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**THE HONOURABLE DAN HAYS
SPEAKER**

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THE SENATE

Thursday, October 25, 2001

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

Prayers.

THE LATE HONOURABLE JAMES GLADSTONE

UNVEILING OF BUST IN SENATE FOYER

The Hon. the Speaker: Honourable senators, before proceeding to Senators' Statements, I wish to draw your attention to the presence in our gallery of some very special guests. They are the family and friends of our former colleague the late Senator James Gladstone, who was remembered today at a commemoration ceremony and unveiling of a bust in the Senate foyer. The bust will remain in the Senate precinct as a reminder of his important contributions.

The Honourable Senator Gladstone was the first Aboriginal to sit in the Senate and his contribution to his people and to Canadian politics was as significant as it was unprecedented. Through his zeal and conviction, through his gentle persuasion, he built bridges reaching across the cultural divide between native and non-native people and securing the rightful place of native issues to the centre stage of national politics.

[Translation]

All Canadians owe a debt to James Gladstone. Thanks to him, our country evolved, became more tolerant, free and enlightened. He has left a heritage to all Canadians and his memory is a great source of pride and inspiration to us all.

[English]

To the friends and family of Senator James Gladstone, welcome to our chamber.

Hon. Senators: Hear, hear!

SENATORS' STATEMENTS

MOVEMENT FOR CANADIAN LITERACY AND LA FÉDÉRATION CANADIENNE POUR L'ALPHABÉTISATION EN FRANÇAIS ACTION DAY

Hon. Joyce Fairbairn: Honourable senators, today some 80 people from across the country are visiting offices all over Parliament Hill. They are here with the Movement for Canadian Literacy and la Fédération canadienne pour l'alphabétisation en français, which are holding their annual Literacy Action Day. They are meeting 80 to 100 members of the House of Commons and the Senate, for which I thank everyone. They are bringing a message from the grassroots of this nation that over 40 per cent of Canada's adult citizens have difficulty, every day of their

lives, reading, writing and communicating the routine things that everyone in this chamber takes for granted. Literacy is the foundation of everything we do in this country in terms of being able to prosper and to take advantage of the opportunities that are before us in the 21st century. I thank everyone who has taken an interest, and I urge all honourable senators to join this army of volunteers across the country to help make Canadians understand this issue.

Honourable senators, as a final word, we honoured today a hero of the Senate, the late Honourable Senator James Gladstone. One of the messages that he brought to this chamber in his maiden speech was, in his words, "Education is at the foundation of everything we do."

The legacy that Senator Gladstone leaves makes it possible for people across this nation to learn, to become educated, and to join with vigour and affection in what they believe to be a very beautiful nation.

I salute Senator Gladstone, who represented the southwestern Alberta region and whom I had the privilege of following into this chamber. He was an extraordinary symbol for his people. He believed, as do many honourable senators, that life-long learning is what makes Canada work.

THE RIGHT HONOURABLE JOHN DIEFENBAKER

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I was very pleased to attend the ceremony this morning honouring our late colleague Senator Gladstone.

I hope that I can be allowed to pay tribute at the same time to the gentleman who named Senator Gladstone to the Senate, the late Right Honourable John Diefenbaker. John Diefenbaker was one of the most controversial Canadian politicians the last century saw. However, he had some basic values that continue to inspire Canadians. One of those values was his belief in the equality of all in this nation. John Diefenbaker not only named James Gladstone to this place, but also gave native people the right to vote. He is the one who brought in the Bill of Rights. These are extraordinary testimonials and tributes to the man. I should like to think this morning's event was also in memory of a great and distinguished prime minister, John Diefenbaker.

MILITARY ACTION IN AFGHANISTAN

EFFECT ON PROVISION OF AID

Hon. Lois M. Wilson: Honourable senators, I wish to comment briefly on the current military action in Afghanistan. The bombing has not yet delivered Osama bin Laden, as was promised in its goal. Indeed, continuous bombing has obliterated innocent civilians, exacerbated the flow of refugees wanting to escape the horror and in the short term escalated the humanitarian crisis.

The airdrops of food make great TV, according to the chief executive of CARE International, but they often represent a failure to respond to a food crisis effectively.

International law obliges those who take armed action to ensure that civilians have access to humanitarian aid. Cannot aid be channelled by the United Nations through clear land corridors, to ensure safer passage?

The trucking of food is cheaper and is tried and tested, according to Oxfam, whereas airdrops are risky, random, expensive and likely to meet only a fraction of the need. Increasing numbers of people are deeply sceptical about the continuation of this campaign and the havoc it is creating among civilians. Much more attention needs to be paid to the diplomatic and humanitarian fronts in terms of creating a robust and multilateral survival and reconstruction program for the innocent civilians of that troubled world.

PRINCE EDWARD ISLAND

TENTH CANADIAN SCOUT JAMBOREE

Hon. Elizabeth Hubley: Honourable senators, for 10 exciting days in July of this year, Prince Edward Island's population increased by about 10 per cent as more than 14,000 Scouts, Venturers, Leaders and volunteers gathered at Cabot Provincial Park for the Tenth Canadian Scout Jamboree. Many arrived by air, others by train and bus. One group of 35 Scouts even came to the Island from Nova Scotia on a lobster boat.

Although primarily a Canadian jamboree, with youth participating from every province and territory, Scouts from around the world were also in attendance. There was a large contingent from the United States as well as Scouts from Australia, New Zealand and Jamaica.

Prince Edward Island is always an interesting place during the summertime, with tens of thousands of tourists visiting our province every year. The Scout Jamboree represented something very special, bringing together as it did so many youth in a celebration of friendship and community.

The Scouts had fun kayaking in the ocean, taking part in other outdoor adventures, trading badges, discovering the Island's many historical and cultural attractions, and sharing music and stories around the proverbial campfire.

The jamboree also had special distinguished visitors, including Premier Pat Binns, Canadian Astronaut Marc Garneau, as well as Governor General Adrienne Clarkson, who officially closed the event in her role as Chief Scout.

Honourable senators, how often do we proclaim that our youth are the leaders of tomorrow and that our children are our future? I believe the world is a better place when young men and women come together as they did this summer in Prince Edward Island.

I should like to congratulate all those involved, especially the Chairperson of the Jamboree Planning Committee, Mr. Lorne Moose; the National Scout Commissioner and Camp Chief,

[Senator Wilson]

Mr. Sam Ellsworth; and Robert and Joyce Bryanton, on whose family farm this grand event took place.

[Translation]

CANADIAN BROADCASTING CORPORATION

NATIONAL FRANCOPHONE NETWORK

Hon. Jean-Robert Gauthier: Honourable senators, yesterday the CEO of Radio-Canada/CBC announced that the corporation had filed 18 applications with the CRTC for licences to expand and accelerate the extension of la Chaîne culturelle to all Canadian provinces by 2002.

This initiative will make it possible to satisfy the needs expressed on so many occasions by French-language communities throughout the country as yet unable to access this cultural programming.

Radio-Canada is thus accelerating the implementation of commitments made to the CRTC at the time its licences were renewed in January 2000. What is more, these applications reflect the council's recommendations in February 2001, after broad public consultations across the country on French-language broadcasting services to minority communities.

Honourable senators will recall that this matter has been often raised here in this chamber. I brought forward a motion — Motion No. 65 — calling upon the Standing Senate Committee on Transport and Communications to examine and report upon the measures that should be taken to encourage and facilitate provision of and access to the widest possible range of French-language broadcasting services in francophone minority communities across Canada. This is a step in the right direction.

I am pleased with this good news and take this opportunity to congratulate Radio-Canada on it. According to their press release:

If the project filed by Radio-Canada obtains CRTC approval, la Chaîne culturelle would be available in all Canadian provinces before the end of 2002. It would then service over 90 percent of the country's francophones, as well as other Canadians with an interest in the francophone culture.

My congratulations to the corporation on this initiative.

[English]

LITERACY ISSUES

Hon. Ethel Cochrane: Honourable senators, according to the international adult literacy survey, "Literacy Skills for the Knowledge Society," about 22 per cent of adult Canadians fall into the lowest level of literacy category. A further 26 per cent are at level 2, which means that they can read, but can only handle simple text that is clearly laid out and in a familiar context.

As a former teacher, I know we have made great strides through education and literacy programs over the years. I am inspired by the dedication and vigour with which people such as Senator Fairbairn promote literacy issues. Their efforts are recognized and appreciated but, clearly, as the statistics reveal, much more needs to be done, and I am sure that the honourable senator will agree.

According to a recent report by the Canadian Council on Social Development, compared with other countries Canada has the third largest proportion of youth with poor literacy skills, at a level of 10 per cent. We are well aware of the link between low literacy and a number of social and economic problems, including unemployment, poverty and crime. Various provincial studies have also shown that low literacy increases safety risks in the workplace, the community and at home. Low literacy levels also reduce the efficiency of our country by limiting opportunities, blocking access to resources and burdening our services such as the health care system.

• (1350)

It is well documented that individuals with lower literacy rates have poorer health, are often unaware of appropriate health services, and make more visits to health care providers and hospital admission rooms.

In fact, the health problems are even more basic than that. When the Ontario Public Health Association and Frontier College conducted a study back in 1990, they found that there was a significant level of failure to comply with medical directions and administering infant formula. Their data revealed that nearly half of respondents had incorrectly used over-the-counter and prescription medications as a result of literacy problems. This should not surprise us. The reality for the 22 per cent of adult Canadians who have low-level literacy skills is that they simply are unable to look at a medicine label and determine the correct amount of medicine to give to a child.

The last Speech from the Throne made a commitment to work with stakeholders to develop a national literacy initiative. This is crucial. Today, being Literacy Action Day on Parliament Hill, we must vow to put literacy on the political agenda and make literacy a national priority.

THIRTIETH ANNIVERSARY OF MULTICULTURALISM ACT

Hon. Sheila Finestone: Honourable senators, this month Canada proudly celebrates the thirtieth anniversary of the Multiculturalism Act. Entitled "Multiculturalism within a Bilingual Framework," this legislative milestone was announced by former Prime Minister Trudeau to respond to our multi-faceted and interconnected Canadian society.

Let us ask ourselves: What is the true meaning of Canadian multiculturalism? I believe the answer can be found in these three major points.

First, we need to bear in mind that the policy was established to harmonize ethnic and linguistic elements existing in our society and create equality among all groups.

Second, the liberalization of Canada's immigration policy in the 1960s opened the opportunity for recognition of multiculturalism in Canada. The Immigration Act of 1967 established a new immigration system and brought to fruition a blending of race, national origin, religion and culture, constituting the very fabric of our society. Third, multiculturalism was also conceived as the national symbol fulfilling the aspirations of a distinctive Canadian identity. By adopting multiculturalism as integral to our collective identity, a distinctive Canadian identity was then established.

In other words, founded on a long tradition of human rights legislation, the Multiculturalism Act values and respects Canada's rich and diverse heritage, including our Aboriginal people, French and English, while at the same time recognizing diversity as a fundamental characteristic of Canadian society.

In 1971, Canada became the first country in the world to adopt a multiculturalism policy. We stand proudly behind it to this day. Our 30-year anniversary celebration demonstrates our accomplishments in many ways. We have achieved equity in the economic, social, political and cultural life of our country. We have actively developed a more inclusive society based on the respect of full citizens' participation. We have shown that Canadian cultural pluralism has preserved and enhanced ancestral, ethnic and cultural traditions within the larger vision of a true Canadian society.

Canadian multiculturalism remains consistent with the well-founded concept that ethnic identities, traditions and practices are incorporated in the mainstream Canadian culture by replacing traditional, historic immigrant assimilation with active and functional social integration.

Honourable senators, in modern liberalism our citizens are not abstract individuals but remain as social beings. What is important for the government is to provide the social conditions under which its people can choose their essential good. We must always remain cognizant that justice is the primary value of a political society and that beyond the moral and philosophical idea, justice must be applicable to the societal realm.

The Multiculturalism Act, as a true expression of political and social justice, has successfully replaced discriminatory practices with equal status relationships in an inclusivist public domain.

The Hon. the Speaker: Senator Finestone, I am sorry, but your allotted time has expired, as has the time for Senators' Statements.

ROUTINE PROCEEDINGS

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 2001

REPORT OF COMMITTEE

Hon. E. Leo Kolber, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, October 25, 2001

The Standing Senate Committee on Banking Trade and Commerce has the honour to present its

TENTH REPORT

Your Committee, to which was referred Bill S-31, An Act 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 has, in obedience to the Order of Reference of Wednesday, October 17, 2001, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LEO KOLBER
Chairman

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

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

CONSTITUTION AMENDMENT, 2001, NEWFOUNDLAND AND LABRADOR

NOTICE OF MOTION

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I give notice that on Tuesday, October 30, 2001, I will move the following motion:

WHEREAS section 43 of the *Constitution Act, 1982* provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies;

NOW THEREFORE the Senate resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by her Excellency the

Governor General under the Great Seal of Canada in accordance with the schedule hereto.

(For text of Schedule, see Order Paper, October 30, 2001, p. 4.)

INTER-PARLIAMENTARY UNION

ONE HUNDRED FIFTH INTER-PARLIAMENTARY CONFERENCE—
REPORT OF CANADIAN DELEGATION TABLED

Hon. Sheila Finestone: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian group of the Inter-Parliamentary Union that represented Canada at the one hundred fifth inter-parliamentary conference held in Havana, Cuba, from March 28 to April 7, 2001.

• (1400)

QUESTION PERIOD

HEALTH

PURCHASE OF ANTI-ANTHRAX DRUG—ACQUISITION PROCESS

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, to the Leader of the Government in the Senate, is the government proposing to make Tommy Thompson, Health and Human Services Secretary in the United States, an honorary Canadian citizen given that he has been able to negotiate the price of 95 cents per Cipro pill? As a result of that negotiation, our falling star in the health department has been able to have his officials get a price of not \$2.50, which Mr. Rock had originally negotiated, but something approximating the 95 cents per pill that Mr. Thompson was able to negotiate.

Hon. Sharon Carstairs (Leader of the Government): I can tell the honourable senator that honorary citizenship will not be granted, but it certainly proves once and for all that if one makes a bulk purchase, one frequently gets a better price. Since the Americans ordered 100 million pills, I think that is the reason they got the better deal, and we also were able to back in on that deal.

APPROVAL OF CIPRO AS ANTI-ANTHRAX MEDICATION

Hon. David Tkachuk: Honourable senators, there is no doubt that Apotex made some bulk donations to the Liberal Party of Canada. We could talk about that. I do not know if I have the time to read all the donations, so I will do that later.

Has Cipro been approved by the Department of Health for the treatment of anthrax in Canada?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, that question was asked yesterday by the Honourable Leader of the Opposition in the Senate, and I will get the information for him as quickly as I possibly can.

Senator Tkachuk: Honourable senators, has the Department of Health in Canada approved the generic drug Cipro for the company called Apotex?

Senator Carstairs: Honourable senators, the generic drug Cipro, which is a copy — that is what a generic drug is — would obviously result in the same reply as the original response.

Senator Tkachuk: Will it be the practice of the Canadian government to purchase drugs from the manufacturer, the patent holder, and also the generic drug company that have not been approved by the Department of Health?

Senator Carstairs: Honourable senators, it is interesting that the Conservative Minister of Health for the Province of Ontario seems to have made that decision. The reality is that we are in a potential emergency situation. The potential is that anthrax could be spread to Canadian citizens. I happen to entirely support the Honourable Allan Rock in his desire to put the health of Canadians before anything else.

Senator Tkachuk: Has there been a case of anthrax in Canada?

Senator Carstairs: No, there have not been any cases of anthrax, either as a result of heightened interest following September 11 or previously.

To be fair, it is my understanding that only 18 cases of anthrax have ever been diagnosed. That is why the situation has never been designated an emergency. However, we have cause for concern, and clearly the Americans, who purchased 100 million pills, share that concern.

PURCHASE OF GENERIC ANTI-ANTHRAX DRUG—
BREACH OF PATENT ACT

Hon. John Lynch-Staunton (Leader of the Opposition): Along the same line, honourable senators, we all agree with the Minister of Health that his main responsibility is the security of the health of the nation. We support him in that, but we expect him to do it legally.

Why, if there is a sense of near-emergency, which means there is a sense of emergency, which means there is an emergency, did he not simply invoke section 19 of the Patent Act? This would have legalized everything he has done and would have avoided the embarrassment caused not only to the government but to Canada, which is now seen across the world as not respecting the international obligations it ratified only a few months ago under the amendments to the Patent Act. Why did he not just follow the law?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the answer is quite clear. He put safety first.

Senator Lynch-Staunton: Honourable senators, how can his concern for safety be supported by the fact that he ordered an antibiotic that has yet to be approved by Health Canada for whatever purpose?

Senator Carstairs: Honourable senators, we are not dealing with a particular infection that gives one the luxury of two or three or four weeks to put everything in place. We are dealing with an infection that can potentially kill in a matter of days. I think the Minister of Health did the right thing.

NATIONAL DEFENCE

ELIMINATION OF HAZARDOUS MATERIALS PLATOONS
FROM INFANTRY BATTALIONS

Hon. J. Michael Forrestall: Honourable senators, notwithstanding that answer, one is prompted to wonder whether we are followers or leaders.

My question is directed to the Leader of the Government in the Senate. I would have asked it yesterday had it not been for the pressing nature of the questions put forward then.

With respect to the degree of seriousness on the part of the government over the war on terror, if the government is as serious as it suggests, may I ask why it is then prepared to sacrifice Canadian rights? Why is it in the process of eliminating the only real NBCW decontamination force in the army, namely, the Pioneer Platoons?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, first, my honourable friend began with a preamble that talked about followers or leaders. Allan Rock is a leader, and I am quite prepared to support that kind of leadership.

In terms of the war on terror, Senator Forrestall asked the question yesterday. He seems to feel that he has indications that this force is being dismantled. I have no indication of that. I have told him that I will seek that information, and, as with every other question he asks, I will get back to him as quickly as possible.

Senator Forrestall: At some point it becomes a little appalling to be ahead of you, madam.

Senator Robichaud: Come on.

Senator Forrestall: You come on.

ELIMINATION OF INFANTRY BATTALIONS AND A BRIGADE

Hon. J. Michael Forrestall: Can the minister tell us why the mortar platoons are being eliminated from infantry battalions? Why is the government now planning on eliminating three battalions of infantry and one brigade by the year 2006 just when we are on the verge of having to find soldiers, men and women, to complete our responsibilities and obligations already undertaken?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as my honourable friend knows, shifts are made on a regular basis within the services in order to utilize our Armed Forces to the best degree possible. As to his specific questions about the battalions, I will forward them to the Minister of Defence and return with a reply to the honourable senator.

AFGHANISTAN—SHIPS ASSIGNED TO MIDDLE EAST

[Translation]

Hon. J. Michael Forrestall: Honourable senators, I do not know who is forwarding these questions. That is the second or third time I have asked that question.

While the minister is referring questions, what is the name of the frigate that will be dispatched on NATO duty to replace the HMCS *Halifax*? The seven Cormorants sitting on the tarmac in Italy have fully trained crews. The planes have been fully tested. Why are they not home here in Canada? Indeed, why are they not en route to the Arabian Sea?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, to start with the last question, they are not on their way to the Arabian Sea because, as the senator well knows, they have been fitted for search and rescue missions. They have not been fitted for the kind of military operations that the Sea Kings can conduct at this time.

As to the sixth ship, I have informed the Senate on a number of occasions that we do not know what that next ship will be because Canada and its partners have not yet determined what type of ship is needed.

As to his point about asking questions, if the honourable senator looks at his records, he will know that questions asked in this chamber are answered quite rapidly.

Senator Forrestall: I have asked the most unanswered series of questions by any mortal in this Parliament in the last 150 years.

- (1410)

OPERATION APOLLO—ASSIGNMENT OF SEA KING HELICOPTERS

Hon. J. Michael Forrestall: Honourable senators, let me ask the leader, because she has said something that prompts me to ask once again in a different way: Are all of our Sea Kings now deployed in the five ships tasked to the war on terrorism? Are they operational? Do they have the capacity to defend even themselves?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, Senator Forrestall may not like the answers he gets, but there is no guarantee in parliamentary practice that you will always like the answer you get.

In terms of the Sea Kings that are on their way now to the Arabian Sea, there are, I understand, two attached to the supply ships and destroyer and one each attached to the frigates. They are in working order.

ORDERS OF THE DAY

CUSTOMS ACT

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker announced that Bill S-23, to amend the Customs Act and make related amendments to other Acts, had been received from the House of Commons along with a message to the effect that it had passed the bill without amendment.

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

October 25, 2001

Mr. Speaker,

I have the honour to inform you that the Honourable Louise Arbour, Puisne Judge of the Supreme Court of Canada, in her capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 25th day of October, 2001, at 3:30 p.m., for the purpose of giving Royal Assent to certain bills

Yours sincerely,

Michèle Lévesque
Deputy Secretary
Policy, Program and Protocol

The Honourable
The Speaker of the Senate
Ottawa

[English]

IMMIGRATION AND REFUGEE PROTECTION BILL

THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cordy, seconded by the Honourable Senator LaPierre, for the third 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, thank you for the opportunity to once again participate in this debate. I must confess at the outset that I have real problems with this bill. My concerns range from the unreasonable demands of the Minister of Citizenship and Immigration that we pass this bill immediately, to the government's claim that even after the tragic events of September 11 no changes need be made to the bill to reflect the reality of our changed world.

I am also concerned about the government's rhetoric about getting tougher on refugees and immigration abuses and tightening our border with the United States. Both are longstanding problems we have been told exist for years now but which the government has so far not seen fit to address in any serious fashion.

The extensive use of regulations should give all parliamentarians, indeed all Canadians, cause for great concern. The same goes for the retroactivity provisions in this bill.

I should note as well that the legal community has expressed grave reservations about the constitutionality of some of the clauses. Many others have questions and concerns related to the qualifications, abilities, competency and accountability of both immigration consultants and members of the Immigration and Refugee Board.

Honourable senators, I have never participated in the study of a bill that has been as universally condemned by nearly all the witnesses who appeared before the committee. This bill represents a milestone of some sort in this regard.

To start with, we were told that there was great urgency to pass this bill. The Minister of Immigration proclaimed far and wide that her government needed to have it passed with a minimum of debate. She claimed the bill could help in the great war against terrorism being prosecuted under the leadership of the United States and only reluctantly, at least until recently, being supported by Canada.

We were originally given three days to study this bill — three days to read, digest, listen, question, debate, ponder and decide on a major piece of legislation that, by the minister's own words, took a fair number of years to research and draft. In three days we were expected to digest this legislation that will have a major impact on the lives of Canadians.

Fortunately, we on this side were not alone in not believing the minister's claims, nor were we alone in wanting to resist demands that the Senate rubber-stamp this bill. Witnesses before the committee from a wide variety of backgrounds and interests supported our contention that the bill needed to be properly debated. They dismissed the minister's claim and accused her of everything from smoke-and-mirror tactics and giving Canadians a false sense of security to bogusly attempting to appear as if she was doing something new and vital when in fact the opposite is unfortunately the case.

Also, officials from the department, the Canadian Chamber of Commerce, the Canadian Bar Association and elsewhere informed us, again contrary to the minister's original claims, that this bill will not see the light of day until, at the earliest, next spring and most likely next summer. We understand that this is because the regulations will not be ready until the spring.

Let me quote Mr. Jack Manion, former Secretary of the Treasury Board and former Clerk of the Privy Council, as he made his presentation before the committee on October 2:

I am a little horrified when I hear how long it will take for the regulations to be prepared to go with this bill. I cannot believe that, in the time the government has spent preparing this bill, regulations have not been drafted.

Honourable senators, pretty well universal condemnation is what we heard in the committee. The recurring theme to which witness after witness returned was simple, as simple as it was clear, resources. That was the word: resources. The people responsible for running our refugee and immigration system have been starved by the indiscriminate cuts to their budgets, cuts based — I can only assume from what I have heard — on no clear rationale aside from government cutting where it thought it could get away with it.

These people told us they simply do not have the tools to do the jobs they have been asked to do. I will quote again from the proceedings, a comment made by David Griffen of the Canadian Police Association:

How serious is Canada, as a nation, about defending its borders

Police officers are growing increasingly wary of political testimonials about Canada's enforcement commitments — statements that are not backed by meaningful resources and support.

It is as simple as that. It has nothing to do with power and authority, nothing at all. The authority and the power to accomplish what the minister wants already exists; we were told over and over again.

The minister admitted as much herself when she informed us through the media that she was going to implement certain portions of the bill whether it was passed or not because the authority to do so already existed in current legislation. The problem, honourable senators, is clearly the lack of resources.

Witness after witness stressed the debilitating effect this had on the ability of the immigration and refugee system to function effectively. They said they need more people, improved technology, new equipment and better training. They do not need, they said, new laws.

Representatives of the Customs Union told us point blank they did not have the training to handle anthrax and other hazardous materials.

This is what he had to say:

I believe there was a document issued last week. It was discussed over the weekend by our health and safety committee....Basically there is some training at our college. It is very limited and not specific to anthrax or the current set of circumstances.

• (1420)

Honourable senators, I suggest that everyone in this chamber must feel a sense of discomfort with that answer. To ask our front-line workers, those most at risk, to protect us from bioterrorist acts without full and extensive training is shameful. As a matter of fact, it may be described as criminal. We ask them to put their health on the line, and perhaps the health of their families as well, and in return we offer them a memo. What type of training and protection are we giving them? The answer, honourable senators, is self-evident. The serious shortage of resources available to people to whom we entrust the front lines of our immigration and refugee system must, and I stress "must," be addressed.

The lack of appropriate resources was also given as the reason, at least in part, for the growing refugee backlog in our country. The number of unresolved cases presently stands at some 34,000. In addition, 27,000 more people have been ordered deported and remain unaccounted for.

Senator Oliver: Are they in Canada?

Senator Di Nino: We do not know. They have simply disappeared. Some people say some of them have gone to the United States. Maybe some have gone back home. Most of them are likely in hiding. Who knows? We have no way of tracking them.

Honourable senators, statistics like this should shock and dismay all Canadians, all the more so when we realize that of the 34,000 refugee claims I mentioned a moment ago, an estimated 15 per cent have abandoned their claim and have also decamped for parts unknown. We do not know where they are.

Senator Oliver: That is frightening.

Senator Di Nino: Surely there is a need, at the very least, for a system of exit controls to identify those who willingly leave the country.

Honourable senators, witnesses before the committee also offered some compelling testimony about the lack of regulatory supervision of what are known as immigration consultants. These people can charge whatever the market will bear for their services, often with unhappy results. I realize that regulatory regimes are a provincial jurisdiction. However, the federal government does have some obligation to ensure that those coming to this country, those we invite and embrace, are not

[Senator Di Nino]

preyed upon by members of what I understand is a very venal and mercenary business. Although this issue would be best addressed in concert with the provinces, the federal government has the statutory powers to regulate immigration consultants. It should seriously consider doing so if an agreement with the provinces cannot be reached. That would go a long way towards eliminating those unscrupulous consultants who taint the whole system.

People's character is also in issue when we deal with those appointed to the Immigration and Refugee Board. This is not a boondoggle. I realize that criticism of patronage appointments is a perennial issue, but I realize as well that where there is smoke, there is sometimes fire. There is a perception among some in the immigration and refugee community that members of the IRB are sometimes not independent, not impartial, or maybe not as qualified as they might possibly be. As I said, there is no way around this issue when people are appointed to such positions, but the very longevity or continuousness of the criticism from a variety of concerns should give us reason to pause. Perhaps the easiest way around the issue is for the government to simply have the courage to change the appointment process. We have all suggested this in the past few years. By making IRB qualifications professional rather than political, I think we would improve the system and make its work more acceptable.

Honourable senators, I mentioned at the beginning of my remarks that the excessive use of regulation should be a cause of concern to us all. This issue was raised by a number of witnesses who were unhappy with the fact that many of the most important parts of this bill are contained in the regulations that accompany it. These regulations are not to be debated as part of this bill, which I believe is wrong, nor will we as parliamentarians have any say over their implementation, review or revision. This is nothing new. Over the past number of years, it seems to me Parliament has increasingly abdicated its legislative responsibilities to ministerial staff, and particularly the bureaucracy. I think we owe it to ourselves to be more vigilant in claiming and retaining our prerogatives and responsibilities in the face of this increasing encroachment, because if we do not, we are surely sowing the seeds of our own continued, or perhaps a better word is growing, irrelevance in the process of governance.

To give an example, in the explanation of proposed regulations distributed to committee members, there is a suggested provision to reduce the guarantee of sponsorship responsibility for certain classes of immigrants from ten years to three years, which means that those who sponsor people coming in will only be responsible for them for three years in certain cases instead of ten. This is an issue of major importance. As we have been constantly reminded, the financial responsibility for refugee immigrants whose sponsors renege on their commitments lies with the municipalities and provinces. Surely in our role as regional representatives we should at least be consulted about such issues.

Honourable senators, many witnesses before the committee, particularly the Canadian Bar Association and representatives of the legal community, as well as constitutional experts and immigration consultants, expressed grave concerns about the provisions in this bill that deny permanent residents the right to appeal deportation orders resulting from being convicted of a crime for which a sentence of two years or more has been imposed. There is universal agreement that this will be challenged in the courts and that the challenges will likely succeed. Some witnesses went as far as to express the view that judges could be swayed to sentence offenders likely to be deported to two years less a day in order to save them from becoming subject to a deportation. As well, we heard concerns raised to the effect that a permanent resident who may have been in this country since infancy or childhood could, under the provisions of this bill, be forced to return to their country of origin even if they had not been there since the time of their immigration.

Senator Oliver: The bill should be amended, if that is the case.

Senator Di Nino: I agree. This is not a just system.

Honourable senators, the major focus of our discussions in committee was security and refugees, and probably, under the circumstances, rightly so, but I would say that a disproportionate amount of time was spent on these areas to the detriment of an issue that I believe is extremely important, and that is the economic impact the events of September 11 might have should the U.S. decide to tighten its border controls. Whatever we think of the Americans and America, it is imperative to us that they be convinced that Canada is doing its part in keeping out terrorists, criminals and other undesirables. Unfortunately, the government refuses to look at this bill as a golden opportunity to address this important issue, and it is important.

The United States has, for the first time, been victim of a large-scale, violent, terrorist act. They are not, understandably, very happy. They will do everything possible to protect their citizens. We have already had a glimpse of what happens to commerce and tourism when Americans tighten up security at border crossings, and now we are hearing that they insist that all non-U.S. residents register upon entry and exit to their country. This may be an inconvenience to tourists, but it will be disastrous to business. If such a measure were to become permanent, coupled with other restrictions that the Americans may impose, how long would it be before companies whose main markets are in the U.S. consider packing up and transferring their operations south of the border?

• (1430)

How many jobs would be lost and how much prosperity that comes with those jobs would disappear? These are questions that need to be addressed but which have not been addressed. It is my hope that our colleagues studying Bill C-36 will take the time to consider this issue and look for ways of addressing it in a meaningful manner.

Honourable senators, the observations submitted to the Senate with respect to this bill indicate clearly that the committee unanimously shares the view that this bill needs much attention. I hope the minister avails herself of the combined wisdom contained in these observations. I might add to these observations the suggestion that the Standing Senate Committee on National Finance may see fit to examine the Estimates of the Ministry of Immigration, with an eye to assessing the resources available to people there and what might be needed to enable them to discharge their responsibilities effectively.

Honourable senators, before I conclude my remarks I should like once again to bring to your attention the issue raised by this bill, an issue that is in my personal view critical to the Senate. It relates to our role individually and collectively. The minister and her government came to us a short time ago, in a manner that was cavalier to say the least, and expected, indeed demanded, that we sit on our thumbs and pass this bill. I cannot overstate how strongly I object to that type of action by any government. We all must be attentive, indeed ferocious if need be, in rebuffing such impingements on our institution, our prerogatives, our duties and our rights. We in the Senate have a legal and constitutional role to play in the legislative process. We play a critical part, despite what the Prime Minister may think to the contrary, in the study and airing of controversial issues in the formation of public policy. Each and every time we allow the House of Commons, the Prime Minister or his advisors to impinge on our rights and our prerogatives, we diminish ourselves as an institution.

Honourable senators, I conclude by repeating that I am not happy with this bill. The sheer number of critics, both inside and outside the committee, shows that I am not alone. I am unhappy with the actions and the rhetoric of the minister and her government. We have heard abundant evidence that the bill would not accomplish what it sets out to do, namely, to improve the functioning and efficiency of our immigration and refugee system.

The real problem identified by all the witnesses is the serious lack of resources. This government has bankrupted the immigration and refugee system — the people charged with administration and enforcement. These people desperately need equipment, training, access to technology, and so on. Bill C-11 does not provide any of that. It also fails to take into account the events of September 11. This is particularly true with regard to issues related to border controls. September 11 was a wake-up call. Our immigration and refugee system needs to be modernized. It needs to reflect new realities, and it needs the infusion of massive resources to accomplish this.

Honourable senators, this bill does none of these things.

Hon. Jane Cordy: Honourable senators, I have a question of clarification for Senator Di Nino.

The committee was granted leave by the Senate to sit while the Senate was sitting so that we could, indeed, sit for long hours, and we are thankful to the Senate for giving us that leave. The honourable senator made mention of the fact that the committee met with witnesses on three days. In fact, we met last week on three days. We also met this past Monday, as you recall, to hear witnesses, and on Tuesday we did clause-by-clause study. Therefore, we met with witnesses on four days. On the fifth day, we did clause-by-clause study.

Would the Honourable Senator Di Nino agree with that?

Senator Di Nino: Honourable senators, it is on the record. I am not sure I understand the point of the honourable senator's question. In response to my colleague, what I said is that when we were presented with this bill we were given three days, an unreasonable length of time. I also said, as I said yesterday in my remarks, that thanks to the leadership in the Senate we were able to extend the time, because we defended the role of the Senate to say to the minister, "No, that is not enough time; we will take whatever time we need."

Senator Cordy: Honourable senators, I wish to thank Senator Di Nino for his clarification that indeed the committee did meet for more than three days.

Hon. Pierre Claude Nolin: Honourable senators, I have a few questions for Senator Di Nino. Reading the report of the committee of which the honourable senator is a member, a rather long portion of it talks about the lack of a definition for the word "terrorism." I first want to understand who told the honourable senator that it was not more important or less important to have the definition in the legislation or in the regulations.

Senator Di Nino: Honourable senators, it was not really a question that the witnesses answered. It was a comment and a question, if my memory serves me correctly, made by Senator Kirby to the officials of the department and the minister.

Senator Nolin: In the report of the committee, when it states that various witnesses expressed concern about the bill's lack of definition of terrorism and what it means to be a member of a terrorist organization, did the "various witnesses" suggest an amendment to the bill?

Senator Di Nino: I think it is fair to say, honourable senators, that the majority of the witnesses, particularly those with an understanding of the issues, such as the previous deputy minister, the previous clerk of the Privy Council, people in the immigration and refugee system, all suggested that there should be some serious amendments. As a matter of fact, Mr. Manion, the previous clerk of the Privy Council — again, I am going by memory, and we should not totally trust memory — said that the bill is so bad that it should be scrapped.

Senator Nolin: Honourable senators, I am still dealing with the definition of terrorism, and I refer to a paragraph of the report that deals with that lack of definition. I will read it to ensure that we understand.

[Senator Cordy]

The Committee recognizes the importance of defining the term "terrorism," and supports the idea of including such a definition in legislation or in regulation. The Committee wishes to stress, however, that the same definition of "terrorism" should be used in all relevant Canadian legislation. The Committee highlights the definition of "terrorist activity" in clause 4 of Bill C-36, the *Anti-terrorism Act*, which is currently before the House of Commons. A similar definition — adapted to the context of Bill C-11 — should be considered for the regulations that would apply to Bill C-11.

Who proposed that the committee include such a definition that is in Bill C-36 and that it should be included in the regulations?

Senator Di Nino: There were a number of times during the proceedings — and any one of my colleagues can jump in if I am not presenting this fairly — where this was discussed. I would say that happened several times at least.

• (1440)

In questioning by all members of the committee, we were faced with the dilemma of how to deal with a bill that talks about an issue without there being a definition of that issue. It was one of those items that kept recurring throughout the whole of the proceedings.

Certainly, some of the legal experts suggested that. I believe that some of those, including Messrs. Bissett and Manion, dealt with that in questioning. I stand to be corrected in this regard, but a number of people felt sufficient concern about this matter. Obviously, there cannot be two definitions of an issue in two different bills, creating what may be confusion in the administration of the law.

I trust that answers appropriately the question of the honourable senator.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, yesterday morning at the hearing of the Special Senate Committee on the Subject-Matter of Bill C-36, Mr. David Matas, a well-known Canadian refugee and immigration lawyer, made the explicit recommendation that Bill C-11 be amended to include the definition of terrorist activities found in Bill C-36. Does the honourable senator agree with that?

Senator Di Nino: First, I should like to inform honourable senators that Mr. Matas also appeared before our committee. He has appeared before different committees of the Senate on previous occasions. Mr. Matas is a well-respected Canadian with a thorough knowledge and a great interest in this issue.

In answer to the question, not only do I say, yes, but I think the bill has to be amended in that way.

Senator Nolin: Was it proposed that your committee await adopting Bill C-11 until Bill C-36 is adopted?

Senator Di Nino: Yes. Committee members discussed that issue a number of times among ourselves. With all due respect, senators on the other side did not want to postpone the bill. There was an agreement among us that we would not look at amendments during the committee proceedings. However, that does not mean that we may not do so before this bill goes to third reading.

Senator Nolin: Was the minister asked if she recognizes that her bill needs a little improvement? If so, would she accept amendments to it?

Senator Di Nino: We did ask the minister that question. She replied by skating very well. My interpretation of her response is that she would not be prepared to accept any amendments.

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I rise on a point of order.

I was at the committee when the minister appeared. In no way did I understand that she would not accept amendments to the bill.

The Hon. the Speaker: I am not sure it is a point of order — please give me a little time, honourable senators. In the meantime, I believe Senator Kinsella wishes to speak to the point of order.

Senator Kinsella: Honourable senators, I heard nothing from the Honourable Deputy Leader of the Government to indicate even in a minimal fashion that there is any point of order.

Hon. Lowell Murray: Honourable senators, I should like to ask Senator Di Nino whether he recalls the committee considering the various recommendations made in the three reports of special Senate committees on terrorism and security matters, generally. The honourable senator may recall that the special committees were quite explicit in some of their analysis and recommendations concerning refugee determination.

Also, on the question of the definition of a security risk, the committees pointed out in several reports that there was a material difference between the definition of security risk in the act setting up the Canadian Security and Intelligence Service, on the one hand, and the definition of security risk in the Immigration Act. They seem to feel that the definition in the Immigration Act is much softer and that the two should be brought into line.

Senator Di Nino: Honourable senators, the reports were alluded to during the hearings. I am trying to recollect whether there were any specific suggestions that some of the provisions be incorporated into the bill. I do not recall.

On motion of Senator Roche, debate adjourned.

CANADA SHIPPING BILL, 2001

THIRD READING—DEBATE ADJOURNED

Hon. Catherine S. Callbeck moved the third reading of Bill C-14, respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts.

She said: Honourable senators, it is a great privilege to begin third reading debate on Bill C-14, the Canada Shipping Act, 2001. This bill establishes the legal framework that focuses on safety and environment, both of which remain high priorities for Canadians.

This bill is about balance. During the consultation process leading to this bill, the government heard from many different interests representing many conflicting points of view. As well, both the Senate committee and the House of Commons Standing Committee on Transport and Government Operations have heard from organizations representing a broad spectrum of opinion as to what laws should be applied and the need to enforce them. These organizations included the Canadian Maritime Law Association, the Canadian Shipowners Association, the Canadian Yachting Association and the Canadian Shippers' Council.

Let me emphasize that the organizations that appeared before the Standing Senate Committee on Transport and Communications generally support the bill. They expressed their appreciation for the government's openness throughout the reform process and its willingness to consult with the industry.

Despite the general support, some organizations did have concerns about particular aspects of the bill, and these were relayed to the committee. As mentioned in our report, the committee considers the bill to be a much-needed update of outdated shipping legislation.

Although the committee reported the bill without amendment, we brought forward some observations. The committee acknowledges that regulations which will be developed over the next several years are an integral part of the legislation. As such, it is vitally important for both the Department of Fisheries and Oceans and Transport Canada to continue to involve marine stakeholders during the development of these regulations.

We have been assured by the department that the main concerns of the committee will be addressed by these regulations. The committee's primary concerns have to do with the safety of pleasure craft, the pollution of waterways and the new enforcement scheme.

Under the Canada Shipping Act, 2001, matters related to non-pleasure craft will be the responsibility of Transport Canada, while those relating to pleasure craft will be the responsibility of the Department of Fisheries and Oceans.

A recreational vehicle that is occasionally used for commercial purposes must meet the commercial safety standards while being used for this commercial purpose. The committee had considerable concern about the ability of pleasure craft owners to maintain an occasional commercial operation. However, the committee is satisfied that its concerns have been properly noted by the department and that the department will continue to meet with interested parties in working out the best solution via the regulations.

• (1450)

In the end, the changes to the legislation will ensure safety of passengers and of smaller commercial vessels that are not always used commercially. A person offering a service to the general public has obligations toward safety, and passengers must be able to have reasonable expectations of safety.

Another concern of the committee was the protection of the marine environment. Transport Canada and Department of Fisheries and Oceans officials have worked closely with all interested parties to develop and implement pollution prevention provisions that are modern and consistent with other domestic and international standards.

The penalties for non-compliance will act as deterrents and reflect those imposed in other legislation. The bill asserts Canada's resolve to not allow itself to be used as a dumping ground for ship-source pollutants. This legislation clearly delineates the current roles and responsibilities of Transport Canada and the Department of Fisheries and Oceans when it comes to pollution prevention and response.

However, even if the roles are defined, the department must ensure that adequate resources are available to monitor compliance with the bill and regulations.

The committee heard concerns from witnesses about changes to the on-water enforcement scheme. Enforcement of Canada's shipping provisions is fundamental to the overall safety of those who labour in the marine industry and for the protection of the marine environment.

Regarding enforcement, the committee expressed concern that jurisdictional issues must be made clear. The committee is satisfied that the proposed enforcement scheme that includes administrative penalties is suitable for the marine community. Administrative penalties are a more appropriate way of dealing with the majority of regulatory infractions. They are more efficient and cost-effective than the lengthy and expensive court system. The courts are reserved for more serious offences; that is, those that result in significant consequences or where administrative enforcement tools have been ineffective.

Honourable senators, the bill before us represents an essential milestone. It will bring about much-needed change in Canada's marine law. It will usher in a new era of marine safety and environmental protection. This focus, combined with a broader range of enforcement tools, enhances Transport Canada's marine safety enforcement role.

In conclusion, the committee is pleased with the Canada Shipping Act, 2001, but encourages further consultation with interested stakeholders at the regulation stage. This is to ensure that the rules governing the day-to-day boater, as well as the larger vessel, are completely appropriate for the different users of our waterways. We also asked, as mentioned earlier, that the

[Senator Callbeck]

public be educated about the changes to the legislation and better informed as to the jurisdictional authority of those enforcement officers patrolling the waterways. Finally, as we mention in our report, we look forward to both departments providing the committee with a progress report on this bill in two years.

On motion of Senator Oliver, debate adjourned.

THE SENATE

COMMITTEE OF THE WHOLE—REPLACEMENT OF
SEA KING HELICOPTERS—APPEARANCE OF OFFICIALS ON
PROCUREMENT PROCESS—MOTION IN AMENDMENT—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion, as amended, of the Honourable Senator Robichaud, P.C., seconded by the Honourable Senator Finestone, P.C.:

That at 3:00 p.m. on Tuesday, October 30, 2001, 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,

And on the motion in amendment of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Forrestall, that the motion, as amended, be further amended by adding after "maritime helicopters" the following sentence:

"And upon completion of this briefing to adjourn to the call of the Chair to hear further witnesses on matters pertaining to the maritime helicopter procurement process, in particular, Colonel Lee Myrhaugen, retired; Mr. Peter Smith, President of the Aerospace Industry Association; Staff Admiral G. Garnett, former Vice Chief of Defence Staff; Lieutenant General George MacDonald, Vice Chief of Defence Staff; and General L.C. Campbell, Chief of Air Staff and such other witnesses as the Committee may decide are necessary to determine the fairness and equity of the maritime helicopter procurement process as developed by the Government of Canada."

Hon. J. Michael Forrestall: Honourable senators, I wish to first of all thank the Leader of the Government in the Senate for taking this extraordinary step. It does not happen very often. When it does, I think all senators hope that it is fruitful and not a waste of the Senate's very valuable time.

I thank even more the Leader of the Opposition in the Senate for his amendment with respect to the number of witnesses that we would like to call.

Honourable senators, I am sure this was a difficult decision for the Leader of the Government. I am sure she had somewhat of a battle on her hands, persuading people in the Prime Minister's Office to even consider bringing forth what we now know to be a pretty sterile motion, allowing only for relatively low-level briefings over a couple of hours by officials on the Maritime Helicopter Project. No doubt Mr. Jeffrey Simpson will have a new chapter for his book on Prime Minister Chrétien, which we now know to be titled *The Friendly Dictatorship*.

Honourable senators, the motion before us is far less than what was asked for and what we expected. No ministers will be present to answer questions. No ministers will be asked why. No senior officials of Public Works and Government Services or the Department of National Defence will be present. Instead, we have the Assistant Deputy Minister of National Defence, Alan Williams. I do not call that particularly high level. He was formerly the ADM of Public Works and Government Services Canada. There will be no military witnesses whatsoever.

In addition, we have Ms Jane Billings, the Assistant Deputy Minister of Public Works and Government Services Canada, but again no senior officials from that department: no minister, no deputy minister.

Honourable senators, in addition to that, we have no witnesses. Apparently, we are not allowed to call witnesses, including Friends of Maritime Aviation. We cannot call Colonel Myrhaugen, who could shed much light on the difficulties that now surround the Sea King replacement program. We have no officials from the Naval Officers Association, as they are excluded by this motion. There is no representation from the aerospace industry. The Aerospace Association of Canada will not be called, again, because it is excluded. The list could go on of witnesses excluded from testifying before the Senate committee. Senators, we must ask why.

Unfortunately, we have a motion that I suppose can best be described as a *Muppet Show*. You can almost hear the young career civil servants saying, "Dance while I twiddle your thumbs in this regard."

This is not acceptable. To me, it is somewhat offensive. Nor is it acceptable to the families of those men and women who are currently making their way toward the Arabian Sea and other destinations to prosecute an undertaking of some concern to every free, caring person on the face of this globe.

• (1500)

This will not be an investigation of the procurement process by the Committee of the Whole of the Senate of Canada. It will be an hour and a half or two hours on Tuesday, October 30, probably at six o'clock when the day's work is done. The press, who are never here in any case, will not be here under the threat of mortal sin. We will be talking to ourselves.

I will return to Senator Lynch-Staunton's amendment, which gives us more substance. It is to his motion that I direct my plea to all honourable senators for support.

I do not blame the Leader of the Government, as I said. Well before this motion was placed, I was informed that at least one Liberal was telling people from outside of Parliament, members of one of the helicopter companies, that these would be low-level briefings and that they would ram — I lift that word directly — this matter through the Senate. Heaven forbid that we try to get at the truth, try to have witnesses in front of us to tell us the sad history.

Honourable senators, do you know where the Prime Minister was when the Sea King replacement project started? He was a member of the Trudeau government in 1978, 23 years ago.

Let me give honourable senators one example of this government's fear of the Sea King replacement project. In February or March of this year, five Cormorant EH-101 search and rescue helicopters sat on the tarmac in Italy waiting for this government to take delivery. Crews were trained while these machines sat idly by, again waiting for Canada to take delivery. Two, we learn, were recently delivered, hopscothching across Canada, the roof of the world, in the dead of night so as not to be spotted and are currently on the West Coast. Why did we not welcome them? Why was there no fanfare? Usually, when we buy a multi-billion dollar piece of equipment, it is met with brass bands and plenty of the other kind of brass to trumpet its arrival. No such thing took place this time. The Prime Minister can play golf when we go to war, but everyone in Ottawa was too busy to welcome our new Cormorant EH-101 search and rescue helicopters. No one turned out to welcome them. Indeed, no Canadians, other than a handful in the Canadian military and one or two air traffic controllers, knew of their presence in Canadian airspace.

We now know that seven additional Cormorants are sitting on the tarmac in Italy, again, with fully trained crews. These planes are ready for Canada to take delivery. I will not get into the controversy about the capacity of the Sea Kings to hover in heat. They cannot hover in heat very long because they are ancient and cannot sustain the weight of anti-submarine warfare, self-defensive warfare equipment. That is part of their makeup.

The Cormorants would not have had any trouble at all. They could have been fixed up with defensive weapons systems very quickly, not the seven months that these planes have been sitting on the ground in Italy. We do not have them. I suppose it could be suggested that the Prime Minister is so embarrassed about the Sea King and the Cormorant that he does not quite know what to do about it.

One cannot help but draw the inference that government officials, in the eight- to ten-hour days they put in at work, do not have much time for Canada's military capabilities. Clearly, there is no evidence, certainly not from the Minister of National Defence, that anyone cares about our service personnel or Canadians, generally, in need of good search and rescue helicopter capability. This is the Liberal Party. The Minister of National Defence, the parliamentary secretary and at least one senator have ripped their retired senior officers for speaking out. The suggestion is that the former senior serving officers gain a conscience only when they leave the service and start to draw their pensions. I say shame. This is contemptible.

What of democracy, honourable senators? Do military Canadians of the highest rank, once they have left the military, pass through a period of silence that they are obliged to keep? If they have a conscience, do they not have a right to speak out about what concerns them? Do they not have an obligation to speak? These men and women who know the currency of what is going on with respect to the replacement are national heroes like General MacKenzie, General Belzile and others. Are they not responsible Canadians? Does someone suggest they are not caring Canadians or do not know what they are talking about? Does someone suggest we should not listen to them? I hope not.

Thankfully, Senator Lynch-Staunton has brought forward the names of a few witnesses who could, if called, shed some light on this troubled program. Vice-Admiral Garnett and Lieutenant-General MacDonald are critical witnesses that the Senate, in my judgment, must hear from. For the sake of fairness and getting at the process that we are mired in now, they should be heard. They control the money for the program, and they must be heard to give these hearings any degree of credibility.

As well, out of common sense and decency, the government must hear from the president of the aerospace industry of Canada. To not hear from him is to leave a big gap in Canadians understanding where this process has gone astray.

Honourable senators, I ask that you think carefully over the next few minutes about whether two relatively low-level witnesses can do justice to exposing the problems that have plagued the replacement of the Sea King helicopters for 25 years now.

• (15:10)

I ask honourable senators to recall the words of Edmund Burke:

The only thing necessary for the triumph of evil is that good men do nothing.

If we as good men and women do nothing to shed light on the procurement of helicopters to replace the Sea Kings, then we will have allowed evil to take a bit of a step. Now more than ever we should shed some light. God knows, I am sick and tired of non-answers. We almost had words today with the Leader of the Government in the Senate. In my 37 years of Parliament, I have asked many questions. Go back and look at my record in the House of Commons. I have received many answers on the Sea King issue.

I believe the Leader of the Government is trying but I wish we knew how to help her try harder. She is not well briefed. We are not getting the answers that we need. That is why we are here today, watching, some of us eagerly — as are thousands of Canadian service personnel — to see what we do in Committee of the Whole on Tuesday, October 30.

The Hon. the Speaker: Senator, I wish to advise that your 15 minutes have expired.

Senator Forrestall: That is enough.

[Senator Forrestall]

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I wish to emphasize the key part of Senator Forrestall's presentation. If the Committee of the Whole limits itself to listening to only two government-sponsored witnesses, we can pretty well anticipate the answers we will get to certain questions. We can anticipate, too, that we will not get any answers to some key questions. They are not equipped, from what I know of their backgrounds, to explain to us the reasoning behind the decision of the government to engage in the current unusual bidding process.

We will do our best to be objective in our questioning of the two, but I can tell you that we have some grave doubts that we will come out of it with any more information or clarification than we have now. That is why I ask all honourable senators to support this amendment. There are no controversial figures who are being proposed as additional witnesses. They are all either currently involved in a practical manner in the helicopter issue or they have been in the past. They are senior military officials and retired military officials; one is responsible for the association that represents all the potential bidders as we know them. They can bring to our deliberations some intelligence and some explanations that the two officials who will appear here on Tuesday cannot provide.

Our deliberations next week, if limited to two officials, one from Defence, one from Public Works, will be restricted and, I am afraid, not very productive. I appeal to honourable senators: If we want a complete assessment of the helicopter bidding process, it is essential that we expand the witness list. We can start by supporting the amendment before us.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Those in favour of the motion in amendment please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "nays" have it.

Senator Kinsella: On division.

Motion in amendment negated, on division.

MOTION IN AMENDMENT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, we are back to the main motion. Though we have indicated our disappointment with the process, nevertheless, we will be here on Tuesday in Committee of the Whole.

I have a technical matter to deal with. There is an agreement to have the Committee of the Whole televised, but we need a motion adopted by the Senate to that effect. Therefore, I move, seconded by Senator Atkins, that:

The motion be amended by replacing the period at the end of the motion with the following:

; and that television cameras be authorized in the chamber to broadcast the proceedings of the Committee of the Whole with the least possible disruption of the proceedings.

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

Hon. Senators: Agreed.

Motion in amendment agreed to.

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

Hon. Senators: Agreed.

Motion agreed to.

FEDERAL NOMINATIONS BILL

SECOND READING—DEBATE CONTINUED—
POINT OF ORDER—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Stratton, seconded by the Honourable Senator Cohen, for the second reading of Bill S-20, to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions.—(*Honourable Senator Robichaud, P.C.*)

The Hon. the Speaker: Honourable senators, before we proceed with Order No. 3, I am prepared to proceed with the outstanding ruling on this item today. However, it is rather long and may take more than the time we have left between now and the arrival of the Governor General's representative. We can either adjourn to the call of the Chair or proceed with the Order Paper and revert to this. Is it your pleasure to proceed with the Order Paper and revert after Royal Assent?

Hon. Senators: Agreed.

Order stands.

CANADA CORPORATIONS ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Norman K. Atkins moved the second reading of Bill S-30, to amend the Canada Corporations Act (corporations sole).—(*Honourable Senator Atkins*).

He said: Honourable senators, it gives me great pleasure to rise today to speak in support of Bill S-30, which I tabled for first reading here in the Senate just before we rose for the summer break.

Bill S-30 is entitled “an act to amend the Canada Corporations Act” and it specifically deals with the concept of that ancient legal entity, the corporation sole. The purpose of this bill is to provide an administrative method by which corporations sole can be established or changed, rather than through the necessity of a specific bill being introduced here in the Senate and subsequently passed by Parliament.

The intent here is to put corporations sole on the same footing as other not-for-profit corporations, incorporated under the Canada Corporations Act. Note, however, this bill still gives the proponents of the corporation sole the option of proceeding by a bill introduced in the Senate if they so choose.

It is my belief that the necessity of Parliament being involved in the administrative matters of corporations sole has long since passed. I liken this evolution to the change in the way we dealt with divorces when they used to come before the Senate. Eventually parliamentary involvement was no longer necessary.

Historically, the corporation sole was a device designed to solve the legal problems associated with the holding of an ecclesiastical office and that office actually owning land and fixed assets.

• (1520)

As a result of the corporation sole, the church official — rector, bishop, et cetera — was considered to be a corporate entity and all property associated with the church was seen to be owned by the corporation, not by the individual church leader personally.

This facilitated the transfer of property, as it was the corporation that owned it, not the individual clergy person. For example, on the death of the clergy person, the property would not go to his personal successors but would remain in the name of the diocese. At the present time, the Canada Corporations Act does not allow for the incorporation of this type of vehicle through administrative action, as with other not-for-profit corporations. Therefore, Parliament must deal with each specific amendment to existing corporations sole statutes and is the only vehicle for the incorporation of new corporations sole.

As I said at the beginning of my remarks, I believe it is time we changed the method of incorporation.

Honourable senators, a number of states in the United States have enacted statutes that allow corporations sole to be dealt with in an administrative fashion. The State of California has a corporations sole statute. It grandfathers all existing corporations sole. It also provides an administrative mechanism whereby new corporations sole can be created and existing ones can be changed. It provides for continued existence, powers, dissolution if necessary, and disposition of assets upon dissolution. I believe it is time we streamlined this procedure and adopted a similar statute in Canada.

I understand that in the near future the government may be bringing in a new proposed non-profit corporation act. I would hope that this bill could lead the way in reform of the corporations sole part of that bill.

This bill addresses the legislative gap in the Canada Corporations Act by allowing, as an option, the incorporation of a corporate sole or changes to its original incorporation through administrative measures. It puts the corporations sole in the same position as other not-for-profit organizations incorporated without sheer capital. The corporations branch of Industry Canada, which is responsible for not-for-profit corporations, would take over the responsibility for dealing with corporations sole.

After this bill is enacted, if a corporation sole wanted to change its original incorporation documents to change its borrowing authority, as many have done in the last few years, all it will need to do is apply to Industry Canada for this authority.

It would seem to me, from an administrative point of view, that the corporations branch would have to establish the legitimacy of the application and that it would proceed as a paper transaction without the necessity of new legislative authority being given. On the other hand, if the group still wished to petition Parliament to change its incorporation documentation, that option is preserved under this bill.

I ask that honourable senators support the principle of this bill at second reading so that it may be sent to the Standing Senate Committee on Banking, Trade and Commerce for detailed study.

Before closing, I wish to thank our Senate law clerk, Mr. Mark Audcent, for his diligent work on this bill and for his attention to detail so that we have before us as comprehensive a bill as possible to deal with this rather arcane subject.

Hon. Eymard G. Corbin: Honourable senators, I wish to congratulate Senator Atkins for introducing Bill S-30. The honourable senator has, in my opinion, dealt quite adequately with the reasons behind this move. I intend to speak to the bill at a future date. Therefore, I will limit my remarks to that for today and move the adjournment of the debate.

On motion of Senator Corbin, debate adjourned.

The Senate adjourned during pleasure.

[*Translation*]

• (1540)

ROYAL ASSENT

The Honourable Louise Arbour, Puisne Judge of the Supreme Court of Canada, in her capacity as Deputy Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Acting Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bill:

[Senator Atkins]

An Act to amend the Customs Act and to make related amendments to other Acts. (*Bill S-23, Chapter 25, 2001*)

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

[*English*]

FEDERAL NOMINATIONS BILL

SECOND READING—DEBATE CONTINUED—
POINT OF ORDER—SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, as was agreed, we now revert to Senate Public Bills, No. 3, for purposes of a Speaker's Ruling.

On June 5, 2001, Senator Joyal raised a point of order with respect to Bill S-20, An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions, which was presented to the Senate by Senator Stratton. His contention was that because the bill seeks to establish compulsory procedures that ministers must follow when nominating someone to fill certain high-profile public positions, it would affect the prerogative of the Crown. Accordingly, the senator maintained that it appeared that Bill S-20 required Royal Consent.

[*Translation*]

Other senators made comments on the point of order. Senator Stratton suggested that the matter could be discussed in the Legal and Constitutional Affairs Committee for determination. Senator Kinsella felt that the authority of the executive is not ultimately impeded by the bill. He made the point that nowhere did it state that the purpose of Bill S-20 is to impede the authority of the Crown in exercising its appointment powers. Instead, the bill sets in place some measures to assure transparency in making various appointments.

[*English*]

I thank all honourable senators for their comments. Having taken the question under advisement, I am now in a position to make my ruling. I will begin by reviewing the parliamentary authorities, then examine the meaning of the prerogative, review the thrust of Bill S-20 and consider whether the prerogative is affected by it, and finally consider the nature of Royal Consent and the procedural consequences of it being required.

[*Translation*]

As honourable senators are aware, the Speaker does not give a decision upon a constitutional question nor decide a question of law. However, it is undoubtedly the duty of the Speaker to ensure that the proper procedure is followed even with respect to assessing bills that might require Royal Consent because the prerogative is somehow affected.

[English]

The obligation of the Chair to do this is admitted in our parliamentary authorities. Let me begin, however, with some references that explain when Royal Consent needs to be signified. Citation 726(1) of Beauchesne's 6th edition, for example, provides:

726.(1) The consent of the Sovereign (to be distinguished from the Royal Assent to Bills) is given by a Minister to bills (and occasionally amendments) affecting the prerogative, hereditary revenues, personal property or interest of the Crown.

Marleau and Montpetit, *House of Commons Procedure and Practices*, pages 643- 644 state:

Royal Consent...is taken from British practices and is part of the unwritten rules and customs of the House of Commons of Canada. Any legislation that affects the prerogatives, hereditary revenues, property or interests of the Crown requires Royal Consent, that is, the consent of the Governor General in his or her capacity as representative of the Sovereign.

Moreover, as is pointed out in Bourinot's *Parliamentary Procedure*, 4th edition, at page 413:

the consent may be given at any stage before final passage, and is always necessary in matters involving the rights of the Crown, its patronage, or its prerogatives.

[Translation]

As well, I also note with interest what the Leader of the Government in the Senate said with respect to the reasons for which Royal Consent was obtained for Bill S-34, Royal Assent Act, which is now before one of our committees. Senator Carstairs stated on page 1380 of the *Debates of the Senate* of October 4, 2001:

[English]

As Dicey's classic work *The Law of Constitution* states, it is a long standing parliamentary practice, politeness and civility to obtain royal consent in advance to any bill which might affect the royal prerogative or interest, whether the bill is in relation to the prerogative or not. In keeping with this practice, the government sought, obtained and has declared in this chamber royal consent to proceed with Bill S-34.

Two commonly used definitions of the prerogative are those of Blackstone and Dicey. Blackstone describes it as:

that special pre-eminence which the King hath, over and above all other persons, and out of the ordinary course of the common law, in right of his real dignity.

For his part, Dicey viewed the prerogative as the residue of discretionary power left in the hands of the Crown. Consequently every

Act which the executive government can lawfully do without the authority of an act of Parliament is done in virtue of this prerogative.

While the prerogative is obviously an important consideration in the United Kingdom, it is not without significance in Canada as well. According to Paul Lordon, Q.C., author of *Crown Law*, at page 61:

As a general rule, the prerogative of the Crown in Canada exists to the same extent as in England. The *Constitution Act, 1867* did not detract from or in any way affect its form or content.

At page 71:

In Canada, prerogatives are exercised by the Governor General at the federal level and by the Lieutenant-Governor in each province. As members of the Privy Council, the Prime Minister and other ministers also have some powers of the nature of prerogatives.

• (1550)

Turning now to Bill S-20, there is no doubt that its object is to legislate with respect to the appointment process for certain public positions. The bill proposes to establish a committee of the Queen's Privy Council to develop selection criteria and procedures, that is, a process to identify and assess candidates and to provide for a review by the Senate of these appointments. Nominations to the position of Governor General, Chief Justice of Canada, Speaker of the Senate, lieutenant governor of a province, commissioner of a territory, and to the Supreme Court of Canada and the Senate, must be reviewed, while appointments to the Federal Court of Canada and to other superior courts of the provinces may be reviewed.

[Translation]

I must note, however, that the bill seems carefully structured not to change the power of the Sovereign or of the Governor General to make appointments directly. Its scope is limited to governing the actions of their advisors in recommending appointments to be made.

[English]

Of particular concern to Senator Joyal, when he raised his point of order, was the matter of the appointment of the Governor General because it is an appointment that is made by the Queen.

In my view, it is a direct exercise of the Royal Prerogative. According to Hogg, *Constitutional Law of Canada*, second edition, at page 10

...the Crown possessed certain prerogative legislative powers over British colonies. These powers are mainly of historical interest for Canada today; but...the office of Governor General still depends upon a prerogative instrument.

This prerogative instrument is the Letters Patent Constituting the Office of Governor General, 1947, which is still in force.

I conclude, therefore, that, at least with respect to the office of the Governor General, Bill S-20 is about a matter involving a prerogative of the Crown.

[*Translation*]

This conclusion leads to the next question: does Bill S-20 “affect” the prerogative, that is to say, the exercise by Her Majesty of the prerogative power to create the office of Governor General. The passages from Beauchesne and Marleau and Montpetit mentioned that the prerogative must be affected for consent to be required.

[*English*]

Under the conventions developed under our Constitution to provide for representative government, the Sovereign acts on the advice of the Prime Minister. Conventions are not legal rules, in that conventions are not capable of enforcement in the courts. However, the letters patent provide that the Governor General is to be appointed by commission under the Great Seal, which means that the signatures of the Sovereign, the Prime Minister and the Registrar General are all required on the commission to appoint a Governor General.

Therefore, until the 1947 letters patent are amended or revoked, the participation of the Prime Minister in the naming of a Governor General is required in law. Furthermore, since the appointment of a Governor General is an exercise of the prerogative, and since the participation of the Prime Minister in an appointment is necessary, the Sovereign is legally entitled to the advice of the Prime Minister on the exercise of Her rights.

The operation of Bill S-20 could give rise to situations in which Her Majesty would be deprived of the ability to make an appointment on advice. I conclude that Her exercise of the prerogative is affected in that, while the bill may preserve the prerogative, it would have an impact on its exercise.

Having now arrived at the conclusion that Bill S-20 affects the prerogative, I must conclude that it requires the Royal Consent. However, what is the Royal Consent?

Marleau and Montpetit state the following on page 644:

It may be given in the form of a special message, but normally it is transmitted by a Minister who rises in the House and states: “Her Excellency the Governor General has been informed of the purport of this bill and has given her consent, as far as Her Majesty’s prerogatives are affected, to the consideration by Parliament of the bill, that Parliament may do therein as it thinks fit.”

In the case of Bill C-20, the Clarity Act, in the last session, and Bill S-34 in this session, a variation was used.

[*Translation*]

There is no known example in Canada of consent being refused. This raises the issue of whether a convention may have evolved here that consent will be granted, making the request for

[The Hon. the Speaker]

it a formality. The alternative is that, by operation of an advice that consent will not be forthcoming, Parliament could actually be prevented from debating a legislative measure that members considered to be in the public interest.

[*English*]

A possible reason to refuse consent may be to prevent debate. However, note should be taken that consent does not mean endorsement. Marleau and Montpetit note at page 644 the following:

The fact that the Crown agrees to give consent does not, however, mean that it approves the substance of the measure: it merely means that it agrees to remove an obstacle to the progress of the bill so that it may be considered by both Houses, and ultimately submitted for Royal Assent.

I should like to draw the attention of honourable senators to a precedent from Westminster where the Queen’s Consent, what we term Royal Consent, was required for a private member’s bill. This bill, entitled “Crown Prerogatives (Parliamentary Control) Bill,” was proposed by a backbencher, Mr. Tony Benn, and sought to provide a parliamentary role to the exercise of a whole range of prerogative powers. The object of the bill, as I understand it, was to subject these prerogative powers to the approval of the House of Commons through an affirmative resolution. In the end, the bill was finally dropped from the Order Paper, but not before receiving the Queen’s Consent, signified by a minister of the Crown, when the bill was scheduled for second reading. This consent was given despite the fact that there was no indication at all of the government’s agreement to the bill. This highlights another important characteristic of Royal Consent. The fact that consent is signified or accorded to a bill does not necessarily mean that the bill is supported or approved either by the Crown or its advisers. Therefore, it is important to note that there is a tradition, at least at Westminster, that the government does not use its unique access to the Crown to limit debate, since it is not bound by convention to support matters that require Royal Consent.

Honourable senators, when this point of order was raised, I accepted to take it under advisement, but ruled at the time that, while the point of order was under advisement, debate on the bill might proceed. Now that I have ruled that consent is required, it continues to be the case that debate on the bill may proceed.

In support, I note the precedents where consent is given in one House to legislation originating in the other. Bourinot’s records an example of consent being signified in the House of Commons, rather than the Senate, to a Senate amendment to a Commons private bill. I also note Bill S-2, Bill S-6 and Bill S-25 in the Second Session, Twenty-fourth Parliament, which lasted from January 15, 1959 to January 18, 1959, where consent was signified to Senate bills in the House of Commons after the bills had passed the Senate. Royal Consent has also been signified with respect to House of Commons bills in this chamber: in 1951, just prior to second reading of Bill 192, an act to amend the Petition of Right Act, and most recently, on June 29, 2000, to Bill C-20, the Clarity Act, just prior to third reading.

[Translation]

In the 1999 ruling in this House, the Speaker noted that this was “an accepted departure from the practice at Westminster,” where consent is signified in each House, and also noted that “based upon the Canadian precedents, it would appear that there is no binding precedent that royal consent be signified in this Chamber.”

[English]

INTELLECTUAL PROPERTY RIGHTS OVER PATENTED MEDICINES

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Finestone, P.C., calling the attention of the Senate to three diseases which are sweeping the developing world and which draw many to ask whether intellectual property rights over patented medicines have not taken precedence over the protection of human life.—(*Honourable Senator Keon*).

• (1600)

Hon. Wilbert J. Keon: Honourable senators, I rise today to address Senator Finestone’s inquiry on the issue of the discrepancy between intellectual property rights and the accessibility to patent medicines to treat the debilitating diseases sweeping the underdeveloped countries: HIV/AIDS, tuberculosis and malaria, which claim the lives of some 4 million people annually.

I commend Senator Finestone for calling attention to a global issue that not only threatens the social and population balance in poor, developing countries of Africa and South Asia, but one that may have direct repercussions in our own country very soon.

Since the terrible, tragic events of September 11, the public’s concern to protect themselves from bioterrorist attacks has been very strong. While bioterrorism does pose an imminent threat, it is underlined by a fundamental principle of action that there needs to be an eradication of the global epidemic of infectious diseases for humanitarian reasons and for our own national security.

Along with the threat of anthrax, which is currently gripping North America, smallpox constitutes another arsenal of biological warfare that could wreak havoc if exploited by terrorists. While this disease was eradicated in early 1977, vaccines to treat this incurable disease are scarce. In January 1999, the World Health Organization voted to destroy all vaccines with the exception of two remaining official stocks — one in Pennsylvania, the other in Siberia.

I acknowledge our government for having to date stockpiled approximately 380,000 doses of smallpox vaccines which,

through dilution, could treat about 3 million people, as well as Minister Rock’s announcements of \$12 million in funding to battle bioterrorism. However, it is imperative that Canada enhance its capability to produce drugs in sufficient quantities to deal with such circumstances.

As reported in *The Windsor Star* this week, Dr. Donald Henderson, former Director of the WHO’s Eradication Unit, revealed that dropping an atomic bomb would cause casualties in a specific area, but smallpox could engulf the entire world. Globally, health officials claim that the disease was stopped because of rapid vaccinations and closing borders. In follow-up to the present crisis, the U.S. government has begun to stockpile vaccines available to its entire population.

While the current situation has led all North Americans to speculate on the nightmare scenarios concerning the spread of infectious diseases, this is what populations in the Third World have had to live with for decades on a daily basis and with no solution in view. Indeed, it is on a scale that is almost beyond our comprehension in this country.

Honourable senators, we are not only in a privileged and powerful position to ensure our own capabilities of containing and dealing with our own national health crises, but also one of pursuing and safeguarding global health objectives in the name of humanitarian and compassionate values that has long been enshrined in our foreign policy.

The affordability of medicines is only one of the problems facing poor countries. Inadequate and inequitable public spending on health infrastructure, weak planning, failure to prioritize preventive interventions and ineffective service provisions are also contributing factors. However, the price of basic medicines is a vital factor in determining public health, and Canada is in a position to contribute progressively to all these factors in alleviating the burden of these decimating diseases in underdeveloped countries.

Generic medicines, simply stated, are the most immediate and, in some cases, the sole options for poor people, as exemplified in India, where the vast majority of medicines used for the treatment of malaria, tuberculosis and pneumonia are generic. Referring to generic medicines, I would point out that 5 of our top 20 drug companies are generic companies, and we are not dealing with this issue of the interface between generic companies and the patent drug companies. Indeed, our government has had a very difficult time of late with this issue. It is something that will require careful thought and study in the near future. It is one area where I must say that we could stimulate Canadian industry and the production of drugs which these countries cannot afford anyway. We could make them in our own country and give them to some of our programs that are now in place.

Most underdeveloped countries are beset by gross price discrepancies and intellectual property rights. They simply cannot deal with this whole issue.

Millions of lives are at stake simply because these people cannot afford affordable life-saving medicines. In reiteration and support of the remarks of Senators Poy and Finestone, the protection of intellectual property rights must not override the public health concern, most importantly in terms of crisis and very special urgent circumstances as those experienced in the Third World at the present time.

Indeed, in times of crisis, patents could be waived as stipulated in our own national 1993 legislation on patents, as well as in Article 31 of the World Trade Organization Agreement on Trade Related Intellectual Property Rights, or TRIPS.

Honourable senators, I am in full support of a broad public health approach in the interpretation of the TRIPS agreement and in the strengthening of its safeguards. Under Article 31 of the agreement, governments can issue compulsory licences to authorize production without the consent of patent holders subject to adequate compensation. Another option available to government is that of parallel importing, whereby governments allow the importation of a patent product that is marketed elsewhere at prices lower than those in the domestic market. It is necessary that these safeguards are protected and strengthened by the international community, as well as in national legislation, just as the current public health emergency warrants.

On an equal note, it is just as imperative that we see to ensuring the quality in the production of generic drugs. This is a problem that I think is underestimated at the present time. There is no question that cheap generic drugs are available that are produced in countries where production standards probably do not meet Canadian standards. This must be taken into careful consideration also.

In consistence with our national principles and international human rights obligations, there must be consensus on the fact that the health crisis in many poor countries constitutes an international emergency. Under Article 31, WTO members may waive the requirement to seek voluntary licences in cases of such emergencies and other extreme circumstances. There is an urgent call to defend these provisions.

As a global health crisis looms over us, either in the form of bioterrorism or the fast spread of infectious diseases in the Third World, we must combine our current legislative tools and values to allow equitable treatment of all citizens. According to Oxfam, only 10 per cent of global research and development is directed toward illness that accounts for 90 per cent of the worldwide disease burden.

• (1610)

As Senator Kinsella said yesterday in his remarks, pharmaceutical companies undertake research at tremendous cost, recovered after a certain period of time, investments that are neither induced nor motivated in small, developing countries, whose markets are simply too small. As Canadians and lawmakers, we have at our disposal the framework to ameliorate these gaps and disparities.

[Senator Keon]

As I said earlier, we must continue to build upon our capabilities to produce sufficient amounts of drugs in times of crisis. I repeat: We must build on our capabilities to produce sufficient amounts of drugs in times of crisis. We are now dependent on a global network of drug production. Many of the drugs that are vital to our own safety and survival cannot even be produced in our own country. We must address this, in addition to having strong partnerships with the private sector, so that everyone is aboard in this endeavour.

The legislation is also in place to respond to urgent situations and to waive certain patents. This is done by the minister responsible for CIDA, who has the right to make an application to have the patent set aside during intervention on the national level, as well as within the WTO-TRIPS agreement, where it is essential to have full international consensus and cooperation in recognizing and responding to these public health emergencies.

Honourable senators, the stakes are high in our own country, and they are dangerously high in sub-Saharan Africa. Whether we are dealing with the threat of bioterrorism, or sustaining our health system with soaring drug prices, or addressing the AIDS, TB and malaria epidemics that have afflicted the developing world, there is an extremely urgent need for us to address these issues in collaboration with our other global partners.

Hon. Senators: Hear, hear!

On motion of Senator Fraser, debate adjourned.

CONDEMNATION OF TERRORISM

MOTION—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Pépin:

That the Senate:

- Considering Resolutions 1368 and 1373 adopted by the Security Council of the United Nations on September 12, and September 28, supporting initiatives to eradicate international terrorism that threaten peace, security, human rights and freedoms and the political order of the free and democratic society;

- Considering that in its special session of October 2, 2001, the North Atlantic Council determined that “the attack against the United States on 11 September was directed from abroad and shall therefore be regarded as an action covered by Article 5 of the Washington Treaty, which states that an armed attack on one or more of the Allies in Europe or North America shall be considered an attack against them all”;

- Condemn unequivocally the use of violence and terrorism to overthrow the democratic order and the elimination of human rights and freedoms;

- Support the decision of the Government calling upon the Canadian Armed Forces on active service to join the international campaign against the perpetrators of the terrorist attacks of September 11;

- Express its preoccupation that humanitarian support be given to the civilians affected by that campaign;

- Express its urgent concern that the authors and supporters of those terrorists attacks are brought to justice accordingly;

- Express its strong belief that it is through negotiation and peace settlement that legitimate claims of the States should be dealt with in the International Order; and

That upon adoption of this motion, the said motion should be deemed referred to the Standing Senate Committees on Foreign Affairs and Defence and Security for study and report back to the Chamber in the next 30 days.—(*Honourable Senator Stratton*).

Hon. Douglas Roche: I wish to advise the Senate that Senator Stratton gave his consent for me to proceed with my own contribution to this motion.

Honourable senators, the motion brought forward by Senator Grafstein displays, once again, his erudition and desire to lift up Senate debate to address the paramount issues of our time.

There is no doubt that the horrific attacks of September 11 have changed the world. The question I wish to place before the Senate is this: Has our thinking been changed?

The motion rightly begins by referring to the United Nations Security Council's resolutions 1368 and 1373, adopted on September 12 and 28, supporting initiatives to eradicate international terrorism that threatens peace, security, human rights and freedoms and the political order of the free and democratic society.

The relentless bombing of Afghanistan, now in day 18, goes beyond the intent of resolution 1368. When the Security Council gave its assent "to take all necessary steps" to respond to the September 11 attacks, it did not approve a bombing campaign that would kill innocent civilians in their Afghan villages, drive 70 per cent of the people in Herat, population 800,000, out of their homes, kill 10 civilians today on a bus at the city gates of Kandahar, and destroy a Red Cross warehouse, among other unfortunate acts of what is dryly called "collateral damage."

It may seem comforting to say that civilians are not targeted, but it is not "collateral damage" when thousands of refugees fleeing the bombs are jammed along the Afghanistan-Pakistan border in unspeakable conditions. UNICEF warns that the crisis "is threatening the lives of millions of women and children," and that "1.5 million children may not make it through the winter."

Christian Aid, which reported that 600 people have already died in the Dar-e-Suf region of northern Afghanistan due to starvation and related diseases, says needy people are being put at risk by government spin doctors who are showing a callous disregard for life.

The bombing of Afghanistan, one of the most desperate and vulnerable regions of the world, is producing an international catastrophe. The bombing is immoral, unproductive, and only by the most dubious logic can it be said to possess even a shred of legality.

As Article 51 of the UN Charter makes clear, it is the Security Council that has the authority and responsibility to maintain or restore international peace and security. Let me emphasize that the bombing coalition, in exceeding the exercise of the right of self-defence, which gave a legal cover to the bombing, has sidelined the legitimate authority of the Security Council to manage this crisis.

It is said that the invocation for the first time of Article 5 of the NATO Charter provides the legal grounds for Canada to give its support to the military campaign. The article provides the solidarity that an attack on one member will be considered an attack on all, and thus NATO can take the responsive actions it deems necessary.

However, where has it been proven that the Government of Afghanistan, despotic as it is, engineered or carried out the attacks on the World Trade Center and the Pentagon? It has yet to be confirmed that any of the 19 suspected hijackers comes from Afghanistan. Is the belief that Osama bin Laden, the terrorist leader, is in Afghanistan justification for imposing catastrophe on the entire populace?

Continued bombing is not what the United Nations intended. The bombing must stop now. Canada, to be faithful to its own values, must press the United States and its coalition partners to call a halt so that humanitarian aid can reach the desperate people of Afghanistan.

It is this kind of knee-jerk, military response to a crisis that worries thoughtful people today, people who understand that violence is not the proper or productive response to violence.

When I asked at the outset if this crisis can result in changing our thinking, this is what I meant. The very nature of the new world we have entered compels us to seek the building of enforceable international law as the means to human security in a globalized world. Continued recourse to the old instincts of militarism will lead to more violence and, in the age of weapons of mass destruction, to the wreckage of large areas of the planet.

Terrorism must be stopped, and stopped now, before the terrorists of the future acquire nuclear devices and set off a calamity that will make the New York-Washington attacks look small.

The UN Secretary-General told the United Nations General Assembly that, tragic as September 11 was, a single attack involving a nuclear or biological weapon could have killed millions. He called for a redoubling of efforts to ensure the universality, verification and full implementation of key treaties outlawing all chemical and biological weapons and for implementation of the Nuclear Non-Proliferation Treaty, which calls for negotiations to eliminate all nuclear weapons. Would that the United States, NATO, and, yes, Canada follow the Secretary-General's words with the same alacrity that they implemented a bombing campaign in Afghanistan.

I repeat, honourable senators: It is the utmost folly to think that we can end terrorism by trying to bomb terrorists out of existence. Our work, as the fullness of resolutions 1368 and 1373 explicates, must be undertaken with a new understanding of the world we live in.

It is this new understanding that the Canadian Pugwash movement, the Canadian affiliate of the Canadian Nobel Peace Prize-winning International Pugwash movement, has tried to advance in its statement issued October 20, 2001.

• (1620)

There it is pointed out that in 1945, as the Second World War was ending in Europe, the leaders of the victorious states met in San Francisco to save future generations from the scourge of war. The United Nations, now co-recipient of the 2001 Nobel Peace Prize, was the result. Since then, there has been a tragic succession of wars, the latest of which is the so-called war against terrorism.

Terrorists can potentially come from anywhere, live anywhere and strike anywhere that opportunity exists. Their cover lies in the society in which they live. Their weapons are tools taken from everyday life, and their targets are the people and institutions of society. Their power is to disrupt through fear, to provoke repression and to sever the links of peaceful commerce, setting state against state, nation against nation, race against race and people against people. Living among their victims, they present targets that cannot be eradicated with the firepower of armed forces. Other means must be explored.

Those, like Pugwash, who oppose the bombing, question these means of dealing with the terrorism problem because of the unintended consequences, including innocent civilian deaths, the radicalization of Arab youth, the destabilization of friendly states, and the danger that it will spread warfare along the cultural divide separating Islam from the West. Furthermore, the war in Afghanistan is of doubtful effectiveness. Now that the fighting in Afghanistan has begun, it has a life of its own with further escalation likely.

The road ahead must be trod with great caution with respect to reliance on the military approach. Much greater emphasis must be placed on non-military measures that will lay the foundation for a world free of the terrorist threat. Here, Canada must play a

[Senator Roche]

much greater role than what is outlined in Bill C-36, the anti-terrorist legislation.

Honourable senators, what we need is a global initiative to deter and punish terrorist acts in the present and future. This means developing an effective system of international criminal law in which individuals are held accountable before an impartial tribunal, such as the International Criminal Court. A prosecutor with strong powers of investigation and prosecution will be needed. It also means strengthening international treaties dealing with terrorism and weapons of mass destruction and developing the machinery for their effective implementation according to the due process of law. This will require a strengthening of the United Nations and its ability to define and shape the actions that are taken for the enforcement of international law, and to monitor and verify these actions so that they are done proportionately and in accordance with the UN Charter and international law.

In the aftermath of the bombing, a large and sustained effort will be necessary for the reconstruction of Afghanistan and the democratization of countries known to be supporting terrorist groups.

In order to "win the war" against terrorism, it is necessary to deal with the hatred and the sense of powerlessness upon which terrorism feeds. What we need is the patience and the resolve to diminish such hatred. This will require significant efforts to reduce inequity between peoples and individuals and to strengthen international mechanisms for protecting human rights. Furthermore, it means the subordination of narrow-minded nationalism in all parts of the world to the common interest, in a world where no person or nation is an island entire to itself, separate from the main. Global human society, with the United Nations as its meeting place, is where the future of mankind should be decided.

The Canadian government needs to develop the long-term means to deal with the roots of terrorism. This entails significantly increased resources, including a major enhancement of its financial commitment for development assistance, international peacekeeping, peacemaking and peace building. The government should ensure that the UN Security Council plays the lead role in response to terrorism around the globe. It should continue to work for a biological and toxin weapons verification protocol, for a cut-off of fissile material and for nuclear disarmament.

The work that began in 1945 must continue with a new vigour and commitment. It is time to convert the resources and habits of war to global justice and peace, to eradicate chauvinistic nationalism and bellicosity and to transform competition into cooperation in the global arena. The rule of law must govern the behaviour of states as well as individuals.

This is the work of the new 21st century, honourable senators. If it is done well, September 11, 2001, could mark a new departure point for a world free of the terrorist threat.

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

CABLE PUBLIC AFFAIRS CHANNEL

CLOSED CAPTIONING SERVICE—
INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Gauthier calling the attention of the Senate to the current negotiations on the renewal of the broadcasting agreement between the Senate and CPAC (the Cable Public Affairs Channel) to ensure that they include the closed-captioning of parliamentary debates authorized for television, and that the renewal of this agreement reflect the commitments made by CPAC on services for the hearing impaired.—(*Honourable Senator Kroft*).

The Hon. Richard H. Kroft: Honourable senators, I am pleased to participate in this inquiry in which Senator Gauthier has called the attention of the Senate to the current negotiations on the renewal of the broadcasting agreement between the Senate and CPAC, the Cable Public Affairs Channel, to ensure that it includes the closed-captioning of parliamentary debates authorized for television and that the renewal of this agreement reflect the commitments made by CPAC on services for the hearing impaired.

As I stated on October 2, 2001, as Chair of the Standing Committee on Internal Economy, Budgets and Administration, I intend to keep this chamber advised on the progress of our negotiations with CPAC.

On August 31, 2000, the Senate's agreement with CPAC, originally signed September 9, 1998, to broadcast Senate committee meetings, expired. On September 1, 2000, then chair of Internal Economy, Senator Rompkey, wrote to the Director General of CPAC proposing that the agreement continue until discussions with CPAC on a new agreement are completed. On September 1, 2000, CPAC replied that it agreed with this proposal. There was nothing in that agreement with respect to closed-captioning and broadcast of Senate committees by CPAC.

I can report that negotiations have been taking place between Senate officials and CPAC on a new agreement and that the issue of closed-captioning is one of the issues on the table.

As Senator Gauthier is aware, the CRTC issued broadcasting requirements in 1995 regarding closed-captioning. In a March 24, 1995, public notice communiqué, the CRTC dealt with a number of social issues regarding decisions to renew the licences of privately owned language television stations, including services to the deaf and hard-of-hearing. For large stations, specifically those earning more than \$10 million in annual revenues, the CRTC required licencees to closed-caption at least 90 per cent of all programming during the broadcast day by the end of their licence term. For medium stations, those earning between \$5 million and \$10 million, the CRTC only expected them to meet this requirement. For small stations, those earning under \$5 million, the CRTC encouraged them to meet this requirement.

CPAC is not a television station but rather a satellite-to-cable programming undertaking owned by members of the cable distribution industry. It is funded by its network affiliates and operated on a not-for-profit basis. It is, therefore, exempt from the CRTC requirements for closed-captioned broadcasting.

In its licence renewal decision for CPAC as described in Decision 95-22 dated January 20, 1995, the CRTC did raise the question of CPAC's services to the hearing impaired.

• (1630)

I should like to quote from that decision:

As part of its renewal applications, CPAC indicated that it will spend annually from \$30,000 in the first year to \$53,600 in the last year of the new licence term for services to the hearing impaired. CPAC will use line 21 of the Vertical Blanking Interval for closed captions and a text channel to support both captioned programs and program schedules. CPAC stated that the text channel will be operational by the end of the second year of the new licence term. A second audio program channel will be used for translation audio. CPAC also expects to have a full-time captioner on staff by the end of the first year of its new licence term. CPAC thus plans to increase its annual level of captioned programming to 632 hours by the end of its licence term. In addition, CPAC has indicated it will endeavour to obtain captioned programming from other sources whenever possible. A telecommunication device for the deaf (TDD) phone line will be installed during the first year of the new licence term, to be operational during regular business hours.

The Commission acknowledges the opposing intervention submitted by the Canadian Association of the Deaf with respect to access for deaf and hard-of-hearing persons to CPAC programming. The Commission is satisfied with the licensee's reply to this intervention. The Commission notes, however, that CPAC is not precluded by its agreement with the Speaker of the House of Commons from closed-captioning the programming that CPAC receives from the House pursuant to the agreement. Therefore, in view of the importance the Commission attaches to the issue of services to the hearing impaired, it encourages the licensee to increase significantly the closed-captioning of the programming which CPAC receives from the House of Commons.

These are the commitments CPAC gave to the CRTC. I am afraid I do not have all the details as to how well CPAC has fulfilled these commitments to date. I am informed that, by the end of the year 2000, it was budgeting \$87,000 for closed captioning which will result in the telecast of nearly 3,000 hours of captioned programming. Apparently it is their goal to have the entire prime-time network from 8 p.m. to 2 a.m. closed-captioned. An exact accounting of how well CPAC has implemented its promised services to the hearing impaired will perhaps be fully known when CPAC petitions to renew its broadcast licence which will expire August 31, 2002.

The Senate is also taking steps to improve its services to those with disabilities. These are described in the February 2000 report, "Accessibility for Persons with Disabilities — Action Plan." The document was adopted by the Internal Economy Committee on February 24, 2000, and by the Senate on April 13, 2000. This action plan, which was established in close association with representatives of the disabled community, has as its introduction the following:

Canadians have a right to participate fully in the affairs of the Senate. The following action plan sets out a blueprint for improving the participation of persons with disabilities. It has been developed to help dispel some of the myths about disabilities and to help break down barriers which could prevent full participation in the work of the Senate. The goal is to make the Senate of Canada a model of equality and one of the most accessible parliamentary institutions in the country.

It was in accordance with this policy that the Internal Economy Committee authorized technical assistance to the Senate chamber for senators with hearing disabilities. Since April 2000, our Senate Debates Branch has provided a one-on-one service to aid a hearing-impaired senator. This service, called CART, which stands for computer-assisted real-time translation, enables a senator to follow the proceedings in the chamber, committees and caucus as well as on special assignments related to parliamentary business.

Most recently, on October 4, 2001, the Internal Economy Committee adopted a request for Supplementary Estimates (A) that included an amount of \$93,000 to revamp its approach to CART. The purchase of new equipment will enable the Senate to, first, reduce substantially the use of one-on-one CART service and, second, provide a means to work toward completing a dual-language, closed-captioning service of committee meetings through the more effective use of computer technology. The Senate adopted our request for Supplementary Estimates on October 4 and we are now awaiting the actual appropriation bill from the House of Commons.

The Standing Committee on Internal Economy, Budgets and Administration has also taken note of the adoption by the Senate on May 16, 2001, of recommendations of the second report of the Standing Joint Committee on Official Languages, entitled "The Broadcasting and Availability of the Debates and Proceedings of Parliament in Both Official Languages." Recommendation 7 stated that:

Parliament take the necessary steps to making subtitling available in both official languages when the proceedings of Senate Committees are televised.

When the monies for this new equipment are approved, the transcribed text of the proceedings will be "streamed" to provide a text in real-time that can be used as subtitling. Since this is a new service, the period from January to June 2002 will be treated as experimental. Hearing-impaired senators will be asked for their evaluation and an assessment will be made of the quality of our in-house subtitling in comparison with established standards. Training needs will have to be taken into consideration.

[Senator Kroft]

While our negotiations with CPAC are still ongoing, preliminary discussions with their President and General Manager indicate that CPAC is ready to take closed-captioned broadcasts from the Senate. I have instructed our officials to demand that the following paragraph be added to the new agreement:

...that CPAC commit to running closed-captioning broadcasts of Senate Committee proceedings when provided by the Senate.

I intend to report back to the Senate at a later time on the results of our experiments with closed-captioning, as well as the status of our negotiations with CPAC. I thank Senator Gauthier for raising this inquiry.

Hon. Senators: Hear, hear!

Hon. Joan Fraser: Would the honourable senator accept a question?

Senator Kroft: Yes, if it is non-technical.

Senator Fraser: It is not technical. I am sure we are all very impressed by what the honourable senator said about what the Internal Economy Committee is doing. It sounds terrific. I was not aware of that and I think we can all be very proud of it.

Has the honourable senator determined in his contacts with CPAC how many of the hundreds of hours of closed-captioned programming that they intend to produce in prime time will actually consist of parliamentary proceedings? It had originally been my understanding that the prime purpose of CPAC was to show the Parliament of Canada to the people of Canada. Whenever I turn it on in prime time, I get talking heads — not our talking heads, not politicians. I get journalists and the like, pontificating on the affairs of the day, just as one does on *NewsWorld* or RDI or any of the other networks. Does the honourable senator know anything about this?

Senator Kroft: I thank the honourable senator for her question. Closed captioning is one aspect of a wider range of negotiations that are ongoing with CPAC. Two very positive things are happening from both sides of that negotiating table. First, CPAC is determined, quite impressively, to make their programming of public affairs more effective and more interesting and, therefore, probably to create a broader following among Canadians.

As part of our negotiations, we are pinning down both a discipline for ourselves and a commitment by them as to the number of hours that will be broadcast. The problem is that it is rather spasmodic now. We will end up in this agreement with a committed number of hours that we must provide to them.

They are just the conveyor of this service. The production of the programming is in our hands. We do this; we have control over which committees and other events we wish to cover. We will have an agreement that, optimistically, will meet both the needs of CPAC in providing interesting programming and the needs of the Senate.

Part of the problem is that we must commit enough hours so that they can schedule our work and not have to fill in with other programming that may not serve the Senate so well. That will be our time. We will have the job to fill it.

As far as the talking heads, CPAC has begun, and I think this will be expanded, to provide non-parliamentary programming whereby senators, for example, through an interview, a forum or a panel process, can relate to Canadians on matters of interest or preoccupations of the Senate and whatever we decide as programming.

We are now taking much more concern with the programming side of the business and they are concerned with delivering it.

• (1640)

Senator Fraser: In his continued dealings with CPAC, I would urge Senator Kroft to ask them to pay attention to the time of day at which they show not only our material but, for that matter, material from the other place. Last night, I turned to CPAC hoping to see something from one of the committees of either chamber that have been doing fascinating work this week, work of pronounced importance to Canadians in which there is high public interest, and I got talking heads. I used to be a talking head myself and have nothing against them. However, CPAC was not giving Canadians that kind of programming at a time when they might have been able to watch it.

Senator Kroft: We must be sensitive to the fact that some of the Senate material is rather racy for prime time.

On motion of Senator Corbin, debate adjourned.

ETHICS COUNSELLOR

MOTION TO CHANGE PROCESS OF SELECTION—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Oliver, seconded by the Honourable Senator DeWare:

That the Senate endorse and support the following policy from Liberal Red Book 1, which recommends the appointment of “an independent Ethics Counsellor to advise both public officials and lobbyists in the day-to-day application of the Code of Conduct for Public Officials. The Ethics Counsellor will be appointed after consultation with the leaders of all parties in the House of Commons and report directly to Parliament.”;

And that this Resolution be sent to the Speaker of the House of Commons so that he may acquaint the House of Commons with this decision of the Senate.—(*Honourable Senator Di Nino*).

Hon. Consiglio Di Nino: Honourable senators, I rise with a brief intervention in support of Senator Oliver’s motion made on April 3, 2001, regarding the appointment of an independent ethics counsellor. Over the past few years there have been a number of contentious incidents where a counsellor of this nature, responsible to Parliament and appointed in consultation with leaders of all parties, would have played a helpful and useful role in clearing the air.

Honourable senators, the reputation of Parliament and parliamentarians can only be enhanced by referring contentious issues of conduct by a parliamentarian to someone seen as impartial and beyond the influence of government. At a time when public opinion of parliamentarians is at such an unfortunately low ebb, Senator Oliver’s motion which, as he clearly stated, comes word for word from the Liberal Red Book, should be supported by everyone in this chamber.

To those honourable senators who were not here at the time of Senator Oliver’s wise and cogent remarks or who were here and are desirous of refreshing their memories, his words can be found in the Hansard of April 3, 2001, at pages 562 and 563.

Honourable senators, I intend to vote in favour of this motion and I urge all honourable senators to join me.

On motion of Senator Kinsella, debate adjourned.

[*Translation*]

LA FÊTE NATIONALE DES ACADIENS ET ACADIENNES

DAY OF RECOGNITION—MOTION—DEBATE ADJOURNED

Hon. Rose-Marie Losier-Cool, pursuant to notice of October 4, 2001, moved:

That the Senate of Canada recommend that the Government of Canada recognize the date of August 15th as Fête nationale des Acadiens et Acadiennes, given the Acadian people’s economic, cultural and social contribution to Canada.

She said: Honourable senators, the purpose of the motion I am pleased to bring forward today is to recommend to the Government of Canada that it recognize the date of August 15 as the Fête nationale des Acadiens et Acadiennes.

The purpose of this recognition on the part of the Government of Canada is to ensure that the Acadian people’s economic, cultural and social contribution is promoted and appreciated within Canadian society.

My remarks today will focus on the economic contribution of the Acadian people within the Acadian community. However, first, why such a day and why on August 15? The fête nationale of August 15 is celebrated each year by thousands of Acadians in Acadia, Canada and wherever there are people of Acadian descent.

The first Acadian National Convention was held in Memramcook, New Brunswick, in 1881. The Société nationale l'Assomption, which is an organization dedicated to protecting the rights of Acadian society, was founded on that occasion. It still exists today under the name of the Société nationale de l'Acadie, and it remains a strong voice for Acadian communities from the Atlantic region.

The Acadian national conventions of the end of the 19th century debated a number of issues, such as the lack of education in French, the exodus of Acadians to anglophone urban centres in the Maritimes or in the U.S., and the lack of Acadian representation in political, religious and other structures. In all, 16 national conventions were held, the last one in Edmundston in 1979.

It was in Memramcook, in 1881, that August 15 became the date of the fête nationale des Acadiens and that Our Lady of the Assumption was chosen as the patron saint. In 1955, during the celebrations marking the bicentennial of the deportation, the Archbishop of Moncton and a number of Acadian parishes from New Brunswick asked people to stand outside their homes at 6 p.m. on August 15, when all the bells would ring at the same time, to say a prayer and then to make noise with various objects, including pots and pans, musical instruments, horns, et cetera. This was the first organized tintamarre! Such tintamarres now take place in every corner of Acadia, from Saint-Quentin, in New Brunswick, to Saulnierville, in Nova Scotia, not to mention the most famous one in Caraquet, New Brunswick, where over 20,000 people gather and march in the streets to celebrate August 15. Numerous cultural events are held on August 15, including plays, concerts, festivals, et cetera. A growing desire to develop a sense of pride and ownership of their language, culture and customs has spurred Acadians into setting up institutions that reflect their values.

Thus, in 1903, in Waltham, Massachusetts, the Société mutuelle l'Assomption, now known as Assumption Life, was founded by Acadians living in the United States. It was a fraternal society to rally all Acadians under one flag, to assist members who were ill, to provide financial support to the heirs of deceased members and to help preserve the religion, language and customs of Acadians. In 1913, the head office moved to Moncton, New Brunswick, in Canada. In 1968, the society was converted into a mutual life insurance company and, in 1972, the company built a large head office building in downtown Moncton.

• (1650)

Over the years the company continued to expand, extending its market and introducing new products specifically designed for its target market, the Maritimes, Quebec and New England.

However, the company never completely abandoned its first calling, which was to protect the economic and social welfare of the areas in which it did business. Through one of its subsidiaries, the Assumption Foundation, Assumption Life provided more than \$3 million in scholarships and assistance for teaching missions over the years. It also helped establish a Chair

[Senator Losier-Cool]

in administration at l'Université de Moncton, and provides financial support for various social and cultural projects.

Today, Assumption Life is more than a mere life insurance company. It provides a wide range of financial services, including mortgage loans and investment funds.

The first French-language caisse populaire in New Brunswick was founded in Richibuctou in 1916. In 1946, Acadians took the steps that led to the founding of the Fédération des Caisses populaire acadiennes.

This important event was followed, over the years, by other cooperative and corporative organizations. Today, total assets are in excess of \$1.6 billion, with 32 cooperatives and 77 caisses populaires, along with 11 service centres. The 200,000-plus members of Acadian caisses populaires have collectively shaped the Acadian and French-language communities of New Brunswick, working together to build a strong, prosperous and progressive Acadia.

Acadian entrepreneurship is particularly evident in southeastern New Brunswick and in the Acadian region of Shediac-Kent, where more than three-quarters of businesses are Acadian-owned. Sixty percent of these have fewer than five employees. There are so many cooperatives in the Évangéline region of P.E.I. that it has proclaimed itself the world co-op capital.

Economic Acadia comprises 7,088 entrepreneurs, more than 1,000 of whom are members of the Conseil économique du Nouveau-Brunswick, an association working to encourage the economic development of the francophone population. In addition to lobbying governments, this organization also acts as a voice for the French-language business community of New Brunswick and is one of the prime movers in the economic sector.

The Conseil provides economic development coordination workshops, and carries out studies and consultations, as well as providing its members with continuing education and a broad range of services.

The Acadia of the Maritime provinces, traditionally dependent on natural resources in forestry, fisheries and agriculture, is now turning to new information technologies, ecotourism and other promising sectors for the future.

New Brunswick's expertise in information technology was recognized worldwide in 1995 at the Sommet de la Francophonie in Cotonou, Benin. The heads of government of the Francophonie decided to establish the Centre international pour le développement de l'inforoute en français in Edmundston, New Brunswick.

Tourism took an unprecedented leap forward in Atlantic Acadia in the 1990s. Acadian regions are in the process of catching up, making up for the lag that had developed in their tourism infrastructures. The recent growth in tourism has created thousands of jobs, both direct and indirect.

The Village historique acadien in Caraquet, the Pays de la Sagouine, the Bouctouche dunes, the Jardins de la République and the New Brunswick Botanical Gardens, the historic site of Grand-Pré, the historic fortress of Louisbourg in Nova Scotia, the Évangéline region of Prince Edward Island, to name but a few, are Acadian tourist sites attracting thousands of tourists annually and contributing to the economic development of the Atlantic provinces.

I would also mention some Acadian business successes which are still going strong. Pizza Delight, a company founded by two graduates of the Université de Moncton, Bernard Imbault and Roger Duchene, generates annual revenues of over \$50 million and now has more than 150 franchises in the Atlantic provinces, Quebec and Ontario, in addition to having created over 2,000 jobs in Atlantic Canada alone.

Comeau Sea Foods Ltd., in Saulnierville, Nova Scotia, was founded in 1946 by two Acadians, Bernardin and Clarence Comeau. This Acadian company, which employs more than 1,000 people, has carved out a spot in the international market with its fresh and frozen seafoods.

These are just two examples among many of Acadian businesses which have distinguished themselves by their know-how and entrepreneurial spirit. By the way, the first hotel minibar was installed here in the Westin Hotel in 1981, the initiative of an Acadian by the name of Claude Savoie, from New Brunswick.

In recent decades, New Brunswick's francophone economic engine has developed largely because of young Acadians' access to post-secondary education. L'Université de Moncton has played an important role in the training of young Acadian leaders. Incorporated in 1963, the university is now the largest entirely French-language university in Canada outside Quebec.

Its three campuses, Edmundston, Moncton and Shippegan, have already educated 35,000 graduates and leaders. Last year, the university attracted over 6,000 students, including some 4,400 full-time students.

Some 160 programs are provided by over 425 professors in 13 faculties and schools. In the area of research, the university has about 30 centres, institutes and chairs. Each year, its researchers receive over \$3.2 million in grants.

However, the greatest asset of l'Université de Moncton is the personalized teaching that a university of its size can provide to students. Not only does the close contact between professors and students improve exchanges, apprenticeship and performance, it also fuels a vibrant dynamism that is not found elsewhere.

The increasing number of achievements, successes and opportunities in Acadia have been taking place in a better

political and economical context since the arrival of the Honourable Louis J. Robichaud, an Acadian who was premier of New Brunswick from 1960 to 1970.

[English]

Louis J. Robichaud organized a program of equal opportunity, redistributing income to the north of the province, proposing new economic development and institutional bilingual services to serve the province's francophone population. In September 1995, our honourable colleague the late Senator Jean-Maurice Simard wrote a letter to the editor of the *Telegraph Journal*, in which he stated:

The Liberal governments with Louis J. Robichaud at the helm made the Acadian community take great strides in the long battle that led us, as Acadians, toward an equal status as a francophone community.

The Progressive Conservative Party came into power in 1970 under Richard Hatfield and continued the programs implemented by the Robichaud governments.

[Translation]

It was the Robichaud government in 1969 that passed the Official Languages of New Brunswick Act, which made New Brunswick the only officially bilingual province in Canada, a distinction it holds to this day. I should like to point out that the Robichaud government was heavily influenced by the Government of Canada, which also passed the Official Languages Act in 1969.

In closing, honourable senators, the purpose of my speech was to provide you with an overview of the economic contributions made by the Acadian community in Canada. I hope that it will give you a better appreciation of the significant contributions that Acadians have made to Canadian society.

Honourable senators, this contribution began some 400 years ago. Our history has made us all the greater. It has helped shape the values of tolerance, generosity, and openness towards the world that characterize Canadians. Are these not good reasons to celebrate August 15?

Hon. Senators: Hear, hear!

Hon. Noël Kinsella (Deputy Leader of the Opposition): Honourable senators, I wish to congratulate Senator Losier-Cool for moving the motion. My grandmother, Lucie Bernard, was one of the members of the eight families from Malpèques, on l'Île de St-Jean, which is now Prince Edward Island.

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

ADJOURNMENT

Leave having been given to revert to Notice of Motions:

The 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 Tuesday, October 30, 2001, at 2 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, October 30, 2001, at 2 p.m.

**THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(1st Session, 37th Parliament)
Thursday, October 25, 2001**

October 25, 2001

**GOVERNMENT BILLS
(SENATE)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act respecting marine liability, and to validate certain by-laws and regulations	01/01/31	01/01/31	—	—	—	01/01/31	01/05/10	6/01
S-3	An Act to amend the Motor Vehicle Transport Act, 1987 and to make consequential amendments to other Acts	01/01/31	01/02/07	Transport and Communications	01/05/03 amended 01/05/09	3	01/05/10	01/06/14	13/01
S-4	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	01/01/31	01/02/07	Legal and Constitutional Affairs	01/03/29	0 + 1 at 3rd	01/04/26	01/05/10	4/01
S-5	An Act to amend the Blue Water Bridge Authority Act	01/01/31	01/02/07	Transport and Communications	01/03/01	0	01/03/12	01/05/10	3/01
S-11	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence	01/02/06	01/02/21	Banking, Trade and Commerce	01/04/05	17 + 1 at 3rd	01/05/02 Senate agreed to Commons amendments 01/06/12	01/06/14	14/01
S-16	An Act to amend the Proceeds of Crime (Money Laundering) Act	01/02/20	01/03/01	Banking, Trade and Commerce	01/03/22	0	01/04/04	01/06/14	12/01
S-17	An Act to amend the Patent Act	01/02/20	01/03/12	Banking, Trade and Commerce	01/04/05	0	01/05/01	01/06/14	10/01
S-23	An Act to amend the Customs Act and to make related amendments to other Acts	01/03/22	01/05/03	National Finance	01/05/17	11 + 2 at 3rd (01/06/06)	01/06/07	01/10/25	25/01
S-24	An Act to implement an agreement between the Mohawks of Kanesatake and Her Majesty in right of Canada respecting governance of certain lands by the Mohawks of Kanesatake and to amend an Act in consequence	01/03/27	01/04/05	Aboriginal Peoples	01/05/10	0	01/05/15	01/06/14	8/01
S-31	An Act 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	01/09/19	01/10/17	Banking, Trade and Commerce	01/10/25	0			

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-33	An Act to amend the Carriage by Air Act	01/09/25	01/10/16	Transport and Communications					
S-34	An Act respecting royal assent to bills passed by the Houses of Parliament	01/10/02	01/10/04	Rules, Procedures and the Rights of Parliament					

**GOVERNMENT BILLS
(HOUSE OF COMMONS)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to amend the Employment Insurance Act and the Employment Insurance (Fishing) Regulations	01/04/05	01/04/24	Social Affairs, Science and Technology	01/05/03	0	01/05/09	01/05/10	5/01
C-3	An Act to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act	01/05/02	01/05/10	Energy, the Environment and Natural Resources	01/06/06	0	01/06/12	01/06/14	18/01
C-4	An Act to establish a foundation to fund sustainable development technology	01/04/24	01/05/02	Energy, the Environment and Natural Resources	01/06/06	0	01/06/14	01/06/14	23/01
C-6	An Act to amend the International Boundary Waters Treaty Act	01/10/03							
C-7	An Act in respect of criminal justice for young persons and to amend and repeal other Acts	01/05/30	01/09/25	Legal and Constitutional Affairs					
C-8	An Act to establish the Financial Consumer Agency of Canada and to amend certain Acts in relation to financial institutions	01/04/03	01/04/25	Banking, Trade and Commerce	01/05/31	0	01/06/06	01/06/14	9/01
C-9	An Act to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act	01/05/02	01/05/09	Legal and Constitutional Affairs	01/06/07	0	01/06/13	01/06/14	21/01
C-11	An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger	01/06/14	01/09/27	Social Affairs, Science and Technology	01/10/23	0			
C-12	An Act to amend the Judges Act and to amend another Act in consequence	01/04/24	01/05/09	Legal and Constitutional Affairs	01/05/17	0	01/05/29	01/06/14	7/01
C-13	An Act to amend the Excise Tax Act	01/04/24	01/05/01	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	15/01
C-14	An Act respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts	01/05/15	01/05/30	Transport and Communications	01/10/18	0			
C-15A	An Act to amend the Criminal Code and to amend other Acts	01/10/23							
C-17	An Act to amend the Budget Implementation Act, 1997 and the Financial Administration Act	01/05/15	01/05/30	National Finance	01/06/07	0	01/06/11	01/06/14	11/01
C-18	An Act to amend the Federal-Provincial Fiscal Arrangements Act	01/05/09	01/05/31	National Finance	01/06/12	0	01/06/12	01/06/14	19/01
C-20	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	1/01

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	2/01
C-22	An Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act	01/05/15	01/05/30	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	17/01
C-24	An Act to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts	01/06/14	01/09/26	Legal and Constitutional Affairs					
C-25	An Act to amend the Farm Credit Corporation Act and to make consequential amendments to other Acts	01/06/12	01/06/12	Agriculture and Forestry	01/06/13	0	01/06/14	01/06/14	22/01
C-26	An Act to amend the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco	01/05/15	01/05/17	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	16/01
C-28	An Act to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act	01/06/11	01/06/12	—	—	—	01/06/13	01/06/14	20/01
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/06/13	01/06/14	—	—	—	01/06/14	01/06/14	24/01

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	01/01/31	01/01/31	National Finance	01/03/28	5	referred back to Committee 01/10/23		
S-7	An Act to amend the Broadcasting Act (Sen. Finestone, P.C.)	01/01/31	01/02/07	Transport and Communications	01/06/05	0	01/06/07		
S-8	An Act to maintain the principles relating to the role of the Senate as established by the Constitution of Canada (Sen. Joyal, P.C.)	01/01/31	01/05/09	Rules, Procedures and the Rights of Parliament					
S-9	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	01/01/31							
S-10	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	01/01/31	01/02/08	—	—	—	01/02/08		

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-12	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	01/02/07	01/03/27	Social Affairs, Science and Technology					
S-13	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	01/02/07	01/05/02	Rules, Procedures and the Rights of Parliament (Committee discharged from consideration—Bill withdrawn 01/10/02)					
S-14	An Act respecting Sir John A. Macdonald Day and Sir Wilfrid Laurier Day (Sen. Lynch-Staunton)	01/02/07	01/02/20	Social Affairs, Science and Technology	01/04/26	0	01/05/01		
S-15	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	01/02/07	01/03/01	Energy, the Environment and Natural Resources	01/05/10	0	01/05/15	<i>Bill withdrawn pursuant to Commons Speaker's Ruling 01/06/12</i>	
S-18	An Act to Amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	01/02/20	01/04/24	Social Affairs, Science and Technology (withdrawn) 01/05/10 Energy, the Environment and Natural Resources					
S-19	An Act to amend the Canada Transportation Act (Sen. Kirby)	01/02/21	01/05/17	Transport and Communications					
S-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	01/03/12							
S-21	An Act to guarantee the human right to privacy (Sen. Finestone, P.C.)	01/03/13		Subject-matter 01/04/26 Social Affairs, Science and Technology					
S-22	An Act to provide for the recognition of the <i>Canadien</i> Horse as the national horse of Canada (Sen. Murray, P.C.)	01/03/21	01/06/11	Agriculture and Forestry					
S-26	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	01/05/02	01/06/05	Transport and Communications					
S-29	An Act to amend the Broadcasting Act (review of decisions) (Sen. Gauthier)	01/06/11							
S-30	An Act to amend the Canada Corporations Act (corporations sole) (Sen. Atkins)	01/06/12							
S-32	An Act to amend the Official Languages Act (fostering of English and French) (Sen. Gauthier)	01/09/19							

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-25	An Act to amend the Act of incorporation of the Conference of Mennonites in Canada (Sen. Kroft)	01/03/29	01/04/04	Legal and Constitutional Affairs	01/04/26	1	01/05/02	01/06/14	
S-27	An Act to authorize The Imperial Life Assurance Company of Canada to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	
S-28	An Act to authorize Certas Direct Insurance Company to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	

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