislation. When it comes to reviewing legislative documents, I feel that my intelligence and experience are about average, but I challenge anyone to read this bill and to understand its complexity.

I say this because we have to read the provisions together to understand the weight that we are putting on the shoulders of young offenders. This weight is such that we can only conclude that young offenders are treated like adult criminals, which contradicts the purpose of the bill, which is to establish a system specifically geared to the needs of young offenders. Let me give you an example that really struck me.

Clause 76 of the bill provides that a young offender may be sentenced to a term of imprisonment in a penitentiary or a correctional facility for adults. Yet all the reports published last year and the year before that I read on this issue, beginning with the reports by the American Association of Juvenile Rehabilitation, conclude that the one thing to avoid is to send a young offender to a jail for adults or a penitentiary. American states as favourable to capital punishment as the State of Florida passed a law this year prohibiting Florida's penitentiary officials from incarcerating and keeping young people in prisons for adults or in penitentiaries.

This American state which, along with Texas, has one of the highest rates of execution, recognized that a young person under the age of 18 should not be held in a prison for adults or a penitentiary, and it passed a formal law to that effect, article 5 of the correctional services act, which took effect in April 2001, this year.

Clauses 76, 84, and 88 to 93 of Bill C-7 provide for the possibility of incarcerating young offenders in prisons for adults or penitentiaries.

[*English*]

Honourable senators, I should like to draw your attention to something specific. It is a matter regarding the issue of delinquency that has not been put on the floor of this chamber. Thirty-four per cent of the delinquents in our country are young aboriginal people. Where do they live? Most live in downtown centres close to rehabilitation services. Where do you think they will end up living? They will end up in adult prisons. I am not the first one to say that. There have been reliable and eloquent reports that state that justice for Aboriginal people is not the same as average justice.

This bill should have addressed specifically the issues of rehabilitation. The 34 per cent of delinquents who are aboriginal is not reflected, in my opinion, in this bill.

Honourable senators, this is a serious issue. It is an issue that is fundamental and that we know exists in other areas covered by public services. My colleague Senator Chalifoux knows those issues better than I know them.

[*Translation*]

The economy of this bill, when one reads its clauses in conjunction with each other, puts the young offender on an equal footing with, and sometimes in even more difficult situations than adults. I take the example of the right to counsel.

Under clause 25 of the bill, the right to counsel is not accompanied by a provision for a remedy when this right is violated. Accordingly, under this bill, a young person without counsel cannot obtain the assistance required to represent his rights.

If he is to be treated the same as an adult offender, he should at least have the same services and rights as an adult offender charged under the Criminal Code.

The same goes for the exception regarding the confidentiality of information concerning young offenders, as names will henceforth be published. As honourable senators are only too aware, this is one of the most sensitive issues in connection with the status of young offenders. A young person who sees his name in the newspaper either thinks he is a hero because he is now treated the same as an adult, or is permanently stigmatized and his chances of rehabilitation clearly damaged compared to someone else's.

As honourable senators are well aware, this possibility did not exist in the previous young offender legislation. In the new legislation, it does. Can we knowingly accept such a provision without asking ourselves whether we are undermining the objective of the bill, which is to ensure the rehabilitation of young offenders?

The same concern applies to extra-judicial statements made by a youth to persons in positions of authority. We are well aware that, for adult criminals, there must be a warning when an incriminating statement is made. In the case of this bill, that warning no longer exists. The same goes for a trial in adult court for a youth charged with a certain type of crime. Previously, in spite of the seriousness of the crime, the youth could ask to be tried in youth court. The young offender's representatives had to prove that the youth should not be tried in adult court, but in a youth court. However, if you read the bill, such an offender is now automatically given adult status. This means that the bill gives the youth adult status without giving him the rights adult offenders enjoy. In my opinion, this must lead us to question whether the bill contravenes section 7 of the Canadian Charter of Rights and Freedoms.

• (1520)

The second point I wish to call to your attention, honourable senators, concerns the obligations Canada has assumed under a number of major international conventions on the rights of the child. I would like to list them as, in my opinion, there are many of them and they have implications on any debate about bills concerning youth.

They include the International Covenant on Civil and Political Rights, under articles 24 and 25, dealing with the right to equality; the International Convention on the Rights of the Child, under article 37, demanding segregation of youth and adults; the Beijing Convention, under articles 13 and 26, also demanding such segregation, and the United Nations rules for the protection of minors deprived of liberty, under article 29.

When the government signs or ratifies an international convention, it does so under the prerogative right of the Crown. All international treaties are ratified by the Government of Canada based on the prerogative right of the Crown.

In some instances, the government must obtain provincial assent, where matters under provincial jurisdiction are involved, as we understand jurisdiction for juvenile courts and youth crime to be.

This bill raises important questions about the satisfaction of obligations Canada itself assumed by signing these international instruments, the international instruments ratified by the majority of the provinces and more specifically by Quebec.

Accordingly, in an area of jurisdiction clearly defined as falling under provincial responsibility within section 93, the question of the Canadian government's satisfaction of these international commitments arises. It is a serious question, because the Government of Quebec, by Order in Council, made a reference to the Quebec Court of Appeal on September 7, that is, barely two weeks ago, putting this question clearly to the Quebec Court of Appeal.

We are the upper house, we can debate this bill, amend it, pass it or reject it according to what we consider in our hearts and minds to be the best route to follow. Nevertheless, the constitutionality of this bill is at this point seriously questioned, and the province with the most effective juvenile court system, as Senators Bacon and Nolin explained earlier, is raising this basic question.

It is my opinion, honourable senators, that this is one of the questions we must answer in committee deliberations when our committee, chaired by Senator Milne, hears witnesses and initiates the debate we will have to hold on this matter.

[*English*]

I would like to use English words — the "disruption effects" — to describe Bill C-7's effects on a system that functions well in Quebec.

Honourable senators are familiar with my position on Quebec and "distinct society." We had that discussion here some months ago, and honourable senators know how I voted. However, in a field that is clearly under the jurisdiction of a province and where all the studies unanimously conclude that this province has the best system, we must question ourselves as to when we should intervene to change the rules of the game — in order to know how the proposed legislation will be implemented and how disruptive it will be on the performance of the Quebec system.

Honourable senators, it would be wise to consider a sunset clause. That would give us an opportunity to allow officials from the Department of Justice, in conjunction with their provincial counterparts, to monitor the implementation of the proposed legislation. The officials could then respond, within a reasonable period of time, to tell us whether we have met the objectives that we have pursued with Bill C-7, objectives that are clearly stated in the preamble, as the Honourable Senator Nolin debated today.

This is an important point. We are confronted with a major challenge: to strike a balance between the rights of the youth and the status of adult criminals with the way in which the provinces perform that responsibility, in respect of the general objective of maintaining a safe and sound society in Canada. That is the challenge that we must examine in Bill C-7.

Honourable senators, I am sure you have listened to our colleagues who spoke to this bill earlier and today. This is a major challenge and we must all pay close attention to a bill that is complex and difficult to read in respect of one section to another, to ensure that what the bill proposes as its objective will be satisfied by the resulting piece of legislation.

Hon. Thelma J. Chalifoux: Honourable senators, I rise today to speak to Bill C-7. Let it be known that I am not a lawyer, but I am a matriarch of a large, extended family. For many years, I have worked in the community with children who have run afoul of the law. With my Métis background, I have worked primarily with Aboriginal children; but I have never seen the colour of a child's skin — only the anger, the hurt and the confusion of a child's heart.

[Senator Joyal]

Our world has changed. In this past week, our country has come to realize that we are now a global community. When this bill goes to committee for consideration, I would like you, honourable senators, as a committee, to ensure that it addresses some of the concerns of the child, of the parents and of the judge.

First, over 51 per cent of children come from single-parent homes. With provincial social allowance regulations forcing these parents to work, the children become part of the latchkey generation. This allows the gang recruiters and the low-lifes of our communities to infiltrate these children's lives. Thus begins the downhill spiral and the introduction to the justice system. Does this bill address the recruiters and the low-lifes? The majority of them are young people, who themselves have been recruited by a gang leader or pimp.

Not all parents are good parents or role models. Does this bill address the role and the responsibilities that these parents must be forced to play in their children's lives?

Whether we like to admit it, there is blatant racism and stereotyping in many courtrooms in Canada. Does this bill address that issue?

Many Aboriginal children have lived in urban centres for two or three generations. They do not know their Aboriginal culture or identity. Should they be given the same sentence as the youth who has just moved to the city and has lived a traditional lifestyle without benefit of the knowledge of the laws of the city? Does this bill address the many differences between urban, rural and isolated communities so that the justice system can make good, fair decisions for each jurisdiction, no matter where it is? If not, how can that issue be addressed in this bill?

Many young people from the isolated settlements across Canada do not speak English or French as their first language. They usually speak only enough to get by when it is required. They do not understand the judge, the prosecutor or even their legal aid but are usually too shy to say anything. They plead guilty because they do not comprehend. Does this bill make provision for interpreters for these children?

• (1530)

I am pleased to read that this bill is addressing alternate models for sentencing and adjudication in the youth justice system. I have reviewed several sentencing circles and have been given excellent reports about the successes and the failures.

An article in the *Winnipeg Free Press* of September 23, 2001, states that there are about 70 sentencing circles in Manitoba for first-time offenders. About 20 per cent of young offenders and 5 per cent of adult offenders are dealt with through these circles. Less than one fifth of those dealt with by the youth councils are caught committing another crime, compared to more than half of other offenders. Does this bill address the need for financial resources for these circles, because the majority of them are volunteer?

In my opinion, the Legal and Constitutional Affairs Committee will be given one of the most important pieces of legislation for all Canadians, but, most important, for the segment of our society that is our future.

Our future lies with Canada's children. The majority of Canadian youth are law-abiding citizens. They accept their successes, their struggles and their failures in stride. Bill C-7, the Youth Criminal Justice Act, addresses the broad social issues and the legislative goals the government expects to achieve, and it still abides by the United Nations Convention on the Rights of the Child.

Honourable senators, I have presented you with some of the issues and concerns of which we should all be aware. Proper legal language is important, but we must not forget the human factors and how this bill will affect the child, the parent, the justice system and society as a whole.

Honourable senators, may the Creator bless and give you all wisdom in debating this bill.

Hon. Jerahmiel S. Grafstein: Honourable senators, one question at the heart of the bill gives me some distress; that is, lowering the criminal age to almost 12, in some instances. It would be a disastrous situation as it applies to the city of Toronto. Does the honourable senator share that concern with respect to the Aboriginal communities?

Senator Chalifoux: Honourable senators, when I worked with young people, I found that the majority of 10, 11 and 12 year-olds were first-time offenders. They should not be put before a court, but they could be put before a sentencing circle where they would have to work with and help the victim. They would have to look at themselves. I completely agree with having sentencing circles, especially in Toronto.

Hon. Willie Adams: Honourable senators, I have a question about statistics. I think there are statistics stating that the Inuit population in Canada numbers a little more than 30,000 people. Aboriginals living in the South number a little over 2 million. Could Senator Chalifoux discuss these statistics in terms of Aboriginal inmates? I think somewhere between 70 and 80 per cent of Canadian inmates are Aboriginal.

Senator Chalifoux: With respect to statistics and the justice system as a whole, the Aboriginal population in Canada is less than 5 per cent, and yet anywhere between 40 and 60 per cent of the inmate population is Aboriginal. When I have looked at and worked within these systems, I have found much of the problem has to do with stereotyping, racism and a lack of financial resources to address the issues that the inmates have been charged with.

I do a great deal of work with Edmonton's Youth Offender Centre. When I go there and see the children, they are angry. There are few or no counselling resources. There is nothing for them. Native Counselling Services of Alberta has spent many years working in this area, but they do not have the ability or the finances, as I can see it, to address those issues. When we are looking at the statistics, we must also look at the services that are not available to the inmates, especially our women. Our women have no services and no counselling. They have nothing.

Hon. Bill Rompkey: Honourable senators, I wish to discuss with Senator Chalifoux her point about language and culture. She made the point that the Aboriginal inmate population in our prisons far exceeds the national average, although the percentage of Aboriginals in the country is quite low. As she pointed out in her speech, much of this is because of language and culture and of not understanding.

We are fortunate in Labrador to have the first Inuk judge in Canada. Judge James Igloliorte is an Inuk, born in the community of Hopedale and now living and practising in Goose Bay. He travels throughout Labrador.

How many Inuk judges are there in Canada? How many Indian judges are there in Canada proportionate to the need? The whole problem rests in not understanding what is going on. Part of the difficulty is language because many Aboriginal people speak their original language at home, and English is a second language for them. As we know, culture is bound up in language.

I wanted to give Senator Chalifoux an opportunity to expand on the problem of language and culture because that is a challenge for us on the issue of Aboriginal people versus the justice system.

Senator Chalifoux: First, I should like to speak about Aboriginal Justice Murray Sinclair, Associate Chief Justice of Manitoba. I wish to compliment him on establishing the excellent justice circles. We have them in Alberta and Saskatchewan, but I do not think they are working as well because of the financial situations.

In the cities, the Aboriginal children speak English and French, but in the northern communities, in the mid-Canada corridor and in the Far North, the majority speak either Cree or their own language. When they come to the cities, they do not understand. When one goes up North, the judge does not speak the language, members of the RCMP do not speak the language and the prosecutors do not speak the language. Those individuals do all the judging. There is a real issue in those areas. When one looks at this bill, one must look at the different jurisdictions and areas of our country to address these issues.

• (1540)

Hon. Anne C. Cools: Honourable senators, could Senator Chalifoux give us a profile of the average Aboriginal offender? For example, how old is this person? What is the nature of the offence? Is the offence usually against a person or against property? Could the honourable senator describe the family setting of the average Aboriginal offender?

We have talked a lot about young offenders in this debate, but the Chamber has before it no profile of the typical young offender. Perhaps the honourable senator could give us a portrait of an Aboriginal young offender. As the debate continues, honourable senators, one hopes that we can get a profile of the young offender. I have done a lot of work on this topic. I am very interested in the number of young offenders who are charged with serious offences like murder.

Senator Chalifoux: Honourable senators, let us look at a picture. In the inner city, we have a single mother with five or six children between the ages of 1 and 13. The welfare worker is breathing down the mother's neck because she is not working, so the mother takes a menial job. She does not have the financial resources for a babysitter so the older children must look after the younger ones. Most of the time, if a food bank is not available, they go hungry.

One little nine-year-old girl came to our youth centre at about nine o'clock one night, just when we were getting ready to close up. She said, "Grandma" — because they call me "Grandmother" — "my mother has been gone for two days. I have no milk for the baby." That little girl had missed school and was looking after her little brother. We went to the store and bought food for her and the baby. If a welfare worker is called in these circumstances, the kids will be taken away and stuck in foster homes. We all know the horror stories of foster homes. When the mother comes back and sobers up, she is a good mother. We are faced with a dilemma here.

When the child does get out, he or she gets into the wrong crowd and into trouble. Years ago, trouble was in the form of vandalism. Today, these youth are involved in serious property offences and violence. They get into fights and assault charges are laid.

The Hon. the Speaker: I regret to advise that the time for the honourable senator's speech and for questions has expired.

Senator Chalifoux: May I have leave to continue?

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Chalifoux: When the kids get into the court system, they are immediately put into jail, into the adult cells. I know because, on a few occasions, I have gone down to bail them out at two or three o'clock in the morning. These kids are terrified when they go to court. At times, there is a Salvation Army worker in court; at other times, a native counsellor is there. Most of the time, they are just left.

Sometimes Mom and Dad come. Usually they do not bother. In my experience, if the parents are present the judge is very lenient and looks on things more easily. Most of the time, the mother is working or cannot get a babysitter, and the whole cycle begins anew.

This is what disturbs me most. The last time I was at the Edmonton jail, I saw our young women charged with assault or assault with a weapon, at the ages of 12, 13 and 14. This is what is happening in our inner-city communities. Relatives come in from the isolated settlements and the cycle begins again with them. No one seems to care.

Hon. Marcel Prud'homme: Honourable senators, I will be very brief. If there is a role for the Senate, this is it — to study, to reflect and to listen to each other. I will not quote Senator Nolin, Senator Joyal or Senator Beaudoin. I will not quote the ex-deputy premier of the Province of Quebec, Senator Bacon, whom we all know to be a strong, opinionated, no-nonsense person. I will not quote our honourable friend Senator Chalifoux and the stories she has told us, stories that some of us knew already. I was in Winnipeg and in Churchill and I know the difference.

This is an opportunity for the Senate to put aside partisanship, and I speak mostly to the new senators. It is not a matter of this being a government bill and so we must pass it. Honourable senators have a responsibility to listen to the speeches. We should not arrive at our committee hearing with an already highly motivated intention to pass the bill, if it is approved after we listen to the witnesses.

Senator Joyal raised some good points, which were repeated by Senator Chalifoux. That is the real role of the Senate.

I followed this bill in the House of Commons. Even the few words that we have spoken here on second reading are of far better quality. This is not partisanship but a question of reflection. This is the role of the Senate. I will not read the notes that I took while listening to other senators; they have touched all the points. I hope the committee will study this bill — and I see the chairperson here — in a way that will make us proud of the role that the Senate can play.

If the bill is weak and needs to be amended, we should not be afraid of what those in the other chamber will say. I know the role of leadership; they want to pass their bill. That is so evident. In this kind of bill, everything has not been touched. I have not touched a Quebec issue. Just listen to Senator Chalifoux. We must have flexibility. Senator Nolin quoted us some facts and others have quoted facts — why should I repeat them?

[*Translation*]

In French, we say it is a question of society. Our attitudes and approaches differ according to where we live in the country.

[*English*]

We know it is popular to say that we will slap jail sentences upon these unruly kids. Sometimes, on the eve of voting, a horrible crime may take place, as happened in Montreal. Those of us who were abolitionists were very afraid of that happening when the death penalty was under discussion. I voted three times on that issue and once the result was very narrow. Mr. Fleming, of Toronto, and I invented the 25-year sentence, instead of the death penalty, because, otherwise, we would have lost that bill.

Honourable senators, I call upon you to go to the committee and not to delay unduly but to be flexible and make sure that the Senate can make a difference in what was presented by the other chamber.

The Hon. the Speaker *pro tempore***:** I wish to inform the Senate that, if Senator Pearson speaks now, her speech will have the effect of closing debate on second reading of this bill.

• (1550)

Hon. Landon Pearson: Honourable senators, this has been an extraordinarily interesting debate. It reflects the attention and the seriousness with which everyone in this chamber regards this particular bill and the issue that it addresses, of young people in trouble with the law.

I should like to thank all of you who participated in the debate on Bill C-7, beginning with Senator Andreychuk, and including Senators Beaudoin, Nolin, Bacon, Joyal, Chalifoux, Prud'homme, Grafstein, Adams and Rompkey. Honourable senators have paid rich attention to the bill and have raised many questions.

It would be impossible for me at this moment to answer all of the concerns that have been raised. I do not, in fact, know the answer to many of the concerns. That is why I am waiting for the committee to bring together the experts, who will be able to help us clarify the issues raised by all honourable senators in this debate.

However, there are a few concerns that I would like to speak to. There have been questions raised — and I think this is important — regarding the balance between the protection of the public and the recognition of the special needs of young people and the importance of prevention and rehabilitation.

Since a vote on second reading is basically a vote on the principles of the bill, I would like to remind all honourable senators that Bill C-7 clearly emphasizes rehabilitation as a priority, but does so in the context of public safety. Clause 3(1)(*a*) lays out these principles.

Just to remind us of these principles, they are:

> (*a*) the youth criminal justice system is intended to
>
> (i) prevent crime by addressing the circumstances underlying a young person's offending behaviour,
>
> (ii) rehabilitate young persons who commit offences and reintegrate them into society; and
>
> (iii) ensure that a young person is subject to meaningful consequences for his or her offence
>
> in order to promote the long-term protection of the public.

If we reflect on that, honourable senators, and whether that also provides the short-term protection of the public, I believe we will find there are a number of clauses in the bill where the immediate protection of the public is being addressed as well.

Some honourable senators have also raised the issue of Canada's international obligations under the UN Convention on the Rights of the Child, a convention that Canada ratified in 1991. I am not sure that "ratification" is exactly the right word, but all provinces have now supported it and have asked the question as to whether or not this piece of legislation is in compliance.

In the preamble of the bill, there is the recognition not only that Canada is a party to the UN Convention on the Rights of the Child but also that young persons have all the rights and freedoms stated in the Canadian Charter of Rights and Freedoms and the Canadian Bill of Rights. In addition, under the Youth Criminal Justice Act, every convicted person younger than 18 must serve a sentence in a youth facility separate and apart from adults. The proposed act creates a presumption that young people serving adult sentences will also be held separately from adults. This is a question, of course, raised by Senator Joyal.

When we compare the bill with the existing act, we will find that the provisions dealing with the incarceration of youth are much more restrictive than is the case in the current act.

We agree in principle that youth should be held separately from adults in custody. There are some exceptional circumstances where this might not be advisable. Canada recognized this fact when it ratified the Convention on the Rights of the Child and took a reservation on section 37(c). Questions might arise, if one abides by the absolute law and reality, concerning kids from some far distant area having to be moved hundreds of miles from their parents in order to be in custody separately. Therefore, there are some important issues that we need to explore. I have always supported the idea of removing that reservation, but we must see how it can be done and be clear about what the possibilities are.

With respect to the rights of young people, it is also clear in the legislation that all youth will be tried in youth court by a youth court judge. This is different from what is happening now, where an accused youth could be tried in adult court. A youth court judge will preside and will determine the appropriate sentence if and when the accused has been found guilty. This for me was a positive change, as well as for some colleagues across the way, in that we were bothered the previous time by the fact that youth could be transferred to an adult court simply on the charge rather than on the finding of guilt. Now he or she will not be moved to an adult court. On a finding of guilt, the sentence will be given by a youth court judge.

Another issue that must be fully studied and has been raised by senators here has relevance to the questions of Quebec. I have become aware in recent years of some of the challenges between the civil code and common law processes. We must be careful, when children have opportunities for alternative measures, that we are ensuring due process at the same time. A number of countries are horrified that our age of responsibility is 12. A number of them believe the age of responsibility to be 18.

However, the reality is that many countries are using other processes, such as social welfare processes, and some of the kids are being treated with no due process whatsoever. In many instances, poverty has been criminalized. It is something to which we must pay attention, when we are looking at the good examples in Quebec, that we look at two or three of the more negative examples that have happened there under the Youth Protection Act.

Honourable senators, Bill C-7 not only allows for but also encourages the full participation of front-line professionals working with young people. This issue was raised by Senator Andreychuk. The proposed act provides for interventions by police and prosecutors and fully supports activities like conferencing with other professionals, including teachers, as well as persons of the young person's community. It is through such an interdisciplinary approach that young people will have the support they need to be rehabilitated and reintegrated into society.

In addition, much consultation has been undertaken as a part of the much broader strategy to involve players who in the past have not been fully included in the process, to help address the underlying causes of youth justice. I have had the privilege of participating recently, over the last two or three years, in a number of round tables organized by the Department of Justice with respect to youth justice. These round tables focused on mental health issues and on the importance of sports, recreation and artistic opportunities to prevent young people getting in trouble with the law. There were also round tables with respect to Aboriginal youth.

In all of these round tables, there has been a notable amount of youth participation. It is my hope that the committee will hear from young people, and not someone always speaking on behalf of them.

Honourable senators have also raised the issue of resources. The Government of Canada has made available close to $1 billion over five years for funding agreements that will help provinces and territories implement the youth justice renewal. These agreements require that as much as 65 per cent of federal funds will be directed toward services and programs, not toward more facilities — more prisons, so to speak. These agreements are signed by the minister responsible for youth justice in each province and territory, as well as by the federal minister.

• (1600)

The manner in which the funds flow to the jurisdictions is outlined in each agreement, as are stringent reporting requirements. Perhaps $1 billion will not be enough, but the provinces are also expected to invest somewhat in this. There is money available, and we must ensure it is well spent.

The government will provide additional funding for innovative, community-based pilot projects, partnerships, training and other efforts that will support the renewal of the youth justice system.

I have been following closely, as have other honourable senators, the way in which the fund for crime prevention is being spent. I am impressed by how many projects that directly relate to young people have been funded. I have been following some of the evaluations, and it is exciting to see how things are beginning to work.

I have another response to Senator Andreychuk. Again, I am not a lawyer, so some of my responses will have to be filled in by the witnesses we call to clarify this matter. Senator Andreychuk raised an interesting issue with respect to the degree to which judges can rely on case law. I look forward to discussing this issue in committee. It seems that the proposed Youth Criminal Justice Act will make substantive changes in law in some fundamental areas, and in these areas of substantive changes it would be correct to say that the case law under the YOA would not necessarily apply. However, in other areas of the proposed legislation, the provisions are the same or essentially the same as the provisions of the YOA. It is therefore highly likely that in these areas the existing case law would continue to apply. It will be interesting for us to explore that further.

Senator Beaudoin raised some constitutional issues that I find particularly interesting, as do all committee members. I look forward to having an in-depth study of these issues.

The minister will no doubt speak for herself when she appears before us, but when she responded to the announcement of the Government of Quebec to refer Bill C-7 to the Quebec Court of Appeal, she said that it is in the opinion of the Government of Canada that Bill C-7 is constitutional and a valid exercise of the federal government's criminal law power and complies with the UN Convention on the Rights of the Child. She further indicated that, when enacted, Bill C-7 will not only allow Quebec to maintain but also to improve its youth justice system. It will be interesting to hear further elaboration on that statement.

Some of the questions Senator Beaudoin raised about the current law are the same. We will look at that with great interest.

Of the many issues that were raised here, I am particularly sensitive to those so eloquently raised by Senator Chalifoux. I am appreciative of the questions that were asked because they brought more issues to the fore. Members of the committee can constantly ask the questions she has raised so that in the end we are able to report back to the chamber with positive answers to those questions.

As honourable senators have heard over the course of these debates, Bill C-7 aims to create a fairer, more effective justice system in a number of ways: through, for example, emphasizing rehabilitation and reintegration of young people; encouraging the use of meaningful alternatives to custody; making better use of courts by dealing with less serious cases outside the formal court process; distinguishing between serious, violent and less serious offences; improving and expanding sentencing options; and eliminating the transfer of young people to adult court.

Youth justice is an issue of great interest to the Canadian public, and we are not all of one mind, as is clear from the discussions we have had today. We are playing an important role in ensuring that this bill will provide the best possible foundation for a youth justice system in which Canadians can have confidence.

I thank honourable senators for this fascinating and interesting discussion. I look forward to further debates and discussions in committee and when we bring the bill back from committee. This is an extremely important bill.

The Hon. the Speaker *pro tempore***:** Honourable senators, it was moved by the Honourable Senator Pearson, seconded by the Honourable Senator Poy, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

Motion agreed to and bill read second time, on division.

REFERRED TO COMMITTEE

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

On motion of Senator Pearson, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 2001

SECOND READING—DEBATE ADJOURNED

Hon. Marie-P. Poulin moved the second reading of Bill S-31, to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

She said: Honourable senators, I appreciate the opportunity to speak today at second reading of Bill S-31, the Income Tax Convention Implementation Bill, 2001.

The purpose of this legislation is to enact eight tax treaties that Canada recently signed with other countries. The bill replaces the current treaties in force with the Slovak Republic, the Czech Republic and Germany, and it implements new treaties with Slovenia, Ecuador, Venezuela, Peru and Senegal.

The agreement with Germany replaces the existing one that was signed in 1981. It updates our bilateral arrangements with Germany and makes them consistent with current Canadian tax policy.

The agreements with the Slovak Republic and the Czech Republic replace the convention between Canada and the former Czech and Slovak Federal Republic signed in 1990. After the peaceful breakup of Czechoslovakia in 1993, both the Czech Republic and Slovakia were anxious to conclude separate bilateral agreements with Canada.

The remaining five conventions are the first comprehensive tax treaties ever concluded between Canada and Slovenia, Venezuela, Peru, Ecuador and Senegal. They result from Canada's continuing efforts to expand its network of tax treaties and are designed to provide taxpayers with more certain and equitable tax results in their cross-border dealings.

As with previous tax treaties, these agreements are largely patterned on the model convention of the Organization for Economic Co-operation and Development, known as the OECD, that is accepted by most countries around the world. The provisions in the treaties in Bill S-31 comply fully with the international norms that apply to such treaties.

Before reviewing the bill, honourable senators, I first want to provide some background that will put the legislation in context.

• (1610)

[*Translation*]

Honourable senators, I should like to say a few words on Canada's income tax system. Since the inception of income tax in 1917, Canada has taxed global revenues of Canadian residents and revenue from Canadian sources of non-residents. These two fundamental elements that have characterized Canadian income tax since the outset remain with us today.

In other words, the total income of Canadian residents, be it earned here or abroad, is taxable in Canada. However, non-residents are only taxed to the extent that they participate in Canada's economy, or receive income from Canadian sources.

In this respect, Canada's tax system works in accordance with international standards. When our income tax system was reviewed in 1971, one of the results was a broadened network of tax treaties between Canada and other countries. Since then, sustained efforts have been made to keep this network up to date. Bill S-31 is consistent with these efforts. Our network of tax treaties is one of the most comprehensive networks in the world.

Canada currently has tax conventions or treaties with over 70 countries. Tax conventions are also in effect between Canada and all its main trade partners, and with 27 of the 30 OECD members. Negotiations are underway to sign tax treaties with two of the three countries that have yet to sign such agreements, namely Turkey and Greece, while the official coming into effect of an agreement signed with Portugal is pending.

Canada's tax conventions are all developed with two objectives in mind. First, they are designed to prevent double taxation and establish, with a degree of certainty, tax rules that apply to international transactions. The possibility of double taxation arises when a taxpayer resides in a country and earns an income in another country. Without a tax convention, both countries could collect taxes on this income.

Conventions on double taxation ensure that such income is not taxed twice. Our tax agreements achieve this result in three ways. First, they split the taxation rights between Canada and the other party to the convention, in various categories of income. Second, they establish rules to settle cases of double claim regarding a taxpayer's residence or source of income.

Finally, tax agreements allow taxpayers who feel they are being treated unfairly under a tax convention to submit their case to tax authorities.

The second objective of a tax treaty is to promote co-operation between taxation authorities, so as to prevent fraud and tax evasion. This objective is achieved in a number of ways, including by splitting profits between parties, ensuring that national laws apply to a failed transfer and other international tax evasion schemes, and providing for the exchange of information between competent tax authorities. In some cases, this objective is also achieved by providing mutual assistance for tax collection purposes.

[*English*]

Honourable senators, let me take a moment and explain why relief from double taxation is so necessary. In the absence of international agreements, double taxation can adversely affect economic relations between countries. One of the main reasons is that tax treaties are directly related to international trade in goods and services and therefore have a direct impact on our domestic economic performance. In Canada's case, this impact is significant. Canadian exports now account for more than 40 per cent of our annual GDP. Moreover, Canada's economic wealth each year also depends on direct foreign investment as well as inflows of information, capital and technology. Clearly, double taxation can have harmful effects on the expansion of trade and the movement of capital and labour between countries. As a result, it is important for Canada to have tax treaties in place.

Honourable senators, I turn now to some of the specific measures of Bill S-31. The tax treaties in this bill set out under what circumstances and to what extent Canada and its treaty members may tax the earnings of each other's residents. Some of the more discernible restrictions concern withholding taxes. In Canada, certain income, such as interest dividends and royalty payments to non-residents anywhere in the world, is subject to a withholding tax. This practice is a common feature in international taxation. Canada's network of tax treaties provides for several withholding tax rate reductions, the overwhelming majority of which operate on a reciprocal basis.

Without a tax treaty or other legislated exemptions, Canada generally taxes income paid to non-residents at the rate of 25 per cent of the gross amount of the payment. The eight treaties contained in this bill reduce the rates of withholding tax that can be levied in Canada and by each of our respective trading partners. For example, all of the treaties introduce the maximum rate of withholding tax of 15 per cent on portfolio dividends paid to non-residents. Moreover, in the case of dividends paid by subsidiaries to their parent companies, the maximum rate of withholding tax is reduced to as low as 5 per cent. The maximum rate of withholding tax on interest and royalty payments is generally capped at 10 or 15 per cent under each of the eight treaties being implemented. As far as periodic pension payments are concerned, the maximum rate at which withholding tax can be levied is set at 15 per cent in all but the treaty with Venezuela, where it is set at 25 per cent, as specified in our income tax law.

In addition to the provisions limiting the amount of withholding tax that can be levied on payments made to non-residents, the treaties also implement other measures that ensure that the tax consequences of certain transactions are in line with Canadian tax policy.

While time does not permit me to go into detail, I wish to look briefly at Canada's new taxpayer migration rules that came into force last June when Bill C-22, an act to amend the Income Tax Act, received Royal Assent. The concept that Canada should tax individuals on all capital gains that accrue while they live here has been part of Canada's tax policy since 1972. In 1972, capital gains first became taxable under the Income Tax Act. Since then, special rules have applied to people who cease to be resident in Canada. The basic rule on immigration is that individuals leaving Canada are treated as having disposed of all of their property before changing residence, with the result that any latent gains or losses are realized. The general effect is therefore that an emigrant is taxed on gains that accrued while a resident of Canada, regardless of whether the property to which those gains related is disposed of before or after the point of emigration.

For many years, there were questions about the exact scope of this deemed disposition on departure from Canada and how it affected our international tax treaties. Through Bill C-22, Canada retains the right to tax departing residents on gains that accrue during the period they lived in Canada.

Since December 1999, in anticipation of these rules coming into effect, Canada has been negotiating its tax treaties to reinforce protection against double taxation and to reduce costs to the government when Canadian residents leave to live elsewhere. In all but one case, the treaties in Bill S-31 limit the need for Canada to provide tax relief to former Canadian residents to ensure that they are not taxed twice on gains that accrued while they lived in Canada.

• (1620)

Honourable senators, given our significant economic ties with Germany, I also want to make some brief remarks about the new Canada-Germany tax treaty. Indeed, Germany is Canada's fifth largest export market. Direct German investments in Canada currently exceed $7 billion.

First, the new agreement with Germany is the only treaty in Bill S-31 that provides for mutual assistance in the collection of outstanding taxes. That means that either country will take measures to collect taxes owed by their residents to the other's government. At present, Canada has similar reciprocal arrangements with the United States and the Netherlands.

Second, under the new tax treaty with Germany, Canada will no longer be barred from taxing pension payments that Canadian residents receive from Germany's publicly funded plans. This change is appropriate given that many German public pensions perform a role similar to private pension plans in Canada.

Honourable senators, Bill S-31 contains forward-thinking measures that will promote trade and investment and provide taxpayers with more certain and equitable tax results in their cross-border dealings. All the treaties covered in this bill are part of Canada's larger efforts to build goodwill and create the conditions for growth that will make closer, more dynamic relations with our trading partners possible. Again, meaningful benefits for taxpayers will result from the passage of this bill.

Taxpayers will benefit from knowing that a treaty rate of tax cannot be increased without substantial advance notice. The mere existence of tax treaties will engender an atmosphere of certainty and stability for investors and traders. By eliminating the need to pay tax on certain business profits and by providing a mechanism to settle problems encountered by taxpayers, both annoyance and complexity in the operation of the tax system itself will be reduced.

Simplifying the tax treaty system will encourage more international activity, which will have a favourable effect on the Canadian economy. Those within the Canadian business community support the revision and expansion of our network of tax treaties. I am confident that they will welcome the opportunity to continue promoting trade and investment relations with these eight countries.

The business community, in particular investors, will also welcome the limits that these treaties impose on each country's ability to tax certain income and the cooperation that will ensue between Canada and other tax authorities.

The most important benefit to be derived from these treaties will be the elimination or alleviation of double taxation that might otherwise arise in international transactions with these countries.

In light of the positive effects that will result from this bill, honourable senators, I urge you to pass it without delay.

On motion of Senator Lynch-Staunton, debate adjourned.

[*Translation*]

CANADIAN NATO PARLIAMENTARY ASSOCIATION

MEETING OF SUBCOMMITTEE ON FUTURE SECURITY AND DEFENCE CAPABILITIES, MAY 6 TO 11, 2001— REPORT OF CANADIAN DELEGATION TABLED

Leave having been given to revert to Tabling of Reports from Inter-Parliamentary Delegations:

Hon. Pierre Claude Nolin: Honourable senators, I have the honour to table the fourth report of the Canadian NATO Parliamentary Association, which represented Canada at the meeting of the Subcommittee on the Future Security and Defence Capabilities of the NATO Parliamentary Assembly, held in Belgium and the Netherlands from May 6 to 11, 2001. The Canadian delegation was represented by David Price, M.P.

SPRING SESSION OF NATO PARLIAMENTARY ASSEMBLY, MAY 27 TO 31, 2001—REPORT OF CANADIAN DELEGATION TABLED

Hon. Pierre Claude Nolin: Honourable senators, I have the honour to table the fifth report of the delegation of the Canadian NATO Parliamentary Association. It is the report of the official delegation which represented Canada at the spring 2001 session of the NATO Parliamentary Assembly held in Vilnius, Lithuania, from May 27 to 31, 2001.

[*English*]

IMMIGRATION AND REFUGEE PROTECTION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Cordy, seconded by the Honourable Senator Morin, for the second reading of Bill C-11, respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger.

Hon. Consiglio Di Nino: Honourable senators, debate on the government's latest immigration legislation comes at a time when so many of our fellow citizens are mourning the thousands of lives lost in the World Trade Center and Pentagon attacks in the United States. Let us understand that while the target of those senseless acts of terror may have been America, it is the world that is the victim.

Since the tragic events of September 11, countries in every part of the world have begun looking at ways to eliminate, or at least minimize, the possibility of such acts occurring on their own soil. Soon, they will be instituting new rules and limitations for each of their ports of entry. As a result, the ease with which we now routinely cross borders will change. This is, perhaps, inevitable, but how unfortunate we did not heed the many warnings of impending attacks.

Terrorism, honourable senators, is far from the daily preoccupation of the average Canadian. Unlike some parts of the world, we do not fear bombs and bullets each time we step out our front doors — at least not yet. As a result, we have traditionally taken a relatively laissez-faire attitude toward border security. We have bragged about having the longest undefended border in the world without paying enough attention to ensure that the same border remains undefended. Yet many in our policing and security communities have expressed grave concerns about the state of our border controls. They have warned us that controls have been weak and resources have been too scarce.

Their concerns are shared by their American counterparts. In fact, a number of Canadian and U.S. officials and commentators have been critical of our border controls. If the evidence in the Ahmed Ressam case is any indication, these people, and our own police forces and security agencies have a right to be concerned.

For those unfamiliar with the case, Ahmed Ressam is a protege of Osama bin Laden. He came to Canada in 1994 and lived for a number of years in Montreal in deportation limbo before attempting to cross into the U.S. to bomb some of the millennium celebrations being held in that country. This is, perhaps, a particularly egregious case, but many argue that it is symptomatic of the flawed nature of our immigration and refugee systems.

According to a recent CSIS report, Canada is home to about 50 terrorist organizations. Not surprisingly, we are also a favourite transit route to the United States. In the wake of the events of September 11, the Americans increased pressure on us to tighten our border security. Failing this, they may act unilaterally, and who can blame them? Does this legislation provide the means for dealing with these significant concerns? This question remains to be answered.

Honourable senators, the case of Ahmed Ressam, and others like him, underlines the very real problems facing our immigration and refugee systems, in particular the time it takes to process cases and the thoroughness of the investigations.

• (1630)

It is one thing for the government to promise that this legislation will expedite the processing system, including faster security clearances, but expediting the process does little to mend the real problem, that being the issue of security screening. It will be incumbent upon us in committee to ask the appropriate witnesses about this crucial part of our efforts to keep out criminals.

The government has made much of its proposal to increase fines for human smuggling to $1 million. Those are big fines, but if big fines are to have any deterrence value, they must be imposed when the case warrants it. I am told that the current maximum penalty, which is $500,000, has never been levied. Do we really think that an even higher one is any more likely to be imposed?

[Senator Di Nino]

A similar argument can be made about the proposal in the bill for life imprisonment. What is the point of having such a penalty if it is unlikely that it will ever be handed down? When I see rapists and killers getting conditional sentences, I am hard-pressed not to be pessimistic about the chances of this provision actually being enforced, unless, of course, it is made mandatory.

I am, nevertheless, heartened that this legislation builds on the foundation laid out by the former Mulroney government respecting criminality. As I clearly recall, members of this government, while in opposition, strongly opposed provisions for removing or declaring inadmissible people suspected on reasonable grounds of having participated in serious criminal activity before coming to Canada. Happily, the government has chosen to retain this in the present bill.

Honourable senators, debate on this bill allows us the opportunity to review those aspects that have, or could have, the objective of combating terrorism, terrorists and criminals in general. We owe this to the victims of the September 11 tragedy, many of whom are Canadians. Let us not forget that the victims in this case are not only those who lost their lives. They also include tens of thousands who were injured and hundreds of thousands of family members, friends and relatives who were affected by what happened. They, too, are victims and they, too, are looking to us for firm action.

Honourable senators, immigration and immigrants have added immense value to Canada. Over the years they have played a vital, indeed crucial, role in the development of our social and economic objectives. Without a vibrant and competitive immigration system, our country would not be in the envious position in which it finds itself today. This is true for the future as well.

Our "open arms" policy toward newcomers must not change. For this to happen, we must retain the support of our fellow citizens. Canadians will support fair immigration policies if we do our part to ensure they are coherent, responsible and in the best interests of the nation. This does not mean we should have an "open door" policy. We must find ways of keeping undesirable people out in the first place and hastening the departure of those who come to our shores and abuse our immigration and refugee system, particularly for criminal purposes.

We need to do more to protect ourselves and the world against terrorists and criminals. I do not speak of a knee-jerk reaction but, rather, of taking time to examine the issue properly and thoroughly.

The government tells us it is in a rush; that this bill must be adopted sooner rather than later; that we do not need debate, as we have consulted far and wide; that we must just pass the bill. I cannot agree. We understand that the government has spoken to many people, but that was before the events to which I have been referring. What happened in New York and Washington has focused attention on an issue that should have been dealt with long before now.

Honourable senators, let us take the opportunity afforded us by the tragedy in the U.S. and do something positive to improve border controls and security screening. We should look at this as part of the responsibility of member nations of the world which, as I said before, is the real victim of the terrorism of two weeks ago.

This government has enjoyed the benefit of office for eight years now. Yet its position and pronouncements regarding immigration, the sovereignty of our border, and security and refugee protection are haphazard to say the least.

I find it troubling, as I am sure that many in the chamber do, that the government's view and vision of these issues remain so incoherent. The fault for this, I believe, lies squarely with the Prime Minister. He is the person who sets the tone for the government. It is his vision that guides much of what is said and done. Yet, as those who saw him during the press conference in Washington can attest, he lacks a larger vision when it comes to international affairs. It seems to interest him little that protecting our borders and providing a safe, secure and just refugee and immigration system are significant public policy issues to which he and his government should be paying much closer attention.

Honourable senators, human migration is destined to be one of the most significant challenges of this century. Millions and millions of people will be on the move. We need bold approaches and far-sighted polices to prepare our nation for these eventualities. I do not see this legislation accomplishing that.

Critics of this legislation — and I understand that there have been more than a few — have expressed a wide variety of concerns. Members of the legal community, for example, believe it falls short in recognizing the principles of natural justice, particularly the right to due process, impartiality and fairness. They say it is unclear whether the provisions of Bill C-11 that suspend appeal rights will stand the test of the Charter of Rights and Freedoms. I am not an expert on this issue, but I think it is one that the committee would do well to explore during its hearings.

Returning to the government's desire for haste, I notice that throughout the information provided by the minister on Bill C-11 there are numerous references to faster removals, quicker decisions and so forth. The minister tells us that reducing refugee hearing panels to one member and denying appeal rights will result in more rapid decisions. That may be so, but at what cost? The impression I am left with is that the principles of fundamental justice are expendable in favour of more expeditious processing. Is this the best this government can do? Surely, it must be capable of formulating a well-balanced process through which claims can be dealt with swiftly without sacrificing fairness.

On the subject of process, honourable senators, it has come to my attention that this bill will contain quite a number of regulations. I use the future tense because I understand that these regulations have been drawn up but have not as yet been released to parliamentarians — the same parliamentarians, by the way, who are supposed to discuss the merits of this bill.

As honourable senators know, the issue of use and abuse of regulations is a perennial one, but for all the debate the core issue remains unresolved; namely, the bypassing of parliamentarians as the key players in the governance of our country. Are we now entering the era of government by regulation?

During the Conservative years, members opposite were forever at the barricades fighting against any changes they believed would lessen Parliament's ability to consider an amending law. What happened, I wonder? As I look across the aisle, I wonder, "Where are your voices now? What happened to your concerns?" Express them, my friends.

Senator Grafstein: Be patient.

Senator Di Nino: I look forward to hearing them.

The issue will obviously not be solved in a day or even two, but where and when do we draw the line? When Parliament is so completely irrelevant that it no longer matters?

Honourable senators, another issue raised by this legislation is the brain drain. For years now, Canada's business and trades communities have advised the government that there is a growing shortage of skilled labour to meet their needs. Experts are saying, as senators probably saw in the papers recently, that there is a real possibility of having to raise the retirement age to 67 to compensate for a projected shortage of labour. The minister's response to this growing problem has been far from reassuring. She has suggested that the government abdicate its responsibilities for human resources planning through immigration selection and hand it over to individual firms and sectors.

• (1640)

This change needs to be looked at carefully in order to achieve a balanced approach to immigration management.

Honourable senators, a long-term vision of Canada's needs is required.

On the question of foreign credentials, the minister has promised to work with the provinces. I am not sure exactly what this means, but I suspect it means that nothing will be done. The issue has been allowed to lie for over eight years without any progress. The plan appears to be to make promises and then allow them to become locked into a drawn out process from which the issue never emerges. The issues are never resolved, but the promises are made once again during the next election.

The same is true for immigration numbers. For years the Liberals have been promising an immigration target level of 1 per cent of our population, or around 300,000 people. As you may have guessed, the government has never met these targets. In fact, last year approximately 226,000 newcomers entered Canada, well short of the numbers promised.

The government seems to have difficulty attracting the number of immigrants that our country needs in order to support our economic and social interests. Bill C-11 does little to change this. The government has not proposed anything else that would structure immigration policy in a way that would assist Canada by attracting the new citizens who are vital to our overall prosperity.

Honourable senators, the issue of backlogs deserves the attention of the committee. The government may tinker as much as it likes with selection criteria, but if operational backlogs and processing delays become the norm, as is now the case, the purpose of the changes is defeated.

For those who may have forgotten, the previous government closed the backlog offices in the 1990s after clearing up the cases of the immigration boom of the late 1980s. Unfortunately, those backlogs have returned.

One need look no further than the Auditor General to find the reason for the backlogs. The Auditor General stated emphatically over a year ago that sufficient resources are not available to the people of the Department of Immigration responsible for processing the targets that the government has set.

Honourable senators, a lack of funding is perhaps the pivotal obstacle in terms of overall operational effectiveness of the immigration department. This subject needs to be thoroughly discussed in committee.

The committee needs to look at a host of issues, some of which I have mentioned, some I have not. The committee should look at issues such as possible Canadian connections to the events of September 11, 2001. The committee should examine issues such as border controls, immigration-related security checks, resource requirements for Canada's immigration, customs, security and police agencies and fairness and due process in our immigration policies.

At all costs, we should resist pressure from the government to rubber-stamp this legislation, or any other legislation for that matter. Let me assure all colleagues that this side has no intention of delaying the bill unnecessarily, but we should not, and hopefully will not, abdicate our responsibility to fully and thoroughly analyze the contents of Bill C-11 to ensure that it deals appropriately with the issues I and others have raised.

Since the bill has arrived at the Senate, momentous events have occurred. These incidents have affected the lives of millions of people worldwide. Despite this and despite the close link between the events in the United States and the subject of the bill before us, the government claims that it is business as usual.

Honourable senators, I readily admit that the bill is an improvement over existing legislation, but the events of September 11, 2001 cannot be ignored. The government cannot be blind to the urgent need to review border and security provisions thoroughly and properly. We have learned in recent days many new facts surrounding the Ahmed Ressam case. Are we sure there are no more Ahmed Ressams lurking in the bushes? Do we possess the equipment, intelligence and planning to catch future terrorists before they can execute their destructive plans?

Before concluding, I wish to touch on two important questions. The events of September 11, 2001 brought out much of that which is best in humankind's spirit and values. Unfortunately, it has also provoked examples of the darker side of some communities in this country and the U.S.

Over the past two weeks we have heard stories of people who are believed to be followers of Islam being subject to verbal and physical violence. This, as I am sure all honourable senators will agree, has been unfortunate and unacceptable.

Honourable senators, Arabs and Muslims are as much victims of the attacks in the United States as we are. It is important that through this bill and our discussions we send a strong message to all Canadians that mindless acts of hatred and violence against followers of Islam have no place in our country.

We need to get the message out that when people attack and demean their fellow citizens on the basis of their religious background, they are in reality attacking and demeaning all of us.

Honourable senators, my last topic deals with a growing concern of mine, one which I believe is shared by many on both sides of this chamber. My concern is in regards to the frequency with which governments, all governments in the past number of years, seek to limit debate in the Senate.

Despite the serious and clear concerns expressed by many people about a variety of issues related to this bill, the government insists doggedly that there are no problems with it. The government says that the bill should be passed quickly, and flaws could be fixed later.

If the government wants to ram this or any other bill through the House, so be it. We on this side can count as well as they can. If we are to rush bills through in order that the government can avoid controversial debates, we should be asking serious questions. Why are we here? What value do we have as an institution if all we do is abdicate our responsibilities when the government side of this chamber is ordered to vote this way or that? How relevant are we to the public policy process if we allow this to happen with no word of protest?

The Fathers of Confederation saw the Senate as an independent body with principal responsibility in the areas of regional and minority interests and the ability to give sober second thought to legislation. They gave this body immense power. Unfortunately, long ago we abdicated any responsibility for regional interest. In the past few years, we have started to do the same in the area of sober review of legislation. The situation is getting worse, if my time here has been any indication.

Honourable senators, we should not be unduly influenced by the treatment of legislation in the other place. We should do our job and take whatever time is necessary to review all legislation that comes before us. If we are not ready or permitted to do so, then I ask again, why are we here?

Honourable senators, I look forward to all pertinent discussions dealing with this matter when it is referred to committee.

Hon. Jerahmiel S. Grafstein: Honourable senators, in the midst these extraordinary times the Senate is called upon to consider Bill C-11, respecting immigration in Canada passed by the House of Commons in June 2001. Immigration calibrates the heart of our nation. Canada is unique society composed of citizens from practically every race and religion in the world. Rapid increase in our economic growth and prosperity can be measured in direct proportion to the increased flows of immigration. All studies demonstrate that the immigrant contribution increases our economic prosperity more quickly and more widely than is generally accepted or generally known.

We are a trading nation as one honourable senator mentioned today. Almost 50 per cent of our trade is based on international trade. All agree that immigrants can provide bridges to those new markets. In Toronto, Bloor Street/Danforth Avenue cuts across the entire city and has more ethnic and regional restaurants clustered near it than the 189 member states of the United Nations.

• (1650)

In the last decade, Toronto's small Afghan immigrant community has grown to over 20,000, many of whom are now proud Canadian citizens. In Toronto, the police can arrest people in over 130 languages, and Toronto City Hall can provide services in 80 languages, which is on the increase according to the mayor. Toronto is the first city in the world to give birth to a multilingual television station that programs in more than 18 languages, weekly.

I see Senator Di Nino smiling. Before becoming a senator, I was a proud co-founder of that thriving venture. I understand that Senator Di Nino was an advertiser.

There are at least, at my last count, 190 different language groups in Toronto. One out of every three households speaks a third language at home other than English or French. Why is that? What is the secret of Toronto's remarkable story?

Canada became a magnetic attraction for immigrants from around the world because of three words: security, freedom and opportunity — security to practise the religion they chose and the way of life they chose to lead; freedom to enjoy full and democratic rights without fear or frustration; and, above all, the opportunity for them and their children to be educated so that they could aspire to an even greater, more prosperous future.

In Metro Toronto, which I proudly represent, we have opened up our civic society from the bottom up. The municipal, provincial and federal governments of elected and appointed members reflect the polyglot streets of Toronto. The faces and the voices of Toronto streets are represented in the power structures of Toronto, from the city to the province to the federal government.

The federal caucus, honourable senators, represents a cross-section of immigrants and sons and daughters of immigrants, but it was not always so. In Canada, for example between 1920 and 1947, only 27 immigrants from China were allowed entry: only 27 over a period of 27 years. I need not repeat the shameful story about the feeling that "one was too many" before and after World War II.

It was only in the 1950s, under successive Liberal and Conservative governments, that the door slowly opened and immigration became once again, as it was at the turn of the century, one of the great engines of our economic growth. The 1982 Charter, fuelled by this new Canada, enshrined the principles of equality in our Constitution. Thus, it is no surprise that the Charter itself has replaced both the Crown and Parliament as the most popular public document of national unity in every region across Canada.

Yet, on September 11, a shroud of uncertainty passed over our entire nation. We have learned that a small minority among us came to Canada under false pretences — not for security, not for freedom, not for opportunity, but for evil, unlawful and fraudulent purposes — to lay await and prepare the ground for acts of terrorism.

Honourable senators, this came as no surprise to the Senate. The Senate pointed this out in January 1999, when the Special Senate Committee on Security and Intelligence reported the question of the deficits of intelligence and security, and the dangers of terrorism. It was brought to Parliament's attention by the Senate.

This was followed by a Canadian Security Intelligence Service report on May 3, 2000, that dealt with the terrorism threat within and without Canada. I will quote a brief passage from the report, page 4:

> Over the past 15 years, we have witnessed a disturbing trend as terrorists move from significant support roles such as fundraising and procurement to actually planning and preparing terrorist acts from Canadian territory. In order to carry out these efforts...they abuse Canada's immigration, passport, welfare and charity regulations.

The Canada-United States Inter-Parliamentary Group, which I chair as your Senate representative, established three years ago a bilateral committee of Canadian parliamentarians and American senators and congressmen to examine this same question. This was brought to our attention by Congressman Gilman, who said that this was an important issue and a bilateral question that we should examine.

We immediately set up a bilateral committee. Mr. Bill Graham, Chairman of the House of Commons Committee on Foreign Affairs, and the Honourable Ben Gilman, then Chairman of the Foreign Affairs Committee in the House of Representatives, are the co-chairs of this informal bilateral committee. They held a number of meetings.

Honourable senators, we have on the public record now, as Senator Di Nino pointed out, the case of the "millennium bomber." The American transcript and the judgment in that case deals with the deficits of both the United States and the Canadian security authorities, and these are all now part of the public record. These terrorists entered Canada and may have received support and sustenance here. It is a very small number, and it is a shame that these fanatics can hold the majority of all Canadians to a form of obscene ransom.

What are we to do, honourable senators? What should be done in the current circumstances?

While we cannot be lax on security, we cannot be lax on liberty. In its essence, this wave of terrorism camouflages a ruthless, religious persecution against those who do not share their fanatical views. We must fashion our laws to ensure security, without diluting liberty. We must extract the exquisite equilibrium in security without diluting the immigration flows that lie at the very heart of our present and future economic growth. We must not fashion afresh laws which overreact to this delicate, rather surgical operation. The Senate need not rush to judgment. I share Senator Di Nino's view in that respect.

Our colleague in the United States Senate, Senator Leahy, is a great friend of Canada. He is an active member of the Canada-U.S. Inter-Parliamentary Group, a member of the American delegation to Canada at our last meeting, and the Chairman of the Judiciary Committee in the U.S. Senate. He is currently studying a similar measure in the United States. Last week, he urged caution to the U.S. Senate before rushing to judgment. He, too, is concerned about the balance between liberties and security. This is nothing new to Canada, and the United States Senate shares that concern.

Honourable senators, the Senate must do what I consider we do best. In a careful, meticulous way, we must review the Immigration Act and amend it, if we must, to restrain the government if we should discover overzealous provisions after a careful consideration and weighing of the evidence. I anticipate that the committee will listen to a wide range of witnesses.

It might be useful, for example, to compare similar provisions of other jurisdictions of the Commonwealth, not just the United States. What about the United Kingdom, Australia and New Zealand who all share our parliamentary traditions and practices? Perhaps we should hear from them? They may have some better answers.

We must fashion, honourable senators, a made-in-Canada immigration law to suit Canadian national interests. Our citizens expect us to examine this bill carefully to see what steps must be taken to satisfy our citizens about their security, but about their freedom as well and their economic prospects, through the medium of immigration, which has become part of the lifeblood of Canada.

Further to the tragic event of September 11, broader questions should be asked. The Senate should ask these questions of itself: What is the current threat to our security? Is the refugee flow a threat to our security, as some would suggest? Is it the poor and impoverished immigrants who are the threat to our society?

From the limited evidence we have, my answer is "no." The evidence suggests to me that the these terrorists appear to be well-educated, middle-class fanatics. This phenomenon was brilliantly analyzed by Mr. Eric Hoffer in his book from the 1950s entitled *The True Believer.* I commend it to each honourable senator before we launch into a study of Bill C-11.

• (1700)

It was not the poor, but the disaffected rich and the middle class that became the fanatics. Remember who our targets are. Our concerns must be directed surgically toward analyzing the nature of our security concerns. We must focus on these cells, which appear to have support and substance in Canada. We should focus on the problem and not expand the powers that close the doors to open-door policy. I do not agree with the Honourable Senator Di Nino. I believe we should have an open door policy in this country. We are smart enough, intelligent enough, and our information is better than most because we are a connected nation that can come to conclusions quickly and fairly.

However, Canadians want reassurance that fanatics — like in the movie *The Manchurian Candidate* — cannot come alive and detonate a climate of fear amongst Canadians. Larger questions, some administrative, some legislative, should be addressed at second reading, as senators suggested.

Almost everywhere in the world, immigration officers are the front line when visitors, immigrants and refugees enter the country. Immigration officers have a different perspective and training. In Canada, however, the front line is the customs officer, who is concerned with purchases abroad and questions of duty on goods. Surely this situation can be changed quickly. We are the only country in the world, I believe, that does that.

Practically all countries have people check in and check out in order not to overstay their visit; if they do so, they will not be able to return for a second time. Canada does not have procedures to ascertain that visitors or even disallowed immigrant claimants leave when they are required to do so. Therefore, many overstay their visit without difficulty. That is not right, that is not fair, and that can be corrected administratively. We should hear from the ministers about that.

I have been told that the passport swipe procedure used by most countries to keep track of this flow is of Canadian design. Apparently, we designed it in Canada; however, I am not clear at this moment whether it is in use in Canada now. I believe it is not.

I am told that law enforcement computer bases — and this is pointed out in the CSIS report — for wanted persons and criminals, both domestic and international, do not interface with our immigration and customs computer system. We have the criminal system on computer and the immigration and customs system on computer, but they do not interface with one another. I am told that that can readily be done by changing computers and putting the software programs together. I understand it has been done in specific situations but not as a general application. Therefore, there are delays in the immigration process because the immigration officers do not have information at their fingertips.

Surely, the committee should be concerned with a proper database, one that could enhance security and enhance acceleration of the immigration process while at the same time guaranteeing privacy. These are the questions we should be asking.

Questions have been raised in relation to the Immigration Appeal Division. Some have argued that 10-year tenure without reappointment has diluted the independence and the credibility of the Immigration Appeal Division. I hope the Senate committee can explore this. The nature of appeal provisions under section 64 —

The Hon. the Speaker: Senator Grafstein, I am sorry to interrupt, but your speaking time is up.

Hon. Fernand Robichaud (Deputy Leader of the Government): May I inquire of the honourable senator how much time he needs to complete his remarks?

Senator Grafstein: Another four or five minutes.

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

Hon. Senators: Agreed

Senator Grafstein: The nature of appeal provisions under section 64 is a matter of some controversy among civil libertarians. Let us give that matter a careful look. It will require careful examination in light of circumstances, obviously, but it is important to strike the appropriate balance between rights and responsibilities under the Charter.

The other day I received a letter from an immigration officer. I wish to read part of that letter. It says, in part: "Dear senator: I hope you will address the part of the bill where eligibility to claim refugee status must be determined within 72 working hours, if not the person is deemed eligible. Most refugee claimants arrive on bogus documents or no documents, having destroyed them en route, so their identity is at issue. Even for people who are Canadian residents who we strongly suspect of criminality within Canada-U.S., it will take over 72 hours to get a complete and current record from CPIC and the provincial data bases." He goes on to say: "However, it takes only one board member to grant refugee status but takes the majority panel of three to remove it. As you probably know, very few failed refugee claimants are actually removed from Canada due to limited CIC resources." The writer concludes his letter by saying: "Thank goodness we have a Senate for a second review."

That is from a former refugee claims officer. He raises important issues.

I cannot conclude but by referring to the barbaric events in New York, Washington and Pennsylvania on September 11. My son was there — my three grandsons live in New York. My son witnessed the events it from his office, not a mile away. It involved a cold, deliberate hijacking, piracy, kidnap and murder of nationals from around the world, not only American nationals, as has been pointed out, but nationals from 50 countries around the world. Close to 6,700 are now estimated to have been lost. Somewhere between 25 and 70 Canadian nationals are still missing, we have been told.

What bothers me, honourable senators, is the dialectic that seems to have arisen in Canada that this is an American problem, that the responsibility for responding to this vicious attack is theirs, and, therefore, that Canada as a good neighbour and ally in that capacity should assist.

I question that formulation of the problem. I disagree with that dialectic. I believe that under international convention and treaty law, Canadian sovereignty has been violated, pierced by these aggressive, violent and deliberate acts. This is as much a problem for Canadian sovereignty as it is for the United States. What is our responsibility in light of such an attack on our nationals?

On September 12, the day following the events in America, Canada supported a NATO declaration under Article 5. Canada supported a declaration in the UN Security Council that described the acts of September 11 as a threat to international peace and security. Both the NATO charter and the UN charter are part of Canadian domestic law. This is a Canadian problem for Canadians to define. I hope, honourable senators, that the Senate will explore these questions.

We already looked at the question of Article 5 and the UN in a Senate report. What is the legal consequence? It is not the political consequences, not the tea and sympathy. We could all give the Americans tea and sympathy, but that is not the question. The question is this: What are the legal consequences for Canadians under our rule of law?

Honourable senators may recall that the Foreign Affairs Committee tabled a report in April 2000 entitled "The New NATO and the Evolution of Peacekeeping: Implications for Canada." There we looked at Article 5 and the UN charter, and it is imperative that the Senate explore these questions again, in light of these recent events, for consequences that flow for nationals and our nation when their human security is breached in this barbaric way. We must examine anew and quickly what we meant last year, and the year before, by human security. Senator Stewart raised this with Minister Axworthy, and said, "What do you mean by human security?" Members of the Foreign Affairs Committee were there. I want to know what are the legal consequences that flow from the definition of that problem under Canadian domestic law. It is a Canadian problem, and when the Americans define it in their way and we want a made-in-Canada solution for our immigration law, I want a made-in-Canada solution for these barbaric acts that affect our sovereignty. There are many questions, honourable senators, that we must ask and answer for ourselves, and the sooner the better.

Honourable senators, I hope that the Senate will carefully and deliberately weigh and examine all these questions, and that we will come up with answers that are of assistance to cabinet, to Parliament and to the anxious Canadian public. The eyes of Canada have turned to Parliament. They are seeking answers under the rule of law. We have our work cut out for ourselves.

In response to Senator Di Nino, I believe the Senate has constitutional responsibilities to the Canadian public for precisely the issues we have raised and he has raised on this legislation.

• (1710)

As never before in my memory, our economic prosperity depends on our economic security. I am confident that the Senate will draw the line between liberty and security, and draw the exquisite equilibrium for Canadians to live in a free and open society. I urge us to get on with our task.

Hon. Lowell Murray: Honourable senators, I have two questions to put to the Honourable Senator Grafstein.

Is the honourable senator satisfied that the government has sufficient power to deal expeditiously and conclusively with people seeking admission to this country whom our police and security services have determined constitute a threat to the security of the country?

The second question is much more general. The honourable senator may want to reflect on it and answer it at another time. He will have noticed that when President Bush spoke about terrorism, terrorists and the need for concerted international action, he spoke of terrorism "with a global reach." It is speculated that the reason he added that qualifier was so that there would be no problems in assembling the coalition.

However, terrorism "with a global reach" presumably excludes a fair number of the terrorists and a fair bit of the terrorism that is at large in the world today in Ireland, the United Kingdom and the Middle East. Does the honourable senator have any comments to make on the qualifier that President Bush added in seeking international action against terrorism?

Senator Grafstein: Honourable senators, I do not need President Bush to tell me how to read international terrorism. The threat to Canada was set out by our Canadian Security and Intelligence Service. It is all there. I do not have to have it affirmed yet again by the American President. It is open as part of the public record. It has been on the public record since May 3, 2000. We were warned by our security services about the international problem and the international dimension. It is there; it is within Canada. That is what CSIS says. I do not need the President of the United States to remind me what the deficit was in our security. Let him handle the deficit in his security. There is now some thought about removing the head of the CIA because of the lapse in their security. Let them deal with that under their rule of law. We have our problems under our rule of law.

[Senator Grafstein]

My immediate response is to say, let us solve our problems under our rule of law. The record is clear. It must be weighed, examined and cross-examined. It appears to be clear.

I talked to Senator Roche just a few minutes ago about the international coalition. It is not invoking Article 5 that raises great concern, but rather the legal consequences once Article 5 is invoked. What is the scope of that trigger? We did that by executive approval under the Royal Prerogative. Parliament has not examined this issue.

There is a provision which states that if war is declared, the national defence services must be ignited after 10 days. I do not understand exactly where we are now legally as a result of the executive triggering of that provision, which they did by approving Article 5 on September 13.

On the larger political question of the coalition and its global reach, I think the American President does have a primary responsibility and is prepared to accept it. Just a few moments ago, Senator Roche and I were looking at an article in *The New York Times*. We read that Secretary Powell has said that he intends to lay the case before the public. I think we must wait to hear what the Americans have to say about that. If our government disagrees about that analysis, then let us hear about it. Perhaps we might examine that question as well.

This is not a foreign affairs debate. However, it will be difficult for the United States to gain public acceptance, notwithstanding the UN declaration, which is clear and unequivocal. It would be most difficult, unless there was strong evidence to point the finger in the right direction.

To my mind that is what we are waiting for in the next day or two. I understand it is being presented to the Europeans. I hope it will be presented to Canadians as well so that we can come to some conclusion ourselves as to whether we accept that evidence.

Senator Murray: Would the honourable senator address my first question, please?

Senator Grafstein: Give me more time to think about it.

Hon. Douglas Roche: Senator Grafstein very eloquently brought to our attention his concerns about the obligations of Canada under Article 5. How are we to get at the character and the quality of the response, which may be a military response under the aegis of Bill C-11, which is an immigration bill? I am sitting here as a member of the Standing Senate Committee on Social Affairs, Science and Technology, which I understand will receive this bill. If I were to ask for witnesses to deal with this aspect, it might be pointed out to me that this is not what the bill is doing in approaching the issues of immigration and refugee status in Canada. Therefore, sympathetic as I am to Senator Grafstein's call for an examination of Canada's precise legal situation in supporting NATO, whatever the response will be, I ask him how are we to deal with this question under Bill C-11?

Senator Robichaud: Honourable senators, I rise on a point of order.

The Hon. the Speaker: I recognize the Honourable Senator Robichaud on a point of order.

Senator Robichaud: Honourable senators, when I agreed to consent, it was qualified for the senator to have some time to finish his speech. I would not want to be unfair to a previous speaker who was limited to approximately 10 minutes. Therefore, I urge the honourable senator to conclude his comments so that we may be fair to everyone in this chamber.

Senator Grafstein: Honourable senators, I will be brief.

Senator Roche was proper to bring this to my attention. It was not my intention at all to have the Senate committee dealing with the immigration bill to deal with the larger questions I have raised. I am trying to bring the urgency of the matter to the attention of the Senate. I would hope that the Standing Senate Committee on Foreign Affairs, or another committee, will address these issues so that they can be dealt with in parallel by different committees. I did not want to smudge the one with the other, but there is this overhang in the public mind about the two. I think it is important that we address both questions in a parallel way.

Hon. Terry Stratton: Honourable senators, I move the adjournment of debate in the name of Senator Beaudoin.

Senator Robichaud: Honourable senators, I rise on a point of information. Before the Speaker puts the question on the motion to adjourn debate, which I know is not debatable, it is quite obvious that this bill is drawing a lot of attention. In light of the horrible events of last week, there is a certain priority accorded by our government to this piece of legislation whereby we wish to move it forward without limiting debate in such a way that honourable senators in this house would not be allowed to speak. I would ask the acting deputy leader when we can expect Bill C-11 to be referred to committee and when the speakers on the other side will have had the time to express themselves so that we can commence the very important study of this legislation, as some senators have indicated should be done.

• (1720)

Senator Stratton: I very much appreciate my colleague's evaluation of me as acting deputy leader, but I am still a lowly whip.

As my honourable friend knows, we have been discussing this issue all day, or at least from ten o'clock this morning. We will endeavour to do everything possible to conclude what we are talking about here as per the agreement that was struck. I will endeavour to do that and will inform my friend in the morning as to our success. I believe we will conclude our debate. I do not think we can do that tomorrow, but it is our intent to do so by end of the day Thursday. Agreed?

Senator Robichaud: Honourable senators —

The Hon. the Speaker: A number of senators are rising now. I should have done this at the beginning of the exchange. It is not unusual for us to have an exchange between the house leaders or deputy leaders on the government and opposition side and to allow other senators to put questions to them to clarify, but it should be done with leave. I am asking if leave is granted to continue.

Hon. Senators: Agreed.

Senator Robichaud: Honourable senators, I should like to believe that the acting deputy leader is saying that we will be in a position this Thursday afternoon to send Bill C-11 to committee. I should like to be relatively confident that we can do that and move it along without having to delay it, and of course without limiting debate.

Hon. John Lynch-Staunton (Leader of the Opposition): We have only been here three days.

Senator Robichaud: He sort of said, "We will do our best," and I know he always does his best, as does the leader, but I would like assurance that, yes, we can move this bill to committee.

Senator Stratton: We are dealing with senators here. They can be a pretty independent lot, as my honourable friend knows. They can take the bit in their teeth and off they go. I have said to the Deputy Leader of the Government privately and I will say to him here that, by midday Thursday, it will be done to the best of my ability. However, I cannot prevent someone from standing up and saying, "I adjourn the debate." I will do my darndest to ensure that this does not happen, but I cannot absolutely guarantee it. I am sorry. That is not the way the world works in this place. Is that as satisfactory as we can get?

Senator Robichaud: I am confident that if the acting deputy leader does his best, things will happen in a way such that we can refer this bill to committee.

Hon. Marcel Prud'homme: With leave, honourable senators, I think we are having a nice debate. I see how smooth Senator Robichaud can be. There was a significant amount of private consultation with the official opposition. I agree that there is no problem in that respect. We now hear Senator Stratton suddenly say "Thursday." I do not wish to speak for my colleague because he can speak for himself. However, this is the first time I have heard Thursday mentioned. Usually, we cooperate with the government. Senator Stratton may try his best to "deliver" his senators before Thursday. That is something to be debated by the official opposition.

I have been quite interested in this matter, having been Parliamentary Secretary to the Minister of Manpower and Immigration in 1971. Not much has changed, I tell you. What happened to the process of consultation? Are we consulted only when the issue is not an important bill? Are we to be told ahead of time, or do these surprises just arise?

The bill will go to committee, as we have done for Bill C-7. It must go to committee. However, as much as Senator Stratton is a good friend, he is not that sure that he can deliver everyone. To the best of his ability, and to the best of my ability, I should like the bill to proceed to committee so that we may hear the minister and other witnesses. We live in a democratic country, and many witnesses wish to appear on this bill. Many of them were refused in the House of Commons. It is the duty of the Senate to complete the work not done by the House of Commons. This is a major piece of legislation. I know it is important and I know the government wants this bill. However, I would not have hated to be approached. I am not that uncooperative. It is quite a surprise to see this friendly chat between the opposition and the government.

On motion of Senator Stratton, for Senator Beaudoin, debate adjourned.

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Léger, for the second reading of Bill C-24, to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts.

Hon. James F. Kelleher: Honourable senators, it gives me great pleasure to rise today to give second reading to Bill C-24, to amend the Criminal Code, specifically addressing the issues of organized crime and law enforcement.

The onus on us as senators as we deal with this bill is particularly heavy given the events of two weeks ago in the United States. While this bill was not written to address the evils of terrorist organizations operating within our borders but to deal primarily with organized gangs and organized crime, we should determine what effect it may have in giving support to law enforcement agencies as they combat all parts of crime planned and organized by groups of people.

I also approach the discussion of this bill not only as a senator but also as a former Solicitor General responsible for police enforcement at the federal level in Canada and as a lawyer who has a healthy respect for the Charter of Rights and Freedoms.

Last week, Senator Moore gave us a fairly thorough review of the contents of Bill C-24. I see no need to repeat that. However, there are some aspects of this bill and the government announcements that surrounded its presentation in the House of Commons and the Senate that I wish to emphasize.

First, I believe it is very important that our Standing Senate Committee on Legal and Constitutional Affairs study this bill thoroughly. This is one of the bills that was rushed through the House of Commons with some enthusiasm from virtually all sides before the summer break. I, too, applaud many aspects of this bill. I recognize the need to pass legislation to help combat organized crime. However, I do not believe we should act with too much haste. This is a relatively large bill, and we should look at its wording carefully to determine if it effectively grapples with the matter of organized crime in a way that we as senators can agree with and support.

This bill has been introduced and presented to us as creating three new offences, all of which relate to participation in a criminal organization. In fairness, Bill C-24 does not so much create three new offences as it clarifies and expands upon an existing offence. Having said that, these improvements are welcomed and long overdue and should greatly assist law enforcement officials in their fight against organized crime.

• (1730)

One of the most controversial aspects of this legislation is that in some instances it creates prosecutorial immunity for the police should they commit a crime while in the course of an investigation. These provisions result from the Supreme Court of Canada decision in *Regina v. Campbell & Shirose*, which declared that the police were not immune from criminal liability for criminal activities committed in the course of an investigation. The court charged us, as parliamentarians, to determine when and for what crimes there should be immunity.

This bill allows police to take reasonable and proportional illegal action when investigating or infiltrating criminal organizations. Before an officer can break the law, authorization from the minister responsible for the police force is required. There are limits expressed in the statute so that there would be no police immunity for intentionally or recklessly causing death or bodily harm, for sexual offences, or for deliberately obstructing the course of justice. Of course, there is the possibility that these clauses could very well become the subject of constitutional challenges once this bill becomes law.

As senators, we can never forget the protections afforded by the Charter of Rights and Freedoms. Thus, we must do our very best to ensure that all clauses in all bills comply with the Charter. Unfortunately, this is not always an easy task. Absent a court challenge, it is not always certain whether a clause will be in compliance with the Charter. Our job is to seek the best balance possible, not to run roughshod over the Charter, but not to run scared of it, either. If, despite our best efforts, a challenge is made before the courts, then we must accept that as a fair and just part of the process.

At this point, what concerns me more than any possible court challenge is the question of who should be authorizing these new police powers — a minister of the Crown or a judge. Some who approve this power being given to the police and who appeared before the Justice and Human Rights Committee in the other place suggested there might be some comfort in having the authorization in the hands of a member of the judiciary, someone who is immune from partisan politics and might be more measured and responsive to such police requests.

I could not agree more. If we are to ensure public confidence in these provisions, we must guard against even the appearance of political influence. I am very surprised that the government does not also see it this way, especially given all the problems arising from the APEC conference. As senators, we have the benefit of reviewing the recently released report of Justice Hughes about that conference. One of the key principles coming from that report is that when police are performing law enforcement functions, they should be entirely independent of the government.

The last matter I wish to touch upon today is one which, as a former Solicitor General, greatly concerns me. When this bill was first introduced, the Minister of Justice announced an additional $200 million to fight organized crime. If this government can waste hundreds of millions of dollars attempting to register the guns of innocent Canadians and still not get it right, then I have a hard time believing that $200 million is nearly enough to combat organized crime.

As senators, we must determine how much is really needed to effectively implement this legislation. If the financial resources are not forthcoming, then I question the point of even dealing with this bill.

While on the subject of money and resources, honourable senators, I should mention that I am pleased to see the expanded provisions allowing for greater seizure of assets tied to organized crime. It is time that we went after the rewards of organized crime and reclaimed these resources for the benefit of us all. Ideally, we could use the proceeds of these seizures to add to the resources necessary to effectively fight organized crime.

Honourable senators, Bill C-24 is an important bill, but it does require further study. I know that the committee will do an excellent job and I look forward to its report.

On motion of Senator Joyal, debate adjourned.

[*Translation*]

THE SENATE

COMMITTEE OF THE WHOLE—REPLACEMENT OF SEA KING HELICOPTERS—APPEARANCE OF OFFICIALS ON PROCUREMENT PROCESS—DEBATE ADJOURNED

Hon. Fernand Robichaud (Deputy Leader of the Government), pursuant to notice of September 19, 2001, moved:

> That at 3:00 p.m. on Thursday October 4, the Senate resolve itself into a Committee of the Whole in order to receive officials from the Department of National Defence and the Department of Public Works and Government Services for a briefing on the procurement process for maritime helicopters.

He said: Honourable senators, I wish to inform you that discussions are currently underway between both sides of the Chamber in order to come to a date that will work, and I would not want to leave the independent senators out of these discussions.

We had thought that October 4 might work, but the official opposition informed us of certain concerns they have regarding this date. We are currently in the process of finding a date that would work for the opposition. As soon as such a date is determined, the Senate shall resolve itself into a Committee of the Whole in order to receive officials from the Department of National Defence and the Department of Public Works and Government Services. I will inform senators as to when the Senate will be able to resolve itself into a Committee of the Whole.

On motion of Senator Robichaud, debate adjourned.

[*English*]

PRIVILEGES, STANDING RULES AND ORDERS

FOURTH REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the fourth report of the Standing Committee on Privileges, Standing Rules and Orders (name change of the Defence and Security Committee) presented in the Senate on September 19, 2001.—(*Honourable Senator Stratton*).

Hon. Jack Austin moved the adoption of the report.

• (1740)

He said: Honourable senators, this report refers to one matter only, and that is the change of the name of the Standing Senate Committee on Defence and Security to the Standing Senate Committee on National Security and Defence. The chair of the committee, Senator Kenny, believes that this title more specifically describes the general ambit of the committee.

I should like to advise colleagues, of course, that this committee, along with the committee created as a companion piece, the Standing Senate Committee on Human Rights, would have as mandates only those matters that are specifically referred to the committees by the Senate. There is no issue here of committee responsibility being reallocated or any other matter, such as funds. Financial matters will be dealt with in the report of the Standing Committee on Internal Economy, Budgets and Administration.

Honourable senators, the only purpose of this item is to change the name to the Standing Senate Committee on National Security and Defence. The matter was discussed at the Privileges, Standing Rules and Orders Committee. It was not the subject of any controversy.

Hon. Lowell Murray: Honourable senators, I will not take up much of your time, because I hope and believe that there will be an early opportunity to discuss the more substantive issues involved here.

I do not have an opinion on the change in the name; I have not really thought about it much. However, the Senate created the Standing Committee on National Defence some months ago. In my copy of the rules, there is no mandate set out for that committee as there is a mandate set out for other standing committees. Perhaps I am mistaken in that; however, I cannot find a mandate there.

I recall early in June 2001 a meeting of the Standing Committee on Privileges, Standing Rules and Orders when this matter came up. Senator Kenny, who is chairman of the Defence and Security Committee, told us that the committee would be discussing and dealing with various matters that occurred to me are already within the mandate of other standing committees of the Senate. I believe that creates a problem.

I appreciate what the Honourable Senator Austin has said to the effect that the committee will have no authority to undertake any work except that which is referred to it by the Senate. However, I saw in the Halifax press only a couple of weeks ago that this committee was expecting to travel to Halifax to commence a study of national security matters consequent upon the events of September 11, 2001 in New York.

I put that on the record for the moment. I will not object to the change in name. However, we should have an early opportunity to discuss the more substantive issue as to the mandate of this committee. We should hear from other committees whose mandates would be affected by the intention set out by the chairman of the committee, Senator Kenny.

Hon. John G. Bryden: Honourable senators, I, too, have no objection to the name change. However, even though I have read in the press about the committee's intention to travel, I have seen no terms of reference and no mandate from this place.

Is the mandate sufficient to allow the committee to go either in the name of the Senate or on its own accord? Is it doing anything? Does anyone know?

The Hon. the Speaker: I would need leave of the Senate for Senator Austin to be given the floor again. I have a speaker. I will go to the speaker, and then I will ask for leave to ask that Senator Austin respond to Senator Bryden's question.

Hon. J. Michael Forrestall: If Senator Austin wishes to respond to Senator Bryden, I will defer to him. However, I do have something I wish to say to this question.

Senator Austin: I spoke to Senator Kenny because I saw the same news story. I told that honourable senator that the committee did not have a mandate or money, but that it did have initiative. Senator Kenny replied to me, in all seriousness, that the committee was merely looking at what the committee should seek as a mandate from the Senate.

Senator Forrestall: I will be somewhat more precise, honourable senators, than the loose cannon that we have heard recoiling and rattling in Senator Bryden.

We are in the process of doing precisely what Senator Kenny indicated in conversations with Senator Austin. We are attempting to determine the scope and nature of this new committee's work as we go into the future. We are quite prepared to consider all of these matters.

In the beginning, the essential consideration with respect to the use of the term "security" was security as it pertained directly or, on occasion, indirectly to the activities of the Canadian Armed Forces and the requirements of Canada's Armed Forces by the Government of Canada and as dictated by other requirements, such as aid and the direction of government itself. When we have completed our first round, which is a familiarization exercise as much as anything else, the question of mandate in future would then be far better discussed than it would be at this point in time.

Senator Bryden: We will take one more shot. First, what is the first round? Is it around the country, or is it around a table? Who is financing it? Is each participating senator paying his or her own expenses?

Senator Forrestall: Honourable senators, the question is somewhat facetious, and I will not entertain it. This is a serious matter that we have undertaken with the sanction of the Senate as a whole.

This is not a new question. This is not a new subject. It has been before this chamber for a number of years now. Finally, the committee is falling into place. It is timely indeed that there be from this chamber a window to observe and to comment from time to time upon the activities of Canada's Armed Forces and to report to the Senate our considered views on whether any particular undertaking is being carried out in a matter that would satisfy Canadians.

Hon. A. Raynell Andreychuk: I, too, wish to make a few comments. I do not enter into the debate of the title, nor as to how the committee is approaching its work. When the two new committees were at the Rules Committee initially, as a member of the Standing Senate Committee on Foreign Affairs, I understood that this new committee would carve out that area that appeared not to be dealt with in the Senate adequately by other committees, be it the Standing Senate Committee on Legal and Constitutional Affairs, the Standing Senate Committee on Foreign Affairs, the Standing Senate Committee on Social Affairs, Science and Technology, or the like. I simply want it noted on the record that, as they go for their familiarization, the committee be mindful of the existing working mandates of the other committees.

As chair of one of the new committees, I can report that we are doing just that. We are familiarizing ourselves by inviting those in the subject area to come before the committee to tell us what work needs to be done that is not covered by the House of Commons, or by another facility in the community, or by other areas of the government. From that, we will draw our long-term references. We are mindful that we need not, or should not, duplicate other committees or take the mandate away from them.

• (1750)

The Hon. the Speaker: Is the house ready for the question?

Hon. Terry Stratton: Honourable senators, I wish to adjourn the debate because the question about the role and the mandate of this committee must be clearly answered for those who inquired or expressed concern. Several questions were raised on both sides, and so we should have a clear understanding of what that mandate is. Perhaps the chair of the committee would present an explanation here. For that reason, I wish to adjourn the debate.

The Hon. the Speaker: Senator Austin wishes to respond.

Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Austin: Honourable senators, Senator Stratton has heard me say already that the committee has no mandate, so there is nothing to discuss. If he wishes to discuss what its mandate should be, he should wait until the committee comes to the Senate to outline what it is likely to do.

The Hon. the Speaker: Perhaps Senator Stratton is satisfied with that answer or perhaps he is not. Does the honourable senator wish to adjourn the debate?

Senator Stratton: Yes, Your Honour.

On motion of Senator Stratton, debate adjourned.

FIFTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fifth report of the Standing Committee on Privileges, Standing Rules and Orders (name change of the Privileges, Standing Rules and Orders Committee) presented in the Senate on September 19, 2001.—(*Honourable Senator Stratton*).

Hon. Jack Austin moved the adoption of the report.

He said: Honourable senators, language usage changes. One of the problems with the change of language use is with the word "privileges." So many comments have been made about what the word "privileges" means. When people are writing, they ask, "What is it; do the senators want free beer? Do they want free lunches? What are the extra privileges that they want?"

Clearly, the word "privileges" is one in its original use that relates to the rights of Parliament and the members of both Houses. This proposal also comes with the approval of the committee to update its name to the Standing Committee on Rules, Procedures and the Rights of Parliament. The phrase "Rights of Parliament" is probably one of the most honoured phrases in constitutional history.

I recommend the modernization of the name of this committee. At a future time, with the consent of other chairs, we may ask for the modernization of other committee names.

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

Motion agreed to and report adopted.

HISTORICAL IMPORTANCE OF PROCLAIMING FEBRUARY BLACK HISTORY MONTH

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Oliver calling the attention of the Senate to the historical importance to Canadians of February being proclaimed Black History Month.—(*Honourable Senator Kinsella*).

Hon. Terry Stratton: Honourable senators, I wish to speak to the inquiry on the celebration of Black History Month.

When I was a child growing up in West Winnipeg after the Second World War, I was familiar with names such as Maloney, Hayes, Allison, Ross, Cleve, MacLean, Erickson and Allenby. There was the occasional Schwartz, Striowski and Klassen, but that was it. We were pretty monochromatic in our neighbourhood.

Two young gentlemen came to us from Germany as displaced persons. They still live and work in Winnipeg. They were wonderful because they set an example. Back in grade 5, we had never experienced someone walking in our door from a foreign land. It helped us, as young kids, to really understand and realize that there were other people from other parts of the world, even though they were monochromatic like we were. We have surely come a long way since then.

When I look at the neighbourhood where I grew up, the cultures and races have changed, and the names have changed dramatically. It is wonderful to see my grandchildren growing up in that same neighbourhood, learning to swim, play and go to school, and accept as a natural occurrence the cross-section of races and cultures. It is just natural to them, and it is wonderful to see.

One must ask what this has to do with Black History Month, particularly in my part of the world, where there were very few.

The Hon. the Speaker: Honourable senators, it being six o'clock, I am obliged to rise and draw your attention to that fact. Is it your pleasure not to see the clock?

Hon. Senators: Agreed.

Senator Stratton: As a result, when you do not see other cultures and races, you do not experience them; but when you do, it is quite a revelation.

There is a wonderful story about Atlantic Canada and what took place during the Civil War and the Underground Railroad that allowed the slaves to move from the Southern States to Atlantic Canada. They now come from all parts of the world.

• (1800)

In Winnipeg, every year we celebrate an event called Folklorama, when we feast on Black food, culture and a richness that we need to celebrate always because they contribute to our society in ways that make us all the better and wealthier for our understanding of cultures and races across the world.

On motion of Senator Stratton, debate adjourned.

ISSUES IN RURAL CANADA

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Andreychuk calling the attention of the Senate to issues surrounding rural Canada.—(*Honourable Senator Andreychuk*).

Hon. A. Raynell Andreychuk: Honourable senators, this inquiry has been put forward by me as one of the most important inquiries for not only my area of the country but for others as well. However, in light of the pieces of legislation that both the chamber and I have been involved with recently, and given the events of last month, it would be better that we have a good debate on this issue at a later time. Consequently, at this point in the debate, I am asking for an adjournment.

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I thought that this inquiry had already been adjourned by Senator Andreychuk so that she could conclude her comments at a later date, which is today. The honourable senator is asking to adjourn debate again. I have no problem with that. I am wondering, though, what would be the proper way to do this.

The Hon. the Speaker: I will answer as best I can. Honourable senators have a 15-minute time allocation on certain types of interventions. I believe this is a 15-minute, not a 45-minute time frame.

I gather that Senator Andreychuk adjourned this matter in her name prior to the expiration of time to complete her remarks, as I believe Senator Robichaud said. I am not aware of any impediment to doing that more than once, although I could be wrong on that point. I must answer the honourable senator, and I answer him by saying that Senator Andreychuk is simply adjourning debate again in her name in order to complete her remarks. She has a certain amount of time allocated. This does not add to her time, but she will make the balance of her remarks at the next sitting of the Senate. That is the best answer I can give to the Honourable Senator Robichaud.

Senator Robichaud: As a point of clarification, does that mean that the clock on this inquiry would go back one?

The Hon. the Speaker: The clock does not start at one.The Table times the 15 minutes, or 45 minutes, which it has done in the case of Senator Andreychuk. Apparently, Senator Andreychuk has 14 minutes left.

Hon. Terry Stratton: On a point of clarification, I wish to speak to this inquiry as well. Does that start the clock again?

The Hon. the Speaker: Senator Andreychuk has the floor and has not completed her remarks in the time allocated to her. She has asked the Senate to adjourn this matter again in her name. She will use up the balance of her time at a later sitting, in fact the next sitting, because that is the only way the motion can be put.

When Senator Andreychuk has completed her remarks, it would be entirely in order for any other senator to rise and speak to the inquiry as well, including Senator Stratton.

Honourable senators, I have misunderstood Senator Robichaud. The question was not how much time the honourable senator has left. The question was this: Does the clock start running on the 14 minutes? My understanding is that, yes, Senator Andreychuk has intervened, spoken and now has another period of time provided for in the rules to stand and speak before the matter drops off the Order Paper.

I now understand better what Senator Stratton was doing. I apologize for trying the patience of honourable senators.

On motion of Senator Andreychuk, debate adjourned.

The Senate adjourned until Wednesday, September 26, 2001, at 1:30 p.m.

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Tuesday, September 25, 2001