Debates of the Senate

1st SESSION • 37th PARLIAMENT • VOLUME 139 • NUMBER 81

OFFICIAL REPORT
(HANSARD)

Wednesday, December 12, 2001

THE HONOURABLE DAN HAYS
SPEAKER

CONTENTS

(Daily index of proceedings appears at back of this issue.)

OFFICIAL REPORT

CORRECTIONS

Hon. Eymard G. Corbin: Honourable senators, I wish to make two corrections to the English version of the speech that I made yesterday. On page 1978 of the French version, in the third line of the fifth paragraph, I said, and I quote: "La motion fut rejetée par une majorité ..." The English version reads as follows: "The motion was rejected by the majority."

That should read "a majority."

Second, and more serious is the translation of a statement from French to English on the same page, the fourth paragraph, last line, I say: "Quel revirement de l'histoire." The English version reads, "History is so funny." I do not think the history of the Acadians is funny. That should, in proper and good English, read either "Another of history's ironic twists," or even better, "What a historical reversal."

The Hon. the Speaker: Honourable Senator Corbin, can you choose one of the two before I ask for agreement to make the change?

Senator Corbin: I do not claim expertise in English but I prefer the second as reflecting the French text.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Debates and Publications: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate

Available from Canada Communication Group — Publishing,
Public Works and Government Services Canada, Ottawa K1A 0S9,
Also available on the Internet: http://www.parl.gc.ca

THE SENATE

Wednesday, December 12, 2001

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

Prayers.

SENATORS' STATEMENTS

RICHARD D. PARSONS

APPOINTMENT TO CHIEF EXECUTIVE OFFICER OF AOL TIME WARNER

Hon. Donald H. Oliver: Honourable senators, I rise today to call your attention to a significant achievement in corporate America.

Jerry Levine, a powerhouse in the media business and President of AOL Time Warner — with net annual revenues approaching U.S. $40 million — has announced his resignation and has hand-picked the distinguished and charismatic Mr. Richard D. Parsons as his successor.

Honourable senators, Mr. Parsons is Black. He will now join a small but expanding group of Blacks that head major corporations. Mr. Parsons, at age 53, is the first African-American CEO of a major media conglomerate. As *The New York Times* said, he will now have the "daunting job of making a merger conceived in the soaring Internet economy come to age during an economic slump for old-line and online media companies alike."

Honourable senators, this is truly a remarkable success story. Of interest to me is the fact that we have a native New Yorker who comes from a working-class background, and he earned the highest score of anyone taking the bar exam in New York in 1971. His academic brilliance and hard work caught the attention of Nelson Rockefeller, who took his protégé to Washington when President Gerald Ford named him vice-president.

Mr. Parsons later launched a successful law career but soon became intrigued by business. In 1991, Mr. Parsons was invited to join the Time Warner board of directors and became the company's president in 1995. He won praise in his handling of sensitive negotiations and relationships with regulators and lawmakers. Mr. Parsons is known as an executive with a decidedly non-confrontational management style.

Mr. Parsons is very aware that he is one of the U.S.A.'s most prominent African-American executives. He believes "if I can serve to inspire one or more young people of African-American descent to say, 'hey it is it possible to achieve,' I'll feel that I've met that responsibility." Mr. Parsons has never forgotten his commitment to the community. He has and continues to work on political and civic issues in order to make a difference.

I bring Mr. Parson's rise to power as chief executive officer in one of North America's largest companies to the attention of honourable senators because this is a remarkable achievement for Blacks and minorities. When a minority breaks through the glass ceiling of the corporate world to a position of real power, it is a proud day for all of us in North America.

ANTI-TERRORISM BILL

OPINION IN OPPOSITION

Hon. John G. Bryden: Honourable senators, I wanted to speak on an article that appeared in *The Globe and Mail* of yesterday morning, which warrants a response. I would have spoken yesterday, but we ran out of time. Since it relates to work that we have been doing in this chamber, I think the best place to make the response is here.

The article is written by Mr. Clayton Ruby, a Toronto lawyer and well-known civil rights activist. It appeared on the editorial page of *The Globe and Mail* yesterday. It is headed "When lawyers should fight the law." The main law in question is Bill C-36, the anti-terrorism bill.

Senator Kinsella: He has that right.

Senator Bryden: Mr. Ruby, in his piece, appears to base his opinion on the opinions in the brief submitted by the Federation of Law Societies of Canada, which is based on the opinion of the Law Society of Upper Canada, which represents the Ontario bar, which is based on an opinion written by their legal counsel. However, it is interesting to note that throughout Mr. Ruby's lengthy opinion, he does not refer to any clauses or quotations from Bill C-36 itself. Mr. Ruby argues that lawyers care deeply about the rule of law and the threat to it that this legislation presents.

Honourable senators, Bill C-36 does not threaten the rule of law. Many lawyers, a number of whom testified before us last week, were very clear.

The Hon. the Speaker: Honourable Senator Bryden, I rise to draw your attention to the rule with respect to Senators' Statements. They are confined to those matters for which there are no other opportunities to address an issue. Bill C-36 is on our Order Paper. Accordingly, the proper time to address this matter is when Bill C-36 is called.

Senator Kinsella: It is all in the rules. We have rules here.

Senator Bryden: Your Honour, where on the Order Paper does the opinion entitled "When lawyers should fight the law" by Mr. Ruby appear?

Senator Kinsella: Do not question His Honour.

• (1340)

The Hon. the Speaker: The question is whether the honourable senator is speaking about something that he does not have an opportunity to address under another order. Rule 22(4), states:

> When "Senators' Statements" has been called, Senators may, without notice, raise matters they consider need to be brought to the urgent attention of the Senate. In particular, Senators' statements should relate to matters which are of public consequence and for which the rules and the practices of the Senate provide no immediate means of bringing the matters to the attention of the Senate. In making such statements, a Senator shall not anticipate consideration of any Order of the Day and shall be bound by the usual rules governing the propriety of debate. Matters raised during this period shall not be subject to debate.

In that the honourable senator's comments relate to Bill C-36, that matter is on our Order Paper. While there is an opportunity to relate it to an article in a newspaper, I find that the proper place to deal with the matter is under the heading "Bill C-36."

Senator Bryden: Is that your finding, Your Honour?

The Hon. the Speaker: Yes. I must make a decision and that is it, Honourable Senator Bryden.

HUMAN RIGHTS DEFENDERS

AMNESTY INTERNATIONAL SOLIDARITY QUILT PROJECT

Hon. Lois M. Wilson: Honourable senators, in the last few days, we heard strong messages celebrating International Human Rights Day, all of which brought joy to my heart. On Monday, there was a meeting of the Parliamentary Human Rights Group featuring a Somalian human rights defender, who raised our awareness of the risks that such people face every day as they record, report and denounce human rights violations in their own country.

Amnesty International was also present and spoke of the human rights defenders in Colombia where, since 1997, more than 30 human rights defenders have been killed or have "disappeared." Parliamentarians are invited to participate in a solidarity quilt project with Amnesty, blanketing Colombian human rights defenders with Canadian support.

The idea is for parliamentarians to send a tangible and visible message of solidarity to human rights defenders in Colombia. People across Canada are participating in this project, writing messages of solidarity, peace or hope on pieces of fabric that will be collected and sewn together to make quilts. For example, we received a beautifully crafted quilt square depicting life in the Yukon from a member of the House of Commons. We do not expect that from senators. I do not know if honourable senators can quilt, but a signature and a short message will mean a great deal to Colombians, who will then have senators' names prominently displayed in their country when the solidarity quilts arrive there.

I have some squares with me. Some senators have already signed their names on a square. Senator Taylor says, "We support you." Senator Jaffer says, "We want to work with you."

If honourable senators wish to freely express support for human rights, they can speak to someone in my office or myself and I will make the contact for them. I hope that honourable senators will respond positively.

FREEDOM

Hon. Laurier L. LaPierre: Honourable senators, we are engaged in debating and voting upon important and controversial legislation. In preparing myself for carrying out this responsibility, my friend Monroe Scott has sent me a copy of his book, *The Carving of Canada*, which was published by Penumbra in 1999. Mr. Scott brings to my attention the symbolism that is carved into the "Frieze of History" that adorns the balcony surrounding the foyer of the House of Commons. It is found in the centre of the northeast quadrant and was carved by Eleanor Milne, Canada's former parliamentary sculptor.

Mr. Monroe wrote:

> And then Eleanor Milne carved into the central column of stone that stood almost as tall as herself, and out of the stone a figure emerged. At first it appeared to be a woman, for the robed lines were flowing and the face seemed that of a woman, but there was muscular strength in the arms and in the stance. When the form finally emerged it was that of a man. At his feet lay an iron cage, broken, open, with birds flying free. Eleanor Milne had carved Freedom.
>
> Freedom is often imagined as a woman, but Eleanor Milne knew that Freedom must defend itself. She built in muscular strength, and the aggressive will to use it. But the Freedom she created was more than mere liberty. It was a terrible Freedom indeed, for it was the Freedom to Choose.
>
> And it came to pass with the people of Eleanor Milne's Canada, the Canada that grew from visions and stone and toil, would be able to choose their leaders and their governments, to choose their ideals and their ideologies, to choose Right or to choose Wrong and, having made choices, to enjoy the fruits or to suffer the consequences.
>
> It came to pass that Freedom to Choose became the seed, the root, the trunk and the foliage of the many-branched tree that is Canada.

But Eleanor Milne stood frightened at what she had done, for in Exercising the gift of Freedom to Choose the people could choose to lose that freedom, and without it, all would be lost.

WITHDRAWAL OF VETERANS ASSOCIATIONS FROM ADVISORY COMMITTEES TO DEPARTMENT OF VETERANS AFFAIRS

Hon. Michael A. Meighen: Honourable senators, three of the major veterans organizations in this country have recently resigned or withdrawn their participation from two committees that advise the Department of Veterans Affairs: the Royal Canadian Legion, the National Council of Veterans Associations and the Army, Navy and Air Force Veterans in Canada. All have stopped participating in meetings of the Veterans Affairs Canadian Forces Advisory Council and the Gerontological Advisory Council.

While the view of each organization about the viability of these councils may differ, one thing is clear: All of these organizations are fed up with the continuing lack of response by this government to their most serious concerns. Among these concerns are the quality of care provided to veterans in long-term care facilities, the amount of compensation that is provided to prisoners of war and their spouses, and the growing need to provide ongoing assistance to veterans' widows.

Honourable senators, as we all know, our veterans risked their lives so that we may enjoy the peace, freedom and prosperity we enjoy today. How are we repaying them? By not developing national standards of care to ensure that veterans across this country are treated equitably and fairly; by capping the amount of compensation available to former prisoners of war and to their spouses; and by strictly limiting the amount of benefits available to surviving spouses. Surviving spouses are usually women, who often sacrifice a good deal of their later years caring for their ailing husbands.

Honourable senators, our veterans cannot wait forever. We must act and we must act now. I fully understand their frustration when faced with this government's mystifying unwillingness to propose acceptable and comprehensive solutions. I hope honourable senators will join with me in urging the government to immediately attend to the pressing needs of our veterans so that, before it is too late, they may receive the benefits they so richly deserve.

ONE HUNDREDTH ANNIVERSARY OF FIRST WIRELESS TRANSATLANTIC MESSAGE

Hon. Ethel Cochrane: Honourable senators, I rise today in recognition of a major milestone in the history of communications: the one hundredth anniversary of the first wireless transatlantic message.

A century ago, Marconi heard the first sounds, the "dit, dit, dit," representing the letter "S" in Morse code. Shortly after midday on December 12, the first signal arrived, having travelled a distance of 3,500 kilometres. To accomplish this feat, Marconi had constructed a transmitter at Cornwall, England, one that was 100 times more powerful than any previous station. He also assembled a receiver at Signal Hill in St. John's, Newfoundland, situated at one of North America's closest points to Europe.

As anyone who has visited Signal Hill can tell you, the winds can get quite high there and, in fact, Marconi himself had to contend with the weather. Despite the difficult conditions, however, he managed to use a kite to raise an antenna for a short time, and according to his notes, it was under these conditions that the first transatlantic message was received.

In fact, Marconi continued his relationship with Newfoundland in the years that followed his famous experiment. He returned to the island in 1904, for example, to install a wireless station at Cape Race. Interestingly, it was here that the SOS message from the *Titanic* was received in 1912.

Today, Marconi is commonly credited with the birth of radio. However, I should like to suggest that the story of his success is a valuable one, not only because of his impressive accomplishments but also because it teaches us all the importance of vision, determination and persistence. Like many of us, he, too, experienced bumps and setbacks along the way. He even failed the entrance exam at his hometown university. Later, he was forced to move across the continent to England in order to secure greater support for his work.

Fortunately for us, Marconi persevered and his scientific success continued well beyond December 1901. In 1909, for instance, he shared the Nobel Prize for Physics. However, to most of us today, he is best known for his significant contribution to communications, and we in Newfoundland and Labrador are grateful to have played a role in that outstanding moment in history.

[*Translation*]

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw to your attention the presence in the gallery of His Excellency the Most Reverend Luigi Ventura, Apostolic Nuncio and Ambassador to Canada of the Holy See. On behalf of all the senators, welcome to the Senate of Canada.

Hon. Senators: Hear, hear!

[*English*]

ROUTINE PROCEEDINGS

INTERNATIONAL BOUNDARY WATERS TREATY ACT

BILL TO AMEND—REPORT OF COMMITTEE

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

Wednesday, December 12, 2001

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

TENTH REPORT

Your Committee, to which was referred Bill C-6, An Act to amend the International Boundary Waters Treaty Act and to make related amendments to other Acts, has examined the said Bill in obedience to its Order of Reference dated, Tuesday, November 20, 2001, and now reports the same without amendment.

Respectfully submitted,

PETER A. STOLLERY
Chair

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

On motion of Senator Stollery, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. E. Leo Kolber: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(*a*), I move:

That the Standing Senate Committee on Banking, Trade and Commerce have power to sit today, Wednesday, December 12, at 3:30 p.m., even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Motion agreed to.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Lorna Milne: Honourable senators, notwithstanding rule 58(1)(*a*), I ask for leave to move:

That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit today, Wednesday, December 12, at 3:30 p.m., even though the Senate may then be sitting, for the purpose of receiving evidence for its consideration of Bill C-15A, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

THE SENATE

NOTICE OF MOTION TO STRIKE SPECIAL COMMITTEE ON CRIME AND VIOLENCE

Hon. Anne C. Cools: Honourable senators, pursuant to rule 56(1) and 57(1)*(d)*, I hereby give notice that I shall move:

That a special committee of the Senate be appointed to examine the questions of crime and violence in Canada, including the processes of criminal charges, plea agreements, sentencing, imprisonment and parole, with special emphasis on the societal and behavioural causes and origins of crime, and on the current developments, pathologies, patterns and trends of crime, and on the consequences of crime and violence for society for Canadians, their families, and for peace and justice itself;

That the Senate committee have the power to consult broadly to examine the relevant research studies, the case law and the literature;

That the special committee shall be composed of five senators, three of whom shall constitute a quorum;

That the special committee have the power to report from time to time, to send for persons, papers and records, and to print such papers and evidence as may be ordered by the committee;

That the special committee have the power to sit during the adjournment of the Senate;

That the special committee have the power to retain the services of professional, technical and clerical staff, including legal counsel;

That the special committee have the power to adjourn from place to place within Canada;

That the special committee have the power to authorize television and radio broadcasting of any or all of its proceedings;

And that the special committee shall make its final report no later than two years from the date of the committee's organizational meeting.

PRIVACY RIGHTS CHARTER

NOTICE OF INQUIRY

Hon. Sheila Finestone: Honourable senators, with leave of the Senate I give notice that on Thursday, December 13, 2001, I shall call the attention of the Senate to the importance of moving toward a privacy rights charter, particularly during these troubled times.

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

Hon. Senators: Agreed.

ACCESS TO CENSUS INFORMATION

PRESENTATION OF PETITIONS

Hon. Lorna Milne: Honourable senators, I have the honour to present 510 signatures from Canadians in the provinces of B.C., Alberta, Manitoba, Ontario, Quebec, New Brunswick and Nova Scotia who are researching their ancestry, as well as signatures from 130 people from the United States who are researching their Canadian roots. A total of 640 people are petitioning the following:

• (1400)

> Your Petitioners call upon Parliament to take whatever steps necessary to retroactively amend the Confidentiality-Privacy clauses of Statistics Acts since 1906, to allow release to the public after a reasonable period of time, of Post 1901 Census reports starting with the 1906 Census.

Furthermore, honourable senators, I have the honour to present 121 signatures from Canada's Home Children who petition as follows:

> That the Canadian government make available all post 1901 Census returns since they are the only public means available to Canadian Home Children and their descendants, who make up 10 per cent and more of our population, to access the whereabouts of their siblings and relatives from whom they have been separated by this country's tacit acceptance of a policy now recognized by the British Government as being misconceived and the cause of irreparable and irrevocable damage to the child migrants and their descendants.

These signatures now total 14,805 petitioners to the Thirty-seventh Parliament and over 6,000 petitioners to the Thirty-sixth Parliament, all calling for immediate action on this very important matter of Canadian history.

Senator Prud'homme: Hear, hear!

QUESTION PERIOD

NATIONAL DEFENCE

THE BUDGET—ADEQUACY OF ADDITIONAL ALLOCATION

Hon. J. Michael Forrestall: Honourable senators, I wish to ask the Leader of the Government in the Senate a question based upon her response to me yesterday. As a point of clarification, was the Leader of the Government telling this chamber, as I understood her to say, that the Canadian Forces will receive $300 million in new monies this year and each year thereafter for capital expenditure? If that is the case, will the minister commit the government to at least that level of funding each year hereafter until 2006 and put it in writing, or is the $300 million for capital expenditure a one-shot deal?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, a decision has been made to spend $300 million in the fiscal year 2002-03. No further decisions have been made at this time as far as future years are concerned.

Senator Forrestall: The honourable senator will admit then that is different from what was told to me yesterday. However, that is fine. I am glad to have it straightened out.

CUTBACKS TO BUDGET—POSSIBILITY OF NEW WHITE PAPER

Hon. J. Michael Forrestall: The minister, as well, claimed that the Canadian Forces received $5.1 billion in additional monies between 1999 and 2001. If only that were the case, honourable senators, perhaps I could have a Sea King to fly back and forth to Halifax that was safe. Perhaps the minister has taken a real interest in the marijuana debate.

Will the minister not admit that this government has cut some $10 billion from the defence budget cumulatively since 1994 when they took power and decided through deliberate, benign neglect to let Canadian capabilities run down to the present level?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the answer to the Honourable Senator Forrestall's question is quite simple. In the budget year 1999, the federal government invested an additional $550 million. In budget year 2000, the federal government invested an additional $3,350 million. In the budget for 2001, the amount was $1.2 billion. With this year's budget amount of $1.2 billion, the total amount invested will be $5.1 billion.

Senator Forrestall: Honourable senators, the minister did not answer the question. How much did the government take out before they put in $5.1 billion? That was the real question.

This government has decided to ignore the warning of the Auditor General that $1.3 billion was required this year alone, and in each successive year for five years to prevent the demise of the Canadian Forces combat capabilities. When will this government issue its next white paper so that Canada, and particularly members of the Canadian Armed Forces, will have some idea of where they are going from day to day and month to month, and where they can expect to be one year or five years down the road? When will we get a new white paper?

Senator Carstairs: The honourable senator is quite correct when he argues that in the years when we were dealing with enormous deficits and a debt that was becoming an increasing burden on all Canadians, there were cuts to every single department of government with the exception of the Department of Indian and Northern Affairs because our Aboriginal people were in such desperate need. In 1999, when we began to see a turnaround in terms of surpluses for this government, a commitment was made to the military to give increasing amounts of money. Between 1999 and this budget, additional sums of money in the amount of $5.1 billion have been added to the defence budget to better equip and to better pay our well-deserved and good serving members of the Canadian Armed Forces.

As to the honourable senator's question on when there will be another white paper, no decision has been made on that matter.

Senator Forrestall: Is one in the process of being written? We heard evidence from the principal author of military white papers that he was giving consideration to the outlying structure of a new white paper. Is that, in fact, an ongoing process in which the Minister of National Defence, the Prime Minister and other members of the Special Cabinet Committee on Security would be involved? In other words, is the government working on a new white paper?

Senator Carstairs: Honourable senators, to the best of my knowledge, no white paper is in the process of being produced.

TRANSPORT

AIR TRAVELLERS SECURITY CHARGE

Hon. Donald H. Oliver: Honourable senators, my question deals with the so-called air travel tax. I am concerned that it is a burden on seniors and people on fixed incomes.

The honourable Leader of the Government in the Senate will recall that yesterday I asked her some questions in relation to this air travel tax. The Leader of the Government said that the government considers it "appropriate that the people who are using the airplanes should in fact pay the fee."

However, Pat Kennedy, Chairperson of the Air Transport Association of Canada, begs to differ. According to Mr. Kennedy it is not an airline issue. It is a national security issue, and the government and not the consumer should pay for the tax. This is a perfectly valid point made by the Air Transport Association.

One thing that we have learned from the nature of the terrorist attacks of September 11 is that airline security is a general security issue that should have, and does have, implications for the entire economy and entire society. By imposing this tax, why has the government chosen to treat air security differently from national policing and border security, both of which are funded by general revenues? Where is the fairness to this measure?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is a simple explanation. If people did not fly on airplanes, then we would not need security at airports. That is the reality. Since people choose to fly, and many choose so each and every week of their lives, it is their security that is in jeopardy if there are terrorist attacks. They are the ones, therefore, who the government believes should be bearing the costs.

Senator Oliver: The more one examines this tax, honourable senators, the more unfair it appears. The comparable tax for a round trip flight in the United States is $5. In Canada, under this new air travel tax, it is $24, plus GST. That is a huge discrepancy.

Could the Leader of the Government in the Senate please explain why air travellers in Canada will be charged 3.5 times what the U.S. government is charging its travellers?

Senator Carstairs: Honourable senators, first and foremost, we must deal with the volume of air traffic that goes from place to place in the United States and from place to place in Canada.

• (1410)

That presents a problem from our perspective. We simply do not have the equivalent volume. However, I have heard honourable senators argue strenuously on the other side, and correctly so, that we need to have the same level of security. That is why the burden of cost in Canada will be substantially higher than the burden of cost in the United States.

Honourable senators, let us be clear that the $5 fee established by the Americans is subject to an increase should they recognize that it cannot bear the costs of providing the maximum amount of required security.

Senator Oliver: Does that mean that the $24 tax may increase if it is determined that the system cannot bear those costs in Canada?

Senator Carstairs: Honourable senators, the Honourable Minister Collenette was clear yesterday when he indicated that he is hopeful that it might decrease, not increase.

FOREIGN AFFAIRS

THE BUDGET—ALLOCATION TO AFRICA FUND

Hon. Douglas Roche: Honourable senators, my question is for the Leader of the Government in the Senate.

Monday's budget included a $500-million trust fund for African development that, as the Prime Minister has stated, will be a Canadian priority at the next G8 summit to be held in 2002 in Alberta. So far, so good, but here comes the catch: The money will only be put into the fund if there is a surplus in the government accounts.

What kind of commitment to Africa is this? Can our country, which professes to care about the tragedies in Africa brought about by a pandemic of AIDS and other impediments to sustainable development, not make a firm commitment that is not dependent on it having excess funds?

Hon. Sharon Carstairs (Leader of the Government): As honourable senators well know, since 1993, Canada's Minister of Finance Minister has been extraordinarily cautious in his budgetary projections. The surpluses forecast in the budget each year have been exceeded by significantly higher numbers. The decision to target the trust fund to the surplus is a safe one. I think we will find that at the end of each fiscal year there will be monies to provide to the Africa Fund.

THE BUDGET—ALLOCATION TO DEVELOPING COUNTRIES

Hon. Douglas Roche: It may be safe, honourable senators, but it is not fair. A wish is not a commitment.

Honourable senators, the government has committed certain funds to overseas development in the budget. The aid commitments that are firm were first promised in the Speech from the Throne given in this chamber last January. The Throne Speech stated that there would be an increase in official development assistance. Now, the level is at 0.24 per cent of the gross national product, which is far below the official international target first proposed by Prime Minister Pearson of 0.7 per cent of GNP. With the need for aid increases coming, the aid increase will only go from 0.24 per cent to 0.26 per cent.

I ask the government to show some leadership in the international community and meet the threats to human security in developing countries with a substantive investment in development assistance.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, there have been considerable increases in this budget. The Department of International Cooperation was, by all measures, one of the big winners in the announcement of budgetary expenditures for the year 2002-03. No, it is not as much as my honourable friend would like, nor is it as much as I would like, but it is moving in the right direction at a difficult time. Clearly, these are difficult economic circumstances, coupled with the tragic events of September 11.

The government had to balance its decision. Instead of turning its back on its commitment, at least in the short term it moved forward on its commitment. Perhaps, as all honourable senators would agree, the commitment is not as large as we would both prefer.

THE BUDGET—ALLOCATION TO AFRICA FUND

Hon. Lois M. Wilson: Honourable senators, is the $500 million available only for one year? If the answer is yes, what is the policy of the government on sustainable development?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the fund that has been targeted for Africa, to which the honourable senator is referring, is the $500-million Africa Fund, which has been put in the budget for the year 2002-03. It will be clearly discussed in some detail at the G8 meeting to be held next year in Alberta. I would presume that further decisions will be made.

Senator Wilson: Is it a one-time grant?

Senator Carstairs: It is a budgetary line for this year. We will not make budgetary lines for future years until we have the next budget.

TRANSPORT

AIR TRAVELLERS SECURITY CHARGE

Hon. Leonard J. Gustafson: Honourable senators, I have a supplementary question in respect of the security charge for air travellers.

Small airlines and smaller centres will be financially hit severely because of this airport tax, especially on the short flights such as those from Regina to Saskatoon or from Kelowna to Vancouver.

Representatives from WestJet said today that the tax could hurt their business. For example, if a family of four were to fly, the extra cost would be $96. These surcharges are a serious mistake. In addition, I believe that business will be stifled by this tax. The government will probably end up losing more money than it gains from this tax.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I must say that I disagree with the Honourable Senator Gustafson. There are many great people in Canada who since September 11 will not fly. I met one just last evening, as a matter of fact. She is the wife of a member of Parliament. She simply will not board an airplane. She would rather drive 7.5 hours to return to her husband's constituency than fly in an aircraft.

Honourable senators, we must assure Canadians that it is safe to fly. One way of doing that is to ensure that adequate safety precautions and security measures are in place to relieve that burden of fear. I believe that by enhancing our security, the concerns of some will be relieved, although some will never lose their fear.

It is a policy decision of the Government of Canada that the cost will be paid for by those who are using the airlines.

Senator Gustafson: Honourable senators, many people will choose to drive the short distances rather than fly. This will affect the airlines that are already experiencing difficulty competing with Air Canada, because the government protects them indirectly. This proposal will probably further protect Air Canada from smaller airlines that are trying to compete.

Does the honourable senator not believe that this announcement will stifle business to some extent? It is bound to have that effect.

Senator Carstairs: Honourable senators, Senator Gustafson and I have a disagreement. I believe that this policy will encourage people to fly; it will not discourage people from flying if there are adequate security precautions in place.

AIR TRAVELLERS SECURITY CHARGE—
CRITERIA FOR IMPOSITION OF TAX

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, the assumption is that there is a security threat. Does the government have a measure of that threat? Does the measure increase and decrease? Is there a benchmark against which this is measured?

I fly out of regional airports, and my hypothesis is that there is no credible threat to fly aboard aircraft leaving Fredericton, New Brunswick, for example. Are there objective criteria, or are we accepting this security threat on faith?

• (1420)

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the most objective criterion is September 11.

Senator Kinsella: That does not prove anything.

THE SENATE

PASSAGE OF BILL S-12

Hon. Laurier L. LaPierre: Honourable senators, my question is for the Leader of the Government in the Senate, and I am wondering if she would be so kind as to help me out.

I am the chairman of the Heritage Fairs. Two-hundred-fifty thousand young people in grades four to eight participate in this project every year by creating exhibits. About 10 per cent of them do it on genealogy. They trace their ancestry. They are humbled considerably now by the stupidity of the fact that they cannot have access to the census reports past 1901 on the grounds that Sir Wilfrid Laurier supposedly made a promise that that information would never be divulged. Sir Wilfrid Laurier never did make that promise.

Consequently, minister, will you help the children of this country who want to do their projects by proceeding with Bill S-12, now before the Senate, and get it done as quickly as possible so that the children of this country can know where they come from?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I assume that the honourable senator is referring to Honourable Senator Milne's bill. As you know, it is before the Standing Senate Committee on Social Affairs, Science and Technology. I understand that it will be reported soon. At that point, the best I can give the honourable senator is my assurance that it will come to a full debate in this chamber.

[*Translation*]

FOREIGN AFFAIRS

RECRUITMENT OF OFFICIALS FROM WITHIN PUBLIC SERVICE

Hon. Roch Bolduc: Honourable senators, my question is for the Leader of the Government in the Senate. I recently read a newspaper report that indicated that, for the past 50 years, the senior staff of Foreign Affairs, the professional staff, have been hired through a big Canada-wide competition open to graduates of all faculties. As a result, a certain number of people get into the Canadian diplomatic corps.

This process goes back to the days of Dupuis, Dési, Pearson and all the other mandarins at Foreign Affairs, and it has had good results. Our country's representatives abroad are known for their excellence.

This year, for the first time, the competition for senior management at the department will be open to senior management already in the federal public service. Apparently, the salaries are not sufficiently attractive to recruit young executives into Foreign Affairs. Why suddenly change the tradition that has served well in the past? It means a major change in the way our diplomats are being recruited. Can the minister give us any information on this?

[*English*]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I understand that the competitions that have occurred in the past will continue. We will try to use the normal procedures for recruitment, but additional people may be required, particularly at the level below the foreign service officer class, which may well be capable of being filled by those currently in the employ of the public service.

[*Translation*]

DELAYED ANSWERS TO ORAL QUESTIONS

The Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table in this house a response to a question raised in the Senate on November 28, 2001, by Senator Forrestall regarding Sea King Helicopters and a question raised in the Senate on November 29, 2001, by Senator Kinsella regarding the Multiculturalism Program Action Plan.

NATIONAL DEFENCE

SEA KING HELICOPTERS—PROGRAMS FOR EXTENSION OF LIFE OF AIRCRAFT

(Response to question raised by the Hon. J. Michael Forrestall on November 28, 2001)

The Government of Canada has requested a quote from the IMP Group Limited (formerly Industrial Marine Products) to conduct a study of the supportability of the Sea Kings past 2005. The study would be done within an existing contract the Government has with the IMP Group to provide technical investigations and engineering support.

This is part of the Government's ongoing work to ensure the Sea Kings remain safe to fly until the new equipment is acquired and phased into service.

It is still the Government's desire to take delivery of the first new maritime helicopter by 2005.

SECRETARY OF STATE FOR MULTICULTURALISM

ANTI-TERRORISM BILL—GOVERNMENT PLAN IN RESPONSE TO MINORITY GROUPS

(Response to question raised by the Hon. Noël A. Kinsella on November 29, 2001)

Since September 11th, the Secretary of State for Multiculturalism has met with numerous Canadians at regional meetings across the country that included community members, local police, educators and municipalities. The Government is taking action to address issues that have been raised during these discussions.

This Government recognizes that an important part of achieving security for all is to work with partners and communities to foster respect, strengthen communities, enhance inter-cultural and inter-faith understanding, and to strengthen the bonds and values that unite us.

The core elements of the Multiculturalism Program Action Plan are:

1. Horizontal Partnerships within the Federal Government

Partner with relevant federal departments to develop inter-cultural training and tools to strengthen community relationships and trust.

2. Education

Develop, with appropriate partners, broad based educational tools, as well as public awareness and Internet based information tools.

3. Partnering with Community Organizations

Work with community and voluntary organisations to build capacity, to strengthen community cohesion and enhance inter-cultural and interfaith understanding.

4. Partnering with Local Institutions and Other Levels of Government

Partner with local police and municipalities to assist with the development of strategies and programs to enhance outreach and strengthen social cohesion.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, under Government Business, we would like to begin with Item No. 4, second reading of Bill C-46, and then revert back to the Orders of the Day as proposed.

[*English*]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, so that all honourable senators have a general understanding of how the business of the house might proceed this afternoon, can my colleague opposite confirm the following: He will first call Bill C-46. It is our expectation that, after that item has been debated at second reading, the house may dissolve into Committee of the Whole. At around 3:15, our Standing Senate Committee on Transport and Communications has the minister appearing. I know many honourable senators will want to attend that meeting. If we are in Committee of the Whole, we are expecting to have a minister present as well. After that, we will continue through the Order Paper.

I am not sure whether there is another committee.

Sharon Carstairs (Leader of the Government): There are two others.

Hon. John Lynch-Staunton (Leader of the Opposition: Will we have a quorum?

Senator Kinsella: I am glad the government whip is here today to ensure a quorum in this place. I understand that the Transport, Banking, and Legal Committees are sitting and perhaps others.

Senator Carstairs: No, that is it.

Senator Robichaud: Honourable senators, I hesitate to assume what will happen here because sometimes I am surprised. However, if things go as we think they will go, yes, there will be debate on Bill C-46. If second reading is completed before 3:30, which is the time when the minister will be ready to appear at Committee of the Whole, then we will be proceeding to other business on the Order Paper. Yes, committees are sitting at the same time as we are sitting. The whip assures me that we will have a quorum so that business can be conducted here and in the committees.

Hon. Douglas Roche: Honourable senators, is the deputy leader confirming that we will, in fact, be debating Bill C-36 today?

Senator Robichaud: Honourable senators, first, I am calling Bill C-46, which will be followed by Bill C-36. The rest of the Order Paper will then be called as it is presented to us.

CRIMINAL CODE

BILL TO AMEND—SECOND READING

Hon. Sharon Carstairs (Leader of the Government) moved the second reading of Bill C-46, to amend the Criminal Code (alcohol ignition interlock device programs).

She said: Honourable senators, I shall speak only briefly, because there is an expert among us on the issue of impaired driving, that being Senator LeBreton. Her comments will follow my brief remarks.

Impaired driving is a complex social, health and safety problem. There is no single solution and there must be an array of countermeasures to address the problem.

At the present time, under the Criminal Code, a judge must prohibit a first-time impaired driver from operating a vehicle for at least 12 months. However, the judge can allow the first-time impaired driver to drive after three months if the offender uses an ignition interlock device.

An ignition interlock device operates in the following way: In order to start the car, a driver is required to breathe into the device. If the alcohol level that is recorded is beyond the legal limit, the automobile will not start.

Bill C-46 will allow the provinces to request individuals to place these devices in their automobiles. If they choose not to do so, the full impact of the present Criminal Code will come into effect; if they do accept the use of this device, the reduced penalty can be provided. So far, where these devices have been used, there has been a positive impact on reducing the number of drivers who have been convicted of drunk driving and then reoffend.

With those very brief remarks, I shall turn it over to our resident expert, the Honourable Senator LeBreton.

Hon. Marjory LeBreton: Honourable senators, I should like to begin by thanking Justice Minister McLellan and the government for their continuing support of initiatives to end the serious crime of impaired driving.

Needless to say, I support Bill C-46. However, I have one small concern with respect to clause 1.1, which contains the wording "the court may authorize the offender." I would prefer the wording "the court will authorize the offender." The alcohol ignition interlock is the best device available to stop repeat offenders from drinking and driving. Hence, I would not like to see the word "may" being used in order to give judicial discretion in this important area of technology to combat impaired driving. Nevertheless, this can be addressed, if it is needed, at a later date.

The Honourable Senator Carstairs did a good job of describing what the alcohol ignition interlock device does. As a matter of interest, I believe the courts can also decide on the level to be set. It does not have to be set at the legal limit. Currently in the world, 38 states in the United States as well as Alberta and Quebec have interlock programs. There are 40,000 interlock devices in use around the world, including 4,500 in Canada.

Honourable senators, I am personally encouraged, as I know my colleagues at MADD Canada are, that the minister has favourably reacted to MADD's recent launch of "Taking Back our Roads," which outlines the next important step in the fight to eliminate impaired driving, beginning with lowering the Criminal Code blood alcohol level from 0.08 to 0.05.

Honourable senators, federal laws passed in 1999 and 2000 provided for stronger impaired driving penalties that should act as a greater deterrent for law-abiding Canadians, most of whom recognize that drinking and driving is wrong. However, we must also contend with repeat offenders and with persons who often disregard or have no respect for the laws or for the lives of others on our roads. This is where ignition interlocks are of great value.

Ignition interlocks go to the core of stopping the crime of impaired driving. The device is more than an increased penalty levied after the fact; it is a control measure that will alter behaviour before the crime is committed again. Ignition interlocks ensure that those people who are unable or unwilling to make responsible decisions about driving after they have consumed alcohol will not be able to start their vehicles. In this way, ignition interlocks are very important for everyone's public safety.

This device ensures that people who are drinking cannot start their vehicles. By making it a condition of an impaired driver's sentence, ignition interlocks will help to reduce the number of repeat offenders. These devices work. They are effective because they alter the behaviour of persons most likely to drink and drive. They help to keep repeat offenders, often the so-called hard-core drunk driver, honest by keeping him or her from getting behind the wheel.

Ignition interlocks should not be seen as a substitute for other penalties and sanctions but, rather, as an added measure to ensure that a convicted impaired driver does not repeat the crime. The installation of an alcohol interlock device should be viewed as part of the transition between full licence suspension and full driving privileges.

Costs should not be a factor. The installation and ongoing maintenance of the devices can be established as a user-pay program operating through the driver's licensing agency. An effective program would cost an individual no more than $3 a day — you could think of it as less than a case of beer a week.

This new measure allows for judges to require the use of an ignition interlock as a condition of probation. It sends a signal to the provinces to use this effective technology. There are already provinces that are far ahead in this regard. Alberta and Quebec have a program. Saskatchewan is in the midst of running a pilot program. Ontario has passed legislation but it is yet to be implemented. When it is, it will be the toughest law of all because it will apply automatically to first offenders. Newfoundland and Labrador and Nova Scotia are now looking at introducing ignition interlock programs as a mandatory condition of licence reinstatement for all repeat impaired driving offenders and for first offenders with blood alcohol levels of 0.016 — in other words, a drink or two.

MADD Canada launched its national campaign for ignition interlocks in November 1999 when it was seeking the stiffening of the sentences in the Criminal Code. Since then, it has been working closely with the provinces to have new legislation passed in each jurisdiction.

Recently, in a meeting with the federal Justice Minister, MADD Canada asked that the federal government consider inserting the mandatory use of ignition interlocks into the Criminal Code. This is very important because I have found through my work with MADD that there is a great lack of uniformity across the country. Putting this mandatory use into the Criminal Code would mean that the law would be consistent from coast to coast. It is MADD Canada's hope that this legislation will send a strong message to the provinces resulting in each jurisdiction implementing an ignition interlock program.

Honourable senators, one further point before I conclude my remarks. When MADD Canada announced that it would push for the lowering of the blood alcohol level from 0.08 to 0.05, it was because our current blood alcohol level is not deterring people from drinking and driving. There are an estimated 12.5 million impaired driving trips annually on the roads in Canada, with tens of thousands of impaired drivers on the road each night. Just think of that when you are driving home at night and start anticipating who is coming at you.

The overwhelming international trend all over the modern world has been to reduce blood alcohol level limits. Australia, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Norway, the Netherlands and many other countries have 0.05 limits, while Japan, Hungary and Sweden have even lower limits. Virtually every jurisdiction that has established a blood alcohol limit of 0.05 or lower has experienced immediate traffic safety benefits through reduced crashes, injuries and fatalities. It is significant to note that Sweden and Australia reported that the greatest effects of the lower blood alcohol limit were on people who continued to drive with high blood alcohol levels, proving without a doubt that it even deters the high-risk offender, or the so-called hard-core group. As honourable senators probably know, many people like to say that the problem is only with "a few hard-core drinkers." That is simply not supported by the facts. Statistics also show that while countries such as Germany, Sweden and France have a much higher consumption level of alcohol, they have fewer accidents caused by drunk drivers.

• (1440)

When prompted with a specific proposal to lower the federal criminal blood alcohol level from 0.08 to 0.05, two in three Canadians, or 66 per cent, either strongly supported or supported the proposal. In today's *Ottawa Sun*, I was happy to see that a survey in this region resulted in similar support.

When the 0.05 goal was announced, I and others expected some opposition from the brewers, from liquor producers and from others in the hospitality industry. I was shocked, to say the least, that the Canada Safety Council would be one of our opponents on this issue. They wrongly suggested that this was a step toward prohibition and that MADD was acting on emotion. We certainly are not advocating prohibition. I enjoy a good glass of wine like everyone else. I just do not get behind the wheel of my car afterward.

As I pointed out a few moments ago, our request for action is based on solid research and on the experience of other modern societies in the world. There is no basis for the arguments of Mr. Therien on behalf of the Canada Safety Council. I think it is fair to ask: What is the motivation for his and their opposition? I would very much like to have the names of the board of directors of the Canada Safety Council because I would like to talk to them personally, on an individual basis, not on an emotional level but about the facts based on research. It is important for their board to address this issue seriously, otherwise, in the end, the name "Canada Safety Council" will be the ultimate oxymoron.

Just last Friday, honourable senators, I had the honour of being at a meeting of the Canadian Medical Association where I presented their president, Dr. Haddad, with a special award on behalf of MADD Canada. The Canadian Medical Association is partnered with MADD in the issue of blood alcohol levels.

As my grandchildren would say about the alcohol ignition interlock device, it is a no-brainer. It is simply something that is meant to protect each and every one of us and our families.

Honourable senators, as we enter this holiday season — and I know there are some Christmas parties going on tonight — I would urge everyone in this place to make the decision, when your judgment is sound, to make other arrangements to get home safely. Please, please do not get behind the wheel of a car when you have been drinking. If each of us is honest with ourselves, we know of some people in this very chamber who, perhaps, do not follow that rule.

Honourable senators, I strongly urge that we pass Bill C-46 in time for the holiday season.

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

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE OF THE WHOLE

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

On motion of Senator Carstairs, bill referred to Committee of the Whole later this day.

ANTI-TERRORISM BILL

THIRD READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Fairbairn, P.C., for the third reading of Bill C-36, to amend the Criminal Code, the Official Secrets Act, the Canada Evidence Act, the Proceeds of Crime (Money Laundering) Act and other Acts, and to enact measures respecting the registration of charities in order to combat terrorism.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, let me make it clear at the beginning that my opposition to Bill C-36 is not to be interpreted as an argument against anti-terrorism but, rather, as one for the respect of Canada's Constitution. To paraphrase a great American statesman, John Adams, "Ours is a government of laws, not of people." In many respects, Bill C-36 violates this basic premise.

[Senator LeBreton]

Exceptional circumstances certainly demand exceptional responses. This truism is used by the government to introduce legislation that clearly includes provisions completely in opposition to fundamental rights and values that make this country the envy of so many. In reply it is argued that the safeguard of these rights and values may depend on their suspension, in whole or in part, as those challenging them so violently are also taking advantage of them to the detriment of society as a whole. My answer to that is found in a quote from the brief submitted by the Canadian Bar Association to the Special Senate Committee on Bill C-36:

> The government currently has many legal tools to combat a terrorist threat. Even without considering investigative authority under the Canadian Security and Intelligence Service Act or the National Defence Act, existing provisions of the Criminal Code provide an impressive arsenal to combat terrorist organizations.

The list is lengthy and includes, as Professor Kent Roach pointed out to the committee: murder, hijacking, endangering or having offensive weapons on aircraft, administering poison or noxious substances, offences in relation to explosives, offences in relation to nuclear materials, treason and sedition, sabotage, intimidation of legislatures or people, uttering threats, unlawfully causing bodily harm or death, kidnapping and hostage taking, conveying false messages to alarm, and various offences relating to forged passports, citizenship and nationalization certificates and other false documents.

In addition, there are offences relating to threatening international protected persons or their residences, impersonation and mischief to property. The criminal organization provisions in the code may also apply.

Honourable senators, this list is far from exhaustive. To those who wish to pursue the topic of the tools already available to the government, I refer them to pages 10 and 11 of the CBA brief. In addition, as the bar has pointed out, the current Immigration Act provides ample provisions to prevent terrorists from coming to Canada or to detain and remove those who are here.

If this were not enough, the government already has at its disposal the Emergencies Act, which was passed in 1985 to replace the War Measures Act. There are many who will argue that the Emergencies Act gives powers to the government not dissimilar to those in its late and unlamented predecessor.

What differentiates it from the War Measures Act, however, is that its replacement includes a mechanism for near immediate parliamentary review of all orders and regulations made under it, as well as a mechanism for the revocation of any order or regulation. As many witnesses have pointed out, the tools are there, yet the government persists in having us believe that Bill C-36 is essential; otherwise success in its anti-terrorist efforts will be limited.

Let me list, as did the Canadian Bar Association, some of the additional authority Parliament is asked to approve. They include preventive arrest on mere suspicion; judicial participation in the investigative phase; easily issued certificates to block access to information; the addition of the grounds on which and the people who might go to court to block a court's access to information; vastly expanded use of summaries of evidence; the use of hearsay evidence, with a directive to the judge to draw no undue inference from the fact that the Crown does not bring to it firsthand evidence; cumulative sentencing imposed on judges for certain crimes; making life sentences available on a variety of Criminal Code violations that currently do not carry life sentences; and investigative hearings with the loss of the right to remain silent.

• (1450)

Honourable senators, I was startled yesterday to hear the Leader of the Government say to us, in her comments on this bill, that we do not have a right to silence in Canada. I want to dispel that wrong impression by reminding honourable senators that in section 7 of the Charter the right to silence is a principle of fundamental justice. This has been confirmed in a number of Supreme Court cases dating back to 1990. If that needs support, let me quote from Professor Hogg's book, *Constitutional Law of Canada,* 4th Edition, page 1111, in *Hébert*, the Supreme Court, in its opinion, stated:

> ...the right to silence was said to be a "basic tenet of the legal system..."

If that authority is not conclusive enough, let me quote from another authority who wrote a very fine treatise, of which he sent me a copy and now I realize why. It is entitled: *Les droits et libertés au Canada,* by Gérald Beaudoin, in collaboration with his fine assistant, Pierre Thibault. It reads as follows:

[*Translation*]

> The *Chandlers* case deals in part with the right to remain silent. Justice Corey, on behalf of the court on this specific issue, reiterates the principle whereby the right to remain silent is now protected under the Canadian Charter of Rights and Freedoms.

[*English*]

To assume that the right of silence is not available to Canadians is to give, to say the least, a very erroneous interpretation of one of the key sections of the Charter.

Many draconian powers in Bill C-36 are loosely worded and subject to contradictory interpretations, which can only lead to an implementation not intended by Parliament. Even the Liberal majority on the special committee, in its observations in the report tabled on Monday, suggested this possibility in so many words by calling for proper training and for adequate resources for the authorities responsible for implementing Bill C-36. Surely, if the resources and abilities are not yet in place, how can the government justify enacting legislation without them?

The vast majority of witnesses agreed that continuing parliamentary oversight and an expiry date for the more contentious parts of the bill will go a long way in limiting the excesses that many of its clauses could allow. Yes, there is urgency for this sort of legislation, I agree. However, there is more urgency in getting it right, and this the government will not allow.

Honourable senators, I doubt if there is one single person who has read the bill to the extent that he or she can unequivocally answer questions on the significance of all of its clauses. I include in that category its authors who worked under tremendous pressure imposed by an unrealistic deadline. I commend them all for their efforts, as well as the senior officials of the Department of Justice for their contribution to the hearings. They all exhibited professionalism and commitment, which are a credit to their departments in particular and to the public service in general.

Yet my question remains valid: Where is that person who can give a direct, unqualified reply to all of our troubling questions on Bill C-36? Who can explain the 10 United Nations conventions and refute categorically that not one infringes on the Charter? Who can assure us that the amendments to 22 existing acts are consistent not only with the acts themselves but also with each other?

Pre-study and study of the bill itself have only permitted a cursory review, and the more one examines Bill C-36, I dare say, there is not much more than a superficial understanding of its ramifications. Too many times the Minister of Justice tried to explain away any concern about the possibility of abuse by replying that she and her colleagues were very conscious of this apprehension and will make every effort to see that it be proven unfounded.

I do not doubt her good intentions, but, if Bill C-36 is to become a permanent statute, what assurances do we have that her successors will be as conscientious? One need only recall the War Measures Act to justify the concern about abuse. Passed hastily, with little debate in both Houses in 1914, that act was intended for the duration of World War I only. Instead, it lasted nearly 75 years, and was applied twice again; once during World War II and in 1970 during the October Crisis. At that time nearly 500 people were arrested under a regulation, which stated that a person suspected of membership in an unlawful association could be detained in custody for up to 21 days without being charged.

What would have been the reaction of the authors of the War Measures Act had they been asked about the possibility of the act allowing mass arrests in peacetime of hundreds of Canadians merely on suspicion of belonging to an unlawful association? No doubt, one not dissimilar to that of the current Minister of Justice, and with the same deeply felt conviction.

Bill C-36 lends itself to misuse and abuse, not at all intended, I agree, by its sponsor. Its key clauses, however, are more general than specific, thus allowing interpretations not even envisioned and certainly not intended by its authors. The argument that two of its most contentious clauses, preventive arrests and investigative hearings, are being made subject to a sunset clause is invalid because a true sunset clause implies a set date at which time total expiry takes place, and only by the introduction and passage of new legislation can the expiry be lifted. The government, in the case of the two clauses, has not subjected them to a definite expiry date but to their renewal on a simple resolution of both Houses. This is a hybrid form of sunset clause that is simply unacceptable.

Therefore, honourable senators, one effective way to impose some order and discipline in the implementation of Bill C-36 is to subject it to a sunset clause. I will end these remarks by proposing such an amendment — an amendment, by the way, which is the natural outcome of a key recommendation in the pre-study report that was tabled here. The amendment was supported in this chamber by the chairman of the committee, by the deputy chairman of the committee and, following his remarks, on a motion of Senator Beaudoin. The pre-study report, with all its recommendations, was given unanimous support by this chamber on November 22. That can only be considered a commitment of support by the Senate of Canada to the recommendations and, to follow through with that, amendments are essential.

Therefore, it is with pleasure that I will propose the first amendment, which is in line with a key recommendation. It will exclude the United Nations conventions as they allow a signatory, upon giving adequate notice, the right to withdraw. It also excludes three clauses dealing with hate propaganda, desecration of religious property and the dissemination of hate over the Internet as these obviously are essential, whatever prompts their violations.

MOTION IN AMENDMENT

Hon. John Lynch-Staunton (Leader of the Opposition): I move, seconded by the Honourable Senator Forrestall:

That Bill C-36 be not now read a third time but that it be amended on page 183, by adding after line 28 the following:

"Expiration

147. (1) The provisions of this Act, except those referred to in subsection (2), cease to be in force five years after the day on which this Act receives royal assent or on any earlier day fixed by order of the Governor in Council;

(2) Subsection (1) does not apply to section 320.1 of the *Criminal Code*, as enacted by section 10, to subsection 430(4.1) of the *Criminal Code*, as enacted by section 12, to subsection 13(2) of the *Canadian Human Rights Act*, as enacted by section 88, or to the provisions of this Act that enable Canada to fulfil its commitments under the conventions referred to in the definition "United Nations operation" in subsection 2(2), and in the definition "terrorist activity" in subsection 83.01(1) of the *Criminal Code*, as enacted by section 4.".

• (1500)

The Hon. the Speaker: Honourable senators, it is moved by Senator Lynch-Staunton, seconded by the Honourable Senator Forrestall:

That Bill C-36 be not now read a third time but that it be amended on page 183, by adding after line 28 the following:

"Expiration

147. (1) The provisions of this Act, except those referred to in subsection (2), cease to be in force five years after the day on which this Act receives royal assent or on any earlier day fixed by order of the Governor in Council;

(2) Subsection (1) does not apply to section 320.1 of the *Criminal Code*, as enacted by section 10, to subsection 430(4).1 of the *Criminal Code*, as enacted by section 12, to subsection 13(2) of the *Canadian Human Rights Act*, as enacted by section 88, or to the provisions of this Act that enable Canada to fulfill its commitments under the conventions referred to in the definition "United Nations operation" in subsection 2(2), and in the definition "terrorist activity" in subsection 83.01(1) of the *Criminal Code*, as enacted by section 4.".

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

Hon. Marcel Prud'homme: Honourable senators, the amendment is lengthy. According to the rules, the debate should now be on Bill C-36, as amended. Some of us have not seen the amendment. It sounds like a very complicated amendment, although it may become very simple once we have seen it. Nevertheless, under the rules of procedure, at the moment the debate should be on the amendment of Senator Lynch-Staunton. Although we have heard His Honour read the amendment, we must determine how it affects Bill C-36.

I do not wish to delay unduly, but in the interests of order perhaps His Honour would move to another item until we get a copy of this amendment. I am in His Honour's hands, but we must proceed in an orderly fashion in order to know the exact meaning of what Senator Lynch-Staunton has just proposed.

If someone is ready to speak to the amendment, that may help to clarify what the amendment is about.

Hon. James F. Kelleher: Honourable senators, I am pleased to speak to this proposed amendment.

It was a proud day for me as a senator when the first report of the special committee was unanimously adopted by the Senate. For all of our justifiable concerns about the relevance of this place, I felt that we as a Senate, examining one of the most important and intrusive pieces of legislation in our history, had produced a report of which we can all be proud. The members of the committee worked long and hard to come up with our recommendations, and it was especially gratifying when all of our recommendations were accepted by this chamber.

My elation was short lived, however. On Monday of this week, we were back to the same old ways. The majority used its numbers to defeat all amendments put forward, and the result is a bill that does not approach the one the Senate had hoped for. I suppose I should have known better than to think that the second report would equal the integrity of the first.

The government will tell you that we got what we asked for in our first report, but I beg to differ. Apparently, we got a sunset clause. We asked for a clause that would kill the legislation and force its reintroduction. Reintroduction, as you all know, means that we would have an opportunity to examine any new bill in full — to hold hearings and call witnesses. Instead of the bill being reintroduced, however, there will be a vote on a motion to extend two clauses — no hearings, no witnesses, nothing — and I think we know what will happen to that motion.

The Liberals will tell you that a sunset clause is not necessary because we have a three-year review. Well, we had a three-year review in the first draft of the bill, and the Senate still endorsed a full sunset clause. What is different now?

We are also told that the minister will keep us informed on an annual basis. Each year, we will get a numerical list of how many times the provisions in this bill have been exercised. We will not know why they were used, where they were used, when they were used or even who used them. I am sure that a page or two will be sufficient to provide us with the limited information proposed.

This is a time when we need to be reassuring Canadians, especially visible minority Canadians, that the power in this bill will not be abused. Witness after witness appeared before our committee and recommended a sunset clause. Representatives of minority groups were particularly concerned. I do not believe that a motion in three years' time, or a page of numbers each year, will give them the comfort they need.

Honourable senators, there is much more I could say about this bill, but I will restrict myself to these remarks. We as a Senate should remain committed to that which we endorsed in the first instance — a full sunset clause over the majority of this bill.

Hon. Jerahmiel S. Grafstein: Honourable senators, I have a question for Senator Kelleher. His speech and that of Senator Lynch-Staunton gives us on this side cause for deep reflection. I also listened very carefully to the speech of the Leader of the Government in the Senate. On careful reflection, I think it is appropriate for us to consider the view suggested by the Leader of the Government in the Senate. Let us assume for the moment that at the end of a year or two we discover, based on reports received from the Attorney General, from the press, from CSIS, the RCMP or any other public authority that might have reference to this bill, that there have been systematic violations of human rights or systematic violations of the Charter. What is to prevent any honourable senator from proposing amendments to curtail the extraordinary powers granted in this bill if we are satisfied, on clear and public evidence, that the bill has been abused?

• (1510)

Senator Kelleher: In response, I suppose that is possible. Given the fact that the government passed this bill, I think that it is highly unlikely that word would come down on high to permit such a reintroduction.

Senator Grafstein: Again, both of the honourable senators have made reference to the emergency legislation.

Senator Kelleher: I did not.

Senator Grafstein: I believe Senator Lynch-Staunton did. That gave me pause for consideration as well, and I am thinking about it carefully. If in fact there were emergency legislation in place, we would be prevented because of the context of the emergency legislation, notwithstanding outrageous or egregious breaches of the Charter of Human Rights, from bringing in renovating amendments. This legislation, since there is no provision for emergency legislation that acts as a barrier to amendments because the emergency may still exist, does not prevent us six months from today or a year from today from introducing amendments.

Speaking for myself, I can tell honourable senators that if we on this side discover, on clear and present evidence, that there are systematic violations, there will be amendments coming from this side.

Hon. Lowell Murray: How will the honourable senator discover that?

Senator Kelleher: As I understand the rules, and I do not profess to be any kind of an expert on the rules, it is my understanding that nothing can be brought back with respect to this bill until the next Parliament.

Hon. Consiglio Di Nino: Honourable senators, my concern is the opposite to that of Senator Grafstein. I can certainly see Senator Grafstein's point. If we had a blatant, very visible or black and white situation where there would be systematic abuse of this bill, I would hope that Parliament would act.

I address my question to Senator Kelleher. If this is not a black and white situation, how do minority groups then come to us and say that they believe their community is being targeted or is being profiled? If the question is not quite that clear, I do not want to be part of that debate. Does the honourable senator think, unless it was a very clear systematic abuse, that we would even get a hearing from the government on amending the legislation?

Senator Kelleher: I thank the senator for the softball question. Having had some experience with the RCMP and CSIS, I do not think it likely that abuses will come to our attention.

I can assure my honourable friend that it is extremely unlikely that these abuses will come to our attention through the report of the Solicitor General or the Minister of Justice because the fox is already in the henhouse. If they have approved things that perhaps they should not have, they will not make mention of that in their report. It is human nature not to want to report on one's bad performance.

In response to the honourable senator's question, it will be very difficult for news of this kind of abuse to come to us in a way or in a manner that would convince this chamber to go ahead with an investigation on this topic.

Senator Grafstein: The point made by Senator Di Nino bothers me as well. It is not systematic; it is case by case.

We should congratulate Senator Joyal and Senator Gauthier for insisting that the Attorney General of Ontario intervene in the *Montfort* case. What are the consequences of that decision? There are very important, serious constitutional consequences. The Supreme Court of Ontario has affirmed that Parliament has a role in protecting minorities. If in fact there is a systematic abuse of minorities under this bill, we have uncovered a pre-existing tool that we felt was latent in the Constitution. I thank Senator Joyal and others for helping to force this issue to the courts because the Attorney General intervened. He supported the position that if minority rights were contravened, as language rights were in the *Montfort* case, those rights would be redressed.

If we have a more egregious attack on a minority group because of this bill, there are strong legal arguments now to be made case by case. In effect, the innocent have additional help, in the absence of a very clean and salutary piece of legislation, in the form of a piece of legislation that may have some flaws in it.

Senator Kelleher: I believe we have gone far enough on this particular issue.

Senator Murray: I should like to ask Senator Kelleher a question. It touches upon Senator Di Nino's concern about whether and how any abuses might be uncovered. In view of the fact that Senator Grafstein had suggested the appointment of a parliamentary commissioner as a watchdog over the exercise of these powers, I ask Senator Kelleher whether he would support an amendment to that effect if Senator Grafstein brought it forward.

Senator Kelleher: It is nice to have some friends sitting here beside me.

Senator Di Nino: You would second the motion in amendment, would you not?

Senator Kelleher: Honourable senators, I was very proud of Senator Grafstein at the committee hearing when he so courageously recommended this watchdog. I am sure there must have been wincing in high offices on Parliament Hill over that statement. I do wish to commend the honourable senator.

If I make the motion and the honourable senator seconds it, I would be very pleased. If he wishes to make the motion, I would be more than pleased to second it. We have not seen such a courageous man in this chamber for a long, long time.

Senator Grafstein: I will respond briefly. Again, I held a strong view and still hold a strong view about that. It would have been preferable in this legislation to have an independent officer of Parliament survey excessive abuses of this legislation. I am an open-minded person. I heard the leader on this side remind us that there is nothing to prevent a committee of this place to investigate, to subpoena and to use all the powers of the Senate to call public officials to account.

At the first sign of any excessive police powers being used under this bill, I would hope that a committee would be quickly struck to investigate immediately such abuse. That will give this place the full power to examine and to renovate any egregious errors that may arise as a result of this bill.

The Hon. the Speaker: Honourable senators, we have run out of time. In order that we all know where we are, I will review. Senators are putting questions and comments to Senator Kelleher on his speech. I have Senators Beaudoin, Andreychuk, Prud'homme and Wilson all rising, I assume to ask questions.

Hon. John G. Bryden: Your Honour, I have been on my feet to try and ask a question for the last half hour. I have been chastised enough.

The Hon. the Speaker: Senator Kelleher, do you wish to ask for additional time?

Senator Kelleher: Yes.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

• (1520)

Senator Kelleher: If circumstances do arise where I think it would be right to call for an investigation, I know who I will call upon to second the amendment: my friend Senator Grafstein.

Senator Bryden: Honourable senators, I have a question for Senator Kelleher, since he is the only person I can reach; Senator Lynch-Staunton being beyond my reach.

The first one relates to the contention that, because a preliminary study was done by a Senate special committee, somehow — and this was supported by the Senate — there is an obligation to support the implementation of that report in its entirety, every "T" and every "I." I believe — and I will see if you agree with this — that the purpose of the preliminary study was to review the subject matter of the bill. It was not designed to go into the details of the bill, that is, to do clause-by-clause examination. When the Senate committee was finished with reviewing the subject matter of the bill, it made a report and that report was presented to the Senate. Do you agree that that was preliminary to and does not interfere with the normal course of the bill going through this chamber?

Senator Kelleher: Honourable senators, I am sure the honourable senator will not be surprised when I disagree with him. When the Senate committee spent a whole week studying this bill and making the recommendations they did, I would think that they would have the integrity, when it came around for the second time, to stick with their initial recommendations.

Some Hon. Senators: Hear, hear!

Senator Bryden: To follow up on that question, the first time that the Senate had an opportunity to examine the details of Bill C-36 was at committee stage. That stage, as I understand this place, is the point at which senators are given an opportunity to question, to bring evidence and to exercise sober second thought.

My question really is: Does the sober second thought apply at that stage only to provisions and only to the Senate itself? Is it not possible that, in the course of the detailed examination of the provisions and the implications of the bill at second reading, committee stage, and going through it in detailed clause-by-clause study, the Senate committee was in a legitimate position that such proposed amendments would not necessarily have become evident during the study of the subject matter of the bill, as opposed to a study of the details?

Senator Kelleher: With the greatest respect, I have a problem with this thesis. I sat there, as I think the honourable senator did, for a whole week in pre-study, and we seemed to call an awful lot of witnesses. We certainly delved into the details of the bill. The bill that came back the second time was almost the same as the first time. We did an awful lot of examination of that bill in pre-study. I did not hear much different from the witnesses the second time around. We still got the same complaints. I cannot agree with that thesis.

Senator Bryden: I would be surprised if you did agree with my thesis. On the other hand, last week in the committee, under our regular procedures, we called a lot of witnesses. We heard a lot of testimony. I assume there was some purpose to that. One of those purposes might very well have been, would you not agree, that they might persuade us to change our minds somewhat to amend the overall proposals that we made in our first report?

Senator Kelleher: Honourable senators, I think we should end this debate at this point. I do not think either party will convince the other of the righteousness of their cause and their thinking.

Hon Gérald-A. Beaudoin: I wish to move the adjournment of the debate; however, there may still be a question.

The Hon. the Speaker: Honourable senators, I was dealing with honourable senators who were rising to ask a question. I did not know that the Honourable Senator Bryden wanted to ask a question. It is up to the Honourable Senator Kelleher whether or not he wants to accept questions. I am sensing that he is not prepared to do so. Are you prepared to accept a question, Honourable Senator Kelleher?

Senator Kelleher: You can try me.

Senator Bryden: Let me ask the question. It is the question that is important, not the answer.

On the sunset clause, Senator Kelleher made the argument that Senator Lynch-Staunton and a number of people have made, namely, that there must be a universal sunset clause that applies at five years to the whole bill. The honourable senator was there last week, as was I. We had witnesses who disagreed vehemently with that proposal. We had some who wanted a one-year sunset clause; we had other witnesses who said, "You do not need a sunset clause at all; the real sunset clause is the Charter of Rights and Freedoms." We heard from Professor Monahan, who supported very much the amendments and the sunset clause only applying to the two provisions that are unusual to our existing criminal laws. Furthermore, he said, "Plus you have the right to review within three years, not after three years." His position was: "Why would you sunset the definition of "terrorism"? Either the definition is correct — and, if it is it does not need to be changed. If it is wrong, Parliament has the right to amend it and to change it. To go to what the minister indicated, she said "We do not sunset the provisions of the criminal law. We do not have a sunset clause generally to sunset the provisions against organized crime. We do not sunset our fight against child pornography. Therefore, that is the purpose of the selective sunset clause that deals with preventive arrest and investigative hearings.

The other point with which I know the honourable senator will agree is that the resolution that must be passed in order to renew those two provisions is debatable as —

Senator Kinsella: But not amendable.

Senator Bryden: — any other provision that could come before this house or any other house. Do you agree with all that?

Senator Robichaud: Yes or no?

Senator Kelleher: The simple answer is no. Calling on my past parliamentary experience, particularly as Solicitor General, and recalling the MacDonald Royal Commission into the activities of the Royal Canadian Mounted Police and activities that were uncovered on my watch when I was also theoretically in charge of CSIS, it is my feeling that there should be sunset clauses in order to put the government to the test.

Senator Prud'homme: Honourable senators, I will be very brief.

Hon. A. Raynell Andreychuk: Do not say that, because you will be long!

Senator Prud'homme: I could not believe what I heard earlier, namely, that the question is important, not the answer.

I reluctantly voted for the War Measures Act in 1970. I said it on CBC to Rex Murphy. I discovered that I was lied to. Now the former solicitor general confirms that I was probably right in my assumption after the fact.

If we had then the kind of protection that the former solicitor general is attempting to put forward now, do you think we would have had better measures for protection against the abuse that took place in 1970 when hundreds of people were jailed for months?

• (1530)

The Hon. the Speaker: Honourable senators, it being 3:30 p.m. and pursuant to the Order of the Senate, I do now leave the chair for the Senate to resolve into Committee of the Whole on Bill C-46.

[*Translation*]

CRIMINAL CODE

BILL TO AMEND—CONSIDERATION IN COMMITTEE OF THE WHOLE

On the Order:

> The Senate in Committee of the Whole on Bill C-46, to amend the Criminal Code (alcohol ignition interlock device programs).

The Senate was accordingly adjourned during pleasure and put into Committee of the Whole, the Honourable Rose-Marie Losier-Cool in the Chair.

[*English*]

The Chairman: Honourable senators, rule 83 of *Rules of the Senate* states:

> When the Senate is put into Committee of the Whole every Senator shall sit in the place assigned to that Senator. A Senator who desires to speak shall rise and address the Chair.

Honourable senators, is it your pleasure that rule 83 be waived?

Hon. Senators: Agreed.

Pursuant to rule 21 of the *Rules of the Senate*, the Honourable Anne McLellan, Minister of Justice and Attorney General of Canada, was escorted to a seat in the Senate Chamber.

The Chairman: Honourable senators, I welcome the Minister of Justice, the Honourable Anne McLellan, and her official, Mr. Hal Pruden, Legal Counsel for the Department of Justice. We are on clause 1 of Bill C-46. Minister, do you have an opening statement?

Ms Anne McLellan, Minister of Justice and Attorney General of Canada: Yes, thank you. It is a great pleasure to be here this afternoon. As some of you know, I have appeared before numerous Senate committees, but this is the first opportunity for me to appear before the chamber.

In May, 1999, as many honourable senators will recall, the House of Commons Standing Committee on Justice and Human Rights tabled its report on impaired driving, to which it attached a draft bill. This government adopted the measures found in the committee's draft bill and passed Bill C-82 in June 1999. Amongst the provisions in Bill C-82 was one that raised the Criminal Code's minimum period of driving prohibition on a first impaired driving offence from three months to one year; on the second offence, the minimum was raised from six months to two years; and for a subsequent offence, the minimum period of driving prohibition was raised from 12 months to three years.

As a result of Bill C-82, only a first offender may drive during the prohibition period, if the offender is under a provincial program for the use of an ignition interlock device during the remainder of the period of driving prohibition.

Therefore, in provinces that have such programs, such as Quebec and Alberta, they have found it difficult to attract repeat offenders to the Ignition Interlock Device Program. There is currently no ability to have a second offender use a provincial program for ignition interlock devices until a minimum two-year period has expired. For a subsequent offender, the minimum period before which an interlock program can be used is three years. The proposed amendments would permit a judge to authorize a second offender to drive, after serving a period of six months, if that person is on an ignition interlock device program operated by a province or territory for the remainder of the prohibition period. In the case of a subsequent offender, a judge could authorize the person to drive after serving 12 months if the ignition interlock device is used.

This approach follows the path taken by Parliament in respect of first offenders in 1999. It combines a punitive element, namely the period of absolute driving prohibition, with a longer rehabilitative period of prohibition during which the offender may only drive a vehicle that is equipped with an ignition interlock device.

I recently met with Ms Louise Knox, Canada National President of Mothers Against Drunk Driving, MADD, and other representatives of that organization. These representatives indicated that the ignition interlock provisions of the Criminal Code should be expanded to encourage all impaired driving offenders to participate in an interlock program, whether they are first or repeat offenders. I would add that, in the year 2000, the Uniform Law Conference unanimously passed a resolution from the Province of Quebec in support of ignition interlock devices for repeat offenders.

It would be naive to view ignition interlock devices as a magic bullet for the impaired driving problem. However, they do extend control over many who otherwise might drive while disqualified, and they will provide monitoring that offers public protection. In combination with other countermeasures, such as education, treatment and the existing provisions of the Criminal Code, they are an important tool in the fight against impaired driving.

[*Translation*]

I thank you for your attention and will now be happy to answer any questions you may have.

[*English*]

Senator LeBreton: Thank you, minister, for appearing and for your support of Bill C-46. In my remarks today, I raised a small concern that I would like you or your official to address, that being the use of the word "may" as opposed to "will" in clause 1.(1.1), which states: "In making the order, the court may authorize the offender..."

My concern is that the word "may" could provide a little "wiggle room" to the judiciary in implementing this particular law. Would you care to comment?

Ms McLellan: The official may want to respond to this as well, but I think we do not want the court to have to order someone to participate in this program in every circumstance. It is fair to say that there will be some situations where it is simply inappropriate, whereby the court would order the person into a mandatory treatment program because of his or her alcohol addiction. The word "may" is there so that the court can take into account the circumstances of the offender to determine whether it is an appropriate circumstance for the person to participate in this kind of program.

• (1540)

There will be situations where courts will decide that it is not appropriate to order a person into one of these programs. The addiction may be so great that another order would need to be made.

Senator LeBreton: Minister, I am sure you hear a lot about the general recognition of a lack of uniformity across the country in the application of the laws dealing with impaired drivers.

When you meet with the provincial attorneys general, do they look to the federal government and the Criminal Code to assist them in more evenly applying their laws dealing with impaired driving? Often we hear of cases where people clearly should be charged under the Criminal Code but police, because of legal loopholes particularly in provincial jurisdictions, will take the line of least defence. Are the attorneys general looking for more federal leadership in this whole area?

Ms McLellan: That is an interesting question, but it actually has not arisen in my meetings with provincial and territorial attorneys general. The Criminal Code is there. We have maximum sentences. We generally do not like mandatory minimums; we use them only in very limited circumstances. Mandatory minimums are usually challenged and we must be prepared to justify them to the courts under the Charter of Rights and Freedoms. In some cases, we are successful in defending the limit; in other cases, we are not.

If the police charge under the Criminal Code and the case is made out before the court, there will still be some variation in sentencing across the country. There is really no effective way to avoid that unless we impose a mandatory minimum sentence. Judges should have a certain degree of discretion to take into account the circumstances of the victims, the offenders, and the communities from which they come.

Our best tools are information and education, including judicial training of judges, particularly provincial court judges, so that they understand the gravity of the impaired driving offence. That is why we increased the penalties with Bill C-82. We are starting to see some impact in terms of conveying the societal message that drunk driving is simply not acceptable. The consequences can be horrific for families and communities, as we all know.

As with most other sections of the Criminal Code, we will not reach complete uniformity. Education of judges, police and the public will assist in more even sentencing across the country — sentencing that reflects society's moral condemnation of such conduct.

Senator LeBreton: That answer is a perfect segue to my final question, which is on judicial training. Is any study underway by the department or elsewhere of sentencing levels across the country since the increased maximum sentences were introduced in 1999 and 2000?

Ms McLellan: I do not think so. It is probably too soon.

Mr. Hal Pruden, Counsel, Criminal Law Policy Section, Policy Sector, Department of Justice: Honourable senators, I believe it is too soon. Only a couple of years have passed. Statistics would be gathered by the Canadian Centre for Justice Statistics. They produce a periodical entitled "Juristat" biannually on impaired driving. We can expect that, in a couple of years, we will start to see statistics and have some idea of whether the 1999 and 2000 amendments are having an impact on the problem of impaired driving. However, I would hasten to add that there are many countermeasures that are being implemented by provincial and territorial governments in addition to those things that are being done by the federal government. One might have a very difficult time isolating the causes of those impacts to the criminal law changes.

Senator Kinsella: Minister, how much do these devices cost? How much will installation cost?

Ms McLellan: I will ask Mr. Pruden to answer that. The costs are generally borne by the offenders. My department has worked out the installation fee to be approximately the cost of a beer a day on the part of the offender, the drunk driver. There is a charge.

Senator Kinsella: Not being a beer drinker, can you tell me what that is in dollars?

Ms McLellan: Less than $3 per day.

Senator Kinsella: How much does the device cost?

Mr. Pruden: The device is not sold to the offender. It is rented, more or less, by the offender.

Senator Kinsella: At $3 per day?

Mr. Pruden: That is right. It would be up to the province to ask the offender to pay a fee. The province could choose to make the device available without a fee to the offender.

Senator Kinsella: The device is owned by the province?

Ms McLellan: Yes. Provinces can choose to adopt these programs. Alberta had the first program in North America that was province-wide. Then Quebec adopted the program. A number of other provinces want to adopt the program but they will not do it without this amendment because they want to be able to include second and subsequent offenders.

Senator Kinsella: In terms of fairness in the administration of justice across Canada, I am satisfied that there is no disadvantage for those who are less rich than others at $3 a day, the price of a beer.

What about the symmetry of application across the country? As the Attorney General for Canada, do you have concerns that, in some parts of Canada, a divergence or diversity of corrective measures will exist?

Ms McLellan: That diversity exists now. Only two provinces have these devices. Others want to participate, but there is a cost to the province and it is a matter of provincial jurisdiction. The provinces will choose whether they want to participate in the program or not.

As we have seen in the United States, the effectiveness of the devices in keeping disqualified drivers out of their cars and preventing them from doing damage to innocent people will convince more provinces to take up this device as a cost-effective and administratively efficient tool.

• (1550)

Senator Kinsella: Is the device set at a certain level of how much alcohol is measured? Is it a minimum level that relates to the blood alcohol level?

Mr. Pruden: I am told that the devices can be set to a prescribed limit. If, for example, the province chooses to set zero as the limit, many scientists tell us that you can be confident that, if you are measuring at 20 milligrams of alcohol in 100 millilitres of blood, this is not simply showing an accidental alcohol reading but is actually showing breath alcohol. The province could choose to use 30 or 40, if it wanted, but it is up to the province to set the level.

Senator Kinsella: With regard to comparative studies with other jurisdictions, can you tell us what the evidence is in a sentence or two?

Mr. Pruden: There have been studies in the United States as well as in Alberta and Quebec. The studies show that the recidivism is reduced during the time that the person is using their alcohol ignition interlock device. After that time, most of the studies show that the number of people that tend to have recidivism start to parallel with people who did not use an interlock device. In Quebec, they found there was a more lasting effect than some of the other studies had shown. However, it should be remembered that, in the Province of Quebec, the alcohol ignition interlock device program was heavily advertised. That may not have been the case in other studies where they did not have the positive results that Quebec has had.

Senator Atkins: I congratulate the government for bringing forward this legislation. It is long overdue. Have you had any reaction from the Canadian Automobile Association or other associations that might be interested in this legislation?

Ms McLellan: No, because the costs of this program are borne by the provinces and the interlock devices are made available by the provinces. It is not a case like auto theft, for example, where we do deal directly with the automobile manufacturers because, for the cost of $50, you can insert a device that is fairly helpful in preventing auto theft. You then get into interesting questions with the car manufacturers on whether they should build it into every car, as well as with the insurance industry and consumers. To my knowledge, we have not had the same discussions relating to the interlock devices that we had with the automobile manufacturers relating to devices in and around auto theft.

We are not aware that they have expressed an interest in this measure because it is not a cost or burden on them; it is a device that is leased to the owner of the vehicle after a conviction and that is installed in the car at that time. I do not think there has been any discussion in the jurisdictions in terms of putting it into every vehicle that is manufactured, unlike the auto theft device where more and more of the manufacturers of cars are saying that it makes a lot of sense to build it in for the extra $50.

Senator Atkins: That was my next question. Do you envision at any time in the future where it would be part of standard equipment in an automobile?

Ms McLellan: I would think not. We all run the risk of having our car stolen — it is an event over which we often have no control, unless we are careless or negligent — whereas I would like to believe that very few of us drink and drive. Therefore, I doubt whether the automobile manufacturers would see it as a particularly attractive selling device. Most consumers would say, "I do not drink and drive. Therefore, I do not need this." Consumers also know that, if one is convicted, it may be made available by a province, depending on the jurisdiction in which one lives. I do not anticipate it being built into an automobile as standard issue, the way we are now starting to see the auto theft devices being built in.

Senator Atkins: Consumers may not admit it.

Ms McLellan: That is always a risk.

Senator Atkins: According to the statistics given by Senator LeBreton, there are more people driving who have had a drink.

Ms McLellan: There is no question that there are still too many people who drink and get behind the wheel of a car, with tragic consequences. It is an interesting question. I will be more than willing to take it up with the manufacturers and get back to you on that. It is not a discussion that we have had; it is not a discussion that consumers, MADD or others who work with drunk driving have raised with us. I could follow up on that for you.

Senator Atkins: My guess is that you would get resistance from the manufacturers.

Ms McLellan: That is probably right. In fact, we still have not reached the stage in this country where every automobile is produced with a $50 anti-theft device in it. The insurance industry tells us that it makes perfect sense, but we are still not there in relation to that issue. I think it will take some time.

Senator Di Nino: My colleague's question to the minister begs a follow-up in the sense that we often lend our vehicles to our family and friends. For instance, at the stage of life when teenagers are experiencing different things, they may have that extra drink that pushes them over the legal limit. I wonder whether it might not be advisable for the government to take a stronger leadership role on this issue, if it could be addressed without a tremendous cost to the manufacturers. Since this gives us an opportunity to have a dialogue with the manufacturers, would it not be advisable to perhaps push this a little so that we could have safer roads for all of us?

Ms McLellan: I will certainly have my officials discuss this matter with the automobile manufacturers. We have not addressed it with them at this point, but I am more than willing to see where their views lie. The motor vehicle is being transformed with all sorts of built-in devices that we would not have anticipated even 10 years ago. Let us have that discussion and see what we hear back from them on whether a practical, cost-effective approach could be taken.

Senator Di Nino: Would you undertake to inform us on the results of those discussions?

Ms McLellan: I would be happy to do that.

Senator Atkins: I would remind the minister that, when the question of seat belts was debated, the resistance originally to seat belts was unbelievable. I am sure some of those arguments would be relevant to the discussion on installing these kinds of devices.

Ms McLellan: Indeed. That is true.

Senator Banks: Particularly in Alberta.

Senator Roche: I would like to welcome my fellow Edmontonian to the chamber and tell my colleagues how proud the City of Edmonton is of the minister.

Some Hon. Senators: Hear, hear!

Senator Roche: I want to come back to this question of lack of uniformity across the provinces. I would make special reference to Alberta, because Alberta is known for having strong programs to combat impaired driving. For example, a second conviction of impaired driving requires the driver to take a weekend live-in course in order to get their licence back.

• (1600)

I am wondering how effective the programs in Alberta are relative to other provinces. Do you have statistics or records that show whether the recidivism rate is lower in Alberta as a result of our strong programs? Do we occupy a place where other provinces could look to the programs in Alberta in order to emulate them?

Ms McLellan: Mr. Pruden is indicating to me that we do not have those kinds of statistics, but you raise a good point. The federal government could show leadership here. Obviously, there are significant parts of the issue around impaired driving that fall under provincial highway traffic legislation and motor vehicle legislation. However, the federal government could play more of a leadership role in ensuring that we are collecting the information around the experience of the provinces on the kinds of approaches that they are taking on this issue and what has been learned.

The provinces informally share among themselves. Provinces have watched the experience of Alberta and Quebec as it relates to the ignition interlock device. As I say, some provinces are interested in pursuing this matter if this amendment is made available.

I cannot say that we have qualitative or quantitative information about whether the approach of one province to dealing with drunk driving is more effective than another's approach, other than that we do have some evidence around how these ignition interlock device programs work when people use them. The devices seem to be quite effective.

You raise a good point. We do need more information on what seems to work, and we need to be able to share that information with provincial and territorial jurisdictions.

Senator Roche: On this matter of the automobile manufacturers building into every car an alcohol ignition interlock device so that it would be standard, would you agree that there is an argument not to do this on the grounds that the presence of such a device in every car would be a tacit admission that it is okay to drink and drive, but you just should not drink so much that you are going to get impaired or caught? I thought the idea of Mothers Against Drunk Driving was to oppose all drinking before driving. Thus, the presence of this device in every car would give every teenager the idea that they can drink up to a point and then drive.

Ms McLellan: Your point is very interesting. Certainly, no one would ever want to create the impression that it is okay to drink and then get into an automobile to drive, especially not with teenagers. Under our law, whether the limit is 0.08 or 0.05, there is a suggestion that whatever the level, it is okay to have something to drink and drive. However, we do not want to create the impression with young people that it is okay to drink and drive.

The argument on the other side is that if you get into that car, blow into the built-in device and are over the limit, the car would not start. It is a preventive measure. It acknowledges the reality of life that there are some people of whatever age who will try to drink and drive.

Senator Fairbairn: Senator LeBreton made what I thought was an astounding statement in her speech today, and perhaps she can help me with this. She pointed out that in her organization's efforts on this issue, they had run into some resistance.

Senator LeBreton: To clarify, I was using the opportunity in my speech to also make a pitch for 0.05 as the maximum level. I was talking about the Canada Safety Council's objection, which was totally refuted by all the evidence. I was writing a note to explain that.

Senator Fairbairn: Has the minister had similar representations or discussions with that particular group?

Ms McLellan: The Canada Safety Council made it very clear in the paper just last week in a public letter that they are opposed to lowering the level from 0.08 to 0.05. I have decided to refer the matter back to the Standing Committee of Justice and Human Rights. It looked at this issue two years ago. At that time, it heard evidence from law enforcement agencies and perhaps the Canada Safety Council as well. I am not sure who appeared before them at the time. That committee determined that it would not be effective to lower the rate from 0.08 to 0.05.

When I met with MADD two weeks ago, they told me that they had done much research since then. They suggest that new scientific studies indicate that in jurisdictions that have dropped the level from 0.08 to 0.05, there has been a significant decrease in the amount of drunk driving. I have asked the committee to revisit that issue in light of these new scientific studies and the experiences of jurisdictions like Australia and some states of the United States where there are lower levels. We will see.

It is one of those issues that can be dealt with well in committee where they can hear from different witnesses, including the Canada Safety Council and law enforcement agencies. Everyone can come to present their case and their evidence to the members of the standing committee.

Senator LeBreton is quite accurate in saying that the Canada Safety Council took a very strong position last week against lowering the limit.

Senator Stratton: My question goes back to the installation of devices in all autos. Would not the installation of those devices be a presumption of guilt? If they are installed in every automobile or vehicle across the country, one would assume that the person is guilty before they turn the ignition.

I do not believe that is possible. I am not a lawyer. I think you would lose on that bet 10 times out of 10. Seatbelts do not presume the guilt or innocence of any crime, but they do save lives. This device assumes that you are guilty every time that you get into the car because you have to breathe into the device before you can start the car.

Ms McLellan: I do not think it leads to a presumption of guilt or innocence. I am not suggesting that this is a direction in which either the manufacturers or others are ready to go at this time. It is certainly not something that I have heard from MADD or other organizations that deal with the issue of impaired driving.

I suppose the argument would be that no presumption is involved. This bill acknowledges, however, that there are those who will get in a vehicle after having consumed some alcohol and, as a preventive measure, blow into the device, if one is behaving responsibly. If you had a few beers at the bar and your car had one of these devices, you could blow into it and it would tell you in the most concrete terms, on the basis of the device and the level at which it is set, whether you should be driving. If you are over the level, the car would not start.

I suppose the device could be seen as a responsible and preventive measure, acknowledging the human fact that, every now and then, people go to a bar or to a party, have a few drinks and are not sure as to the level of their blood alcohol. Right now, I do not think that this is a road that we want to go down.

Senator Stratton: I do not believe we should do it either. I cringe at the thought of having that kind of big brother approach in this instance.

How do you get around the device? Has there been an exploration into the situation where someone who has not been drinking breathes into the device to get the car started and then the driver takes over the driving?

Ms McLellan: I believe Mr. Pruden is best placed to respond to that question. That is a legitimate concern. Keep in mind though that these are court-ordered and there are conditions. Therefore, if one attempted to get around the device, and was in an accident, picked up for any reason and caught or someone informed on them in terms of what they were doing, there would be serious consequences because they would end up serving the remainder of their sentence. In most cases I should think they would end up serving the remainder of the mandatory prohibition, which means they cannot drive at all. In fact, they might even end up, if the conduct persisted, arrested and jailed.

Mr. Pruden: The Traffic Injury Research Foundation has held national meetings on this topic in the year 2000 and the year 2001. I had occasion to attend each of those two meetings. The report on their September 2000 meeting indicates that several tampering or circumvention attempts have been made in the past, and it is believed they now have successful ways of defeating those kinds of attempts.

For example, when the person is blowing into the ignition interlock device in providing their breath sample, they must also provide a hum tone. They have to learn how to do that. It is not particularly easy, I am told, especially if you have been drinking. Even the sober person would have to know the hum tone. Another addition they can have is a breath pulse code so that they must give certain breath pulses in order to use the device.

I would say, with a sober individual, perhaps the greatest way of preventing that is the fact that, as a sober person, why would I want to see either the driver taking me as a passenger or driving off by himself or herself down the road? Why would I want to give them the ability to start?

Even though the person may be silly enough to give a sample so that the person may start their vehicle, there is a requirement under these programs for a retest at intervals. The driver is alerted to pull over, stop and provide another sample at intervals. If the driver does not obey that requirement to pull over, it is recorded in the data recorder of the device and this recorder device is checked when the person is called in for their regular ignition interlock device maintenance. They have a tight control on what is happening with that device and with that driver.

Would it be theoretically possible for a sober person to get someone started? Yes. I think, however, there are some good systems there to prevent that.

Senator Banks: I have a supplementary question for Mr. Pruden. Did I understand you to say that the measurement that the device takes is that of breath as opposed to blood-alcohol content?

Mr. Pruden: Just as we do now, with the screening devices and approved instruments that peace officers use, this device will also measure a deep lung breath sample. There is a conversion so that we then know what the concentration of alcohol will be in the blood, just as we now know what that conversion will be when a person gives their deep lung sample on the screening device or the approved instrument.

Senator Banks: There are examples of such devices having certain kinds of mouthwash show up, as I understand, in breath alcohol measurements. I wonder whether there is a corollary, an opposite masking substance that could be used in this device in one's car.

The reason I ask the question is that it is one thing to be stopped by the police randomly and to take a breathalyzer test before a policeman, but it is quite another thing to be able to prepare in the relative privacy of your own car some means by which to mask your alcohol content. Is there any such known substance?

Mr. Pruden: Again, at the September 2000 meeting held on this topic by the Traffic Injury Research Foundation in Montreal, it was indicated that there are temperature and/or pressure sensors that can be incorporated as a way to ensure that the sample is a deep lung air sample and not something that is being introduced by mechanical device, for example. I can think of the example of someone trying to introduce into the machine a sample of air or breath held in a balloon, and apparently the sensor can help prevent that kind of situation.

The Chairman: Do honourable senators have any other questions?

Madam Minister, thank you very much for your time.

Thank you, honourable senators.

Honourable senators, shall clause 1 carry?

Hon. Senators: Agreed.

The Chairman: Shall I report the bill without amendment?

Hon. Senators: Agreed.

[*Translation*]

The Hon. the Speaker: Honourable senators, the sitting of the Senate is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Rose-Marie Losier-Cool: Honourable senators, the Committee of the Whole, to which was referred Bill C-46, to amend the Criminal Code (alcohol ignition interlock device programs), has examined the said bill and has directed me to report the same to the Senate without amendment.

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

On motion of Senator Carstairs, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[*English*]

ANTI-TERRORISM BILL

THIRD READING—MOTION IN AMENDMENT—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Fairbairn, P.C., for the third reading of Bill C-36, to amend the Criminal Code, the Official Secrets Act, the Canada Evidence Act, the Proceeds of Crime (Money Laundering) Act and other Acts, and to enact measures respecting the registration of charities in order to combat terrorism.
>
> And on the motion in amendment of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Forrestall,
>
> That Bill C-36 be not now read a third time but that it be amended on page 183, by adding after line 28 the following:
>
> "*Expiration*
>
> 147. (1) The provisions of this Act, except those referred to in subsection (2), cease to be in force five years after the day on which this Act receives royal assent or on any earlier day fixed by order of the Governor in Council;
>
> (2) Subsection (1) does not apply to section 320.1 of the *Criminal Code*, as enacted by section 10, to subsection 430(4.1) of the *Criminal Code*, as enacted by section 12, to subsection 13(2) of the *Canadian Human Rights Act,* as enacted by section 88, or to the provisions of this Act that enable Canada to fulfill its commitments under the conventions referred to in the definition "United Nations operation**"** in subsection 2(2) and in the definition "terrorist activity" in subsection 83.01(1) of the *Criminal Code*, as enacted by section 4.".

The Hon. the Speaker: We resume our debate on the motion of Senator Lynch-Staunton to amend Bill C-36. We were dealing with a question from Senator Prud'homme to Senator Kelleher, who is not here. I assume we cannot continue with that.

Hon. Marcel Prud'homme: Honourable senators, I am very happy, as Senator Kelleher gave me the answer on his way out.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I wish to rise in support of the amendment by Senator Lynch-Staunton. I know that a number of other senators have indicated their interest in rising and speaking. Perhaps I will make a few of my own comments now and then move the adjournment of the debate in the name of one of the senators who has indicated they do wish to speak at this point in the debate on Bill C-36, and in particular on the motion in amendment is very important because it speaks to a proposition that has been adopted already by this chamber, namely that a sunset clause be applied to this whole bill.

Honourable senators, it has been said that when interference with human rights and civil liberties is most likely, protection of these liberties is least available. With Bill C-36, the government received the support of this house, in principle, and the support of the other House, for the principle that the executive should be given additional tools to combat terrorism.

• (1620)

However, the clear expectation, in my mind at least, was that this would be done in a measured and balanced way. That was the pith and substance of the first report of the Special Senate Committee on the subject matter of Bill C-36. Unfortunately, what we see in the bill that has been returned is that the government has failed to reciprocate by making available tools for the protection of Canadian human rights and liberties.

The government tells us that the world changed on September 11, 2001. Indeed, it did. However, if the debates from the Second World War, an event that also changed the world, are any guide, the government, which manages with an eye to public opinion polls, will obviously be the government that will avoid being criticized for insufficient vigour in the protection of what is perceived as being in the best interests of the state. During our watch, we have to add to this mix the daily dose of guidance from CNN. I had expected much better from the government in terms of human rights protection, for the lessons of the history of human rights abuses in times of crisis is not a very promising lesson.

During the Second World War, here in Canada, government was all too willing to set aside Canadians' rights for what was then believed to be in the national good. However, acting in fear and in haste, people and institutions acted badly. I fear that without the kind of amendment proposed by Senator Lynch-Staunton, we may be seeing the first act of a repeat performance.

From the beginning of our work in Parliament on Bill C-36, the government has seen our willingness to accept the request of the executive for extra powers to combat terrorism. Therefore, it is difficult for me to understand why the government would show such unwillingness to accept Parliament's contingent principle, to the effect that these extra powers would be given but that they must be accompanied by extra human rights safeguards. The amendment of my colleague speaks simply to a technique of giving extra protection.

I encourage honourable senators to support the amendment.

Hon. A. Raynell Andreychuk: Would the Honourable Senator Kinsella accept a question? It refers to the amendment and to what Senator Kinsella has been speaking to.

Senator Kinsella: Yes, of course.

Senator Andreychuk: Senator Grafstein talked about systematic human rights abuses and whether they would be caught under the existing provisions in the protections, such as they are, that are in the bill now. That was in response to Senator Di Nino, who asked, "What about abuses?"

Is it the understanding of the Honourable Senator Kinsella that there is a concern, pervasive in Canada, that there will be systematic abuse, for which I think there is remedy in the international situation? Is it the fact that there will be some intolerable abuses, but not necessarily systematic abuses? Systematic abuses would seem to go to some sort of design, plan or scheme by either authorities or otherwise. Is it not more in the haste, the hurry and the zeal to catch terrorists that the bounds will be overstepped and that innocent people will be hurt?

Senator Kinsella: I thank the honourable senator for that very important question. Indeed, my greatest concern is with systemic discrimination. People do not like to use the term "racial profiling." In the committee's pre-study of the bill, we asked the Commissioner of the RCMP whether they used racial profiling. Obviously, I did not expect him to admit that they were. However, the commissioner said that the RCMP does do profiling using other criteria.

Honourable senators, it is the effect of the conduct that counts, not the intent. I do not believe that any of our peace officers act in bad faith. In Canada, we are blessed with a public security cadre of professionals. I do not look for ill will. However, I am concerned with the effect of a system. If there is a system of preventive arrest, if there is a system of lists, it is the unintended effect that concerns me.

I do not want Canada to have its own *detenidos desaparecidos Canadienses,* as they might say, which has occurred in other countries. I have heard from many members of the visible minority communities of Canada that that is their fear. They fear that at airports and at ports of entry people with dark skin will be picked on. It may not be on the basis of race. However, that will be the effect.

Whether we will be dealing with what the United Nations envisages under Resolution 1503, of gross and consistent patterns of human rights violations, I do not know, but I think it is enough of an amber light for us to be very cautious.

To be perfectly clear, I am prepared to recognize that we live in a changed environment, that we have a right to human security and that we are wise and prudent to give the executive sufficient tools to respond to threats to human security, but it is not a forced-choice situation. We can do that and, at the same time we have enough imagination and creativity to set in place counterbalancing mechanisms. That is all we have been asking for.

Senator Lynch-Staunton's amendment makes it very clear. It is based upon the same kinds of principles, such as the notwithstanding provision of the Charter.

The committee's first report was wise and prudent. It recommended a five-year sunset clause on the entire bill. In my opinion, that is the proper course of action. I was particularly pleased that the Senate adopted that report, notwithstanding having learned that the Minister of Justice did not want a five-year sunset provision but a similar type of mechanism that applies to but a couple of provisions.

• (1630)

Honourable senators, history will judge us very harshly if we do not maintain the position that has been so broadly embraced by Canadians, as articulated in the first report of the special committee.

Hon. Consiglio Di Nino: Honourable senators, first, the Honourable Senator Kinsella must have his rose-coloured glasses on today. I am probably one of the few in this chamber who was subjected not to endemic discrimination but to a certain treatment by police forces when I was a 13-year-old boy and came to this country in 1951. The terms used in dealing with me on the streets of Toronto are not terms that I can use in the Parliament of Canada.

The honourable senator is surely not suggesting to me and the rest of our colleagues that 100 per cent of our police officers and members of our security agencies — every single one of them — is cognizant of human rights and will act in an appropriate and proper manner. That is a dream. I think that there will be misuse and abuse. Hopefully, it will be minimal and not systematic. I agree we have grown a great deal since I came to this country but, dear colleague, please do not tell me that you honestly believe that every police officer, every member of the RCMP, every member of all the security agencies that we have such as Customs, or what have you, will have a thorough and full understanding and will have in their hearts the ability to say, "I will treat this person with equality." Will the honourable gentleman please respond to my remark?

Senator Kinsella: Honourable senators, I was attempting to make a distinction between gross and consistent patterns of discrimination and systemic discrimination. Systemic discrimination does not even speak to the issue of intent. I was not going to go down the line of intent. I may be said to be wearing rose-coloured glasses, but I am simply saying that I accept on a prima facie basis that professionally trained peace officers are just that, professionally trained peace officers, whether their training is appropriate and whether there are too many cases that either come before human rights commissions or other tribunals that sustain the proposition that the honourable senator is making. Unfortunately, he is right. There are, indeed, these kinds of cases and we do need training in this area for our peace officers.

However, I was not resting my case on that. I was accepting that peace officers act in good faith. The record of reality is that there are instances of all kinds of abuses. More important, unless we have the ability within our system to ensure that this will never occur, in the way our public administration will operate, we must deal with the unintended discrimination that will occur.

Senator Di Nino: Surely, honourable senators, the role of the Senate is to do whatever it can to protect society, and particularly minorities, from these unintended or even occasional, to the degree that it is possible, occurrences of discrimination and racism or mistreatment. Is that not what we are here for?

[Senator Kinsella]

The Hon. the Speaker: Honourable senators, it has been moved by the Honourable Senator Kinsella, seconded by the Honourable Senator Stratton, that further debate on Bill C-36 and, in particular, the motion in amendment of Senator Lynch-Staunton to Bill C-36, be adjourned to the next sitting of the Senate.

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

Hon. Senators: Agreed.

Motion agreed to.

[*Translation*]

BUSINESS OF THE SENATE

The Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, under Government Business, I would like to begin with Item No. 1 under Reports of Committees, followed by Item No. 3, second reading of Bill C-45 under Bills, and then move to Item No. 8, second reading of Bill C-39.

[*English*]

THE ESTIMATES, 2001-02

SUPPLEMENTARY ESTIMATES (A)—REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

On the Order:

> Resuming debate on the consideration of the tenth report of the Standing Senate Committee on National Finance (Supplementary Estimates "A" 2001-02) tabled in the Senate on December 4, 2001.

Hon. Roch Bolduc: Honourable senators, this year will stand out in the history of our parliamentary system as a record year for legislation designed to increase the already excessive power of the government over the lives of the people of this country.

I fully understand that the balance between security and individual liberty must be reviewed periodically, especially in unsettled times when we face new and complex challenges, but the fact remains that before Christmas 2001 the Senate will probably have endorsed a whole series of laws that give the executive branch additional powers both to regulate and to act. By the "executive branch," I mean the government itself and certain of its agencies — Crown corporations like the EDC; the Minister responsible for the International Joint Commission on boundary waters — and we will talk about that in a few days — police forces like the RCMP; information and communications agencies; and officials of specialized agencies such as Customs and Revenue; and of certain departments like Immigration, Transport, Justice and Environment.

While I concede the justification for delegating regulatory powers in order to implement a given policy, I find it deplorable that the principles underlying certain government actions, not to mention their implementation criteria, are not spelled out in legislation but are left to the discretion of the executive.

Out of laziness, inertia or stubbornness, the government has, since this past September, demanded that parliamentarians give it regulatory powers in all kinds of public policy areas — powers that are no longer hammered out in the legislative arena but, rather, chosen by executive fiat. This executive intervention goes well beyond the areas where security considerations make the balancing of freedom and control a subtle and sensitive matter.

We have reached a point where the Royal Prerogative, historically used in making international treaties, is no longer an exception in our legislative scheme of things but has become common in dealing with domestic issues. It has shaped the thinking behind a whole clutch of laws that all tend to the same outcome: permitting the government and its agencies to do what they like, without restriction and without boundaries defined by Parliament.

At the speed things are moving now, we will soon be sounding the death knell for parliamentary oversight, because we will have finished by reversing the traditional approach and leaving the government free to do everything it likes, except what is expressly forbidden. In other words, we will have constructed a sort of Criminal Code applicable to the state. For our constitutional system, with its roots deep in Western liberal tradition, this amounts to a 180° turn.

We already have plenty of examples of abuse of the executive power in the area of financial administration. In March 2000, for example, a month before the end of the fiscal year, a private company was created by the government and given, via the contingencies vote, which historically was never meant for such a purpose, several million dollars that it could spend under some as yet non-existent program. In the 2001 Supplementary Estimates, we were asked to rubber-stamp this expenditure after the fact.

• (1640)

The government, to deflect yet more scathing criticism from the Auditor General, claimed that the federal Companies Act applied to a public body after the allocation of public money. I call that a flagrant abuse of power designed to evade the oversight of the two Houses of Parliament via a legal trick. Not only the Auditor General but even the Speaker of the House of Commons spoke out against this slight of hand.

There are other examples of the executive's excessive grip on the budgetary process. About two thirds of the budget, the portion known as statutory expenditures, is not the object of any annual review by Parliament. This portion includes debt servicing charges, transfers to the elderly and the unemployed, equalization transfers, and transfers for health care, post-secondary education and social welfare. Other examples include the contributions to many granting agencies, the amounts paid to non-governmental corporations such as the Foundation for Innovation, and other expenditures that are outside the oversight of Parliament.

That is not all, honourable senators. International commitments come under the personal management of the Minister of Finance, not only in respect of the World Bank and the other banks, but also in respect of countries to which Canada allows debt remission. There are also the discretionary powers of the Canadian International Development Agency, which handles billions of dollars. That agency was never created by law, but rather by an Order in Council.

On top of all these executive decisions, there are grants to certain Crown corporations such as VIA Rail, compensation to victims of natural disasters and droughts, payments under new collective agreements entered into by Treasury Board, and so forth.

The end result is that Parliament's annual oversight applies, for all practical purposes, to barely 15 to 20 per cent of the government's Estimates.

Our political system is based on the British model. Historically, it is already strongly biased in favour of the government because the government is made up of the people who lead the majority party in the House of Commons. However, this is no reason for increasing still further the centralization of powers in the hands of the executive. One fine day we will have to start demanding a political system with a drastically different division of powers. I, for one, reached that point quite some time ago, although I recognize the attachment that most Canadians feel toward our system of responsible government.

Honourable senators, if you wish to safeguard the core of our democratic political system, I urge you to resist resolutely the government's thirst for power, which goes beyond an almost innocent arrogance to a deplorable tendency to undermine good government in this country. I would appreciate it if some of the influential senators on the other side of the chamber would convey this important and serious message to their friends in the government. The Leader of the Government in the Senate is a person who has proved her effectiveness in the past. I urge her to tell her government colleagues that my comments today are simply the voice of reason opposing the gradual erosion of Parliament's essential role. If the Senate has any raison d'être, it is certainly as a body responsible for cooling the zeal of ministers to do more good for the people than the people want.

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

Hon. Senators: Question!

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

Hon. Senators: Agreed

Motion agreed to and report adopted.

APPROPRIATION BILL NO. 3, 2001-02

SECOND READING—ORDER STANDS

On the Order:

> Resuming debate on the motion of the Honourable Senator Finnerty, seconded by the Honourable Senator Finestone, P.C., for the second reading of Bill C-45, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, this is a government bill, but Senator Lynch-Staunton moved adjournment of the debate. If honourable senators will recall, there is a matter of some substance that needs to be dealt with in the order of $50 million. There was an indication that we would have information around that point from the minister. Therefore, in consideration of where we are on the Order Paper, Senator Lynch-Staunton wishes to stand this item.

Order stands.

YUKON BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Christensen, seconded by the Honourable Senator Chalifoux, for the second reading of Bill C-39, to replace the Yukon Act in order to modernize it and to implement certain provisions of the Yukon Northern Affairs Program Devolution Transfer Agreement, and to repeal and make amendments to other Acts.

Hon. Ethel Cochrane: Honourable senators, I am pleased to have an opportunity today to make a few remarks on Bill C-39, to replace the Yukon Act. This bill is a positive step for the territory and for the people of the Yukon. It provides the legislature of the Yukon with powers over land and resource management, as well as water rights in the territory. It is an acknowledgement that devolution is more advanced in Yukon than in the other territories, and recognition that, historically, Yukon administrations have proven their capacity to manage increasing responsibilities.

Discussions to transfer management responsibilities to the Yukon government began in 1996. Two years later, the Yukon Devolution Protocol Accord was struck to guide the devolution process and to allow for unresolved land claims to be negotiated.

In October of this year, Yukon Government Leader Pat Duncan and Minister of Indian Affairs and Northern Development Robert Nault signed the Yukon Northern Affairs Program Devolution Transfer Agreement, in which Canada undertook to introduce Bill C-39.

This bill is simply the latest development in the evolution of Yukon. For more than 35 years, the territory has administered its schools, its public works and other local matters. In 1987, for example, the Mulroney government tabled guidelines for the transfer of federal programs to the territories. These guidelines indicated that the transfer should only occur in consultation with Aboriginal peoples and that it should represent the interests and priorities of the territory.

In 1988, the Yukon government leader, together with the Minister of Indian Affairs and Northern Development, signed a memorandum of understanding, citing a commitment to continued devolution. Since that time, responsibility for hospitals, community health, mine safety, fisheries, and oil and gas have all been conferred on Yukon.

However, despite the territory's expanding authority, there had been no major review of the Yukon Act since the 1950s. In fact, it no longer accurately reflected the practice of responsible government. Bill C-39 is an attempt to update the act, essentially bringing it into step with the 21st century.

So far, the bill has met with seemingly unprecedented cooperation from all sides of the house. More important, however, public opinion polls indicate that the majority of the Aboriginal and non-Aboriginal residents support the transfer of the authority.

As I already stated, Bill C-39 modernizes the language of the Yukon Act and passes the administration and control of public lands and resources, as well as water rights, to the Yukon government. However, there are also provisions to ensure that the devolution of these powers in no way prejudices the interests of First Nations in the ongoing land claims and self-government agreements in Yukon.

The Government of Canada will also retain the right, where there is an issue of national interest — for example, for the purpose of national defence or the creation of a national park — to assume administration and control of any public lands from the Yukon government.

The bill goes a long way to ensure accountability by specifying that the Auditor General of Canada will continue to conduct annual audits of the Yukon government and report the findings to the legislative assembly. However, it should be noted that there are provisions that allow the commissioner, acting with the consent of the executive council, to appoint an auditor general of Yukon at some time in the future.

• (1650)

This legislation also provides some level of security for the 240 permanent federal employees working with DIAND's Northern Affairs Program. These people will be offered opportunities with the Yukon government on par with their federal jobs at least six months prior the date of devolution. This is an important element. We cannot underestimate the value of job security for these workers who have served the territory's people and interests so well in the past.

Let me be perfectly clear: We support this bill. For Yukon, it means gaining the power to make her own decisions on matters affecting her jurisdiction, powers that were outlined in the devolution transfer agreement. It means that politicians and bureaucrats in Ottawa will not be controlling Yukon business from afar, that decision making will be placed in the hands of the people most affected by those decisions. It means Yukoners, like Canadians living in provinces, will be entitled to control their Crown land and their natural resources — their forests, mines and minerals. It means that the Yukon government will have the power to make laws affecting the exploration, development, conservation and management of its own non-renewable resources. Simply put, the proposed act provides that local priorities will be directly represented and that minority interests will be safeguarded.

That is not to say that the federal government will be entirely outside the process. The federal minister and the Governor in Council will still have a strong presence in the territory's business. After all, the Commissioner of Yukon will be appointed by an order of the Governor in Council. Of course, it is our hope and expectation that the appointment will go to someone who is well-versed in Yukon affairs and who has an intimate understanding and knowledge of the unique challenges that face the territory.

This proposed legislation also requires that the Commissioner of Yukon follow any written instructions received from the Governor in Council or the minister. The Governor in Council can also direct the commissioner to withhold assent to any bill introduced by the legislative assembly. In fact, the Governor in Council can veto any bill within a year after it is passed. It should be noted, however, that some powers of the commissioner would expire after 10 years. Certainly, under this bill, significant room remains for federal involvement in Yukon affairs.

In keeping with the theme of consultation that has permeated every level of these negotiations, I just have one observation, and that is the obvious absence of the Kaska Nation. They are not part of the Council of the Yukon First Nations and have not been represented. They have enunciated a number of concerns from the outside but have not had a voice within. It strikes me that the concerns they have raised are similar to those highlighted by others appearing before committee with regard to another bill, the Nunavut Waters Act.

Quite simply, Bill C-39 will affect every resident of the Yukon and, honourable senators, we believe the overall impact will be a positive one. At its fundamental level, the bill is about putting power in the hands of the people and placing decision making and responsibility for administration on the shoulders of the people who are most affected by the actions.

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

Hon. Senators: Agreed

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Robichaud, bill referred to Standing Senate Committee on Energy, the Environment and Natural Resources.

[*Translation*]

YOUTH CRIMINAL JUSTICE BILL

THIRD READING—MOTION IN AMENDMENT—
VOTE DEFERRED—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Pearson, seconded by the Honourable Senator Bryden, for the third reading of Bill C-7, An Act in respect of criminal justice for young persons and to amend and repeal other Acts,
>
> And on the motion in amendment of the Honourable Senator Moore, seconded by the Honourable Senator Watt, that the bill be not now read a third time but that it be amended,
>
> (*a*) in clause 38, on page 38,
>
> (i) by replacing lines 27 and 28 with the following:
>
> "for that offence;
>
> (*d*) all available sanctions other than custody that are reasonable in the circumstances should be considered for all young persons, with particular attention to the circumstances of aboriginal young persons; and
>
> (*e*) subject to paragraph (*c*), the sentence", and
>
> (ii) by renumbering all references to paragraph 38(2)(*d*) as references to paragraph 38(2)(*e*); and
>
> (*b*) in clause 50, on page 57, by replacing line 23 with the following:
>
> "except for paragraph 718.2(*e*) (sentencing principle for aboriginal offenders), sections 722 (victim impact state-".

Hon. Pierre Claude Nolin: Honourable senators, I wish to speak to the amendment moved by Senator Moore. This amendment was contained in the report of the Senate Standing Committee on Legal and Constitutional Affairs, which the Senate rejected.

Accordingly, I would like to recognize the courage and determination of Senator Moore in reintroducing this amendment at third reading of this bill. It gives me the opportunity to tell you why I consider it should receive the support of this chamber.

The amendment simply proposes that the principle in paragraph (*e*) of section 718.2 of the Criminal Code be applied to the particular circumstances of aboriginal youth in the youth criminal justice system. The purpose of this is to make it clear that a court which imposes a particular sentence on a young person must comply with the principle that all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders — which you will find in clause 38, if Senator Moore's amendment is adopted.

The amendment also provides that the youth court can refer directly to paragraph 718.2(*e*) of part XXIII of the Criminal Code concerning sentencing — which would be added to clause 50 of Bill C-7.

As a reminder, section 718.2(*e*) reads as follows:

> — available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders.

In her speech to persuade us not to support the committee's report, Senator Carstairs made three points, which I will summarize.

First, Bill C-7 already contains provisions requiring youth courts to take into consideration in sentencing available sanctions other than imprisonment that are reasonable in the circumstances, with particular attention to the circumstances of Aboriginal offenders. I could list each of the provisions to which she referred, but will proceed to the crux of my argument instead.

Second, Senator Carstairs claims that the inclusion of paragraph (*e*) of 718.2 would considerably attenuate the beneficial effects of the principles set out in clauses 3, 38 and 39 of Bill C-7. She stated as follows:

> In addition, the bill requires the court to consider all reasonable alternatives to custody for young persons, including Aboriginal young persons, and if there is an alternative, the court is prohibited from imposing a custody sentence. This provision, I would argue, is strongly and significantly more effective than 718.2 of the Criminal Code, which, I repeat, says that they need only to "consider" the alternative.

Third, still according to Senator Carstairs, the presence of the expression "in custody" in the amendment is problematic, in that the bill would be referring to imprisonment, and this is a term used exclusively for adults.

She concludes by saying that the suggested amendment, drawn from the Criminal Code, is neither necessary nor appropriate for youth.

• (1700)

I am going to attempt to convince honourable senators that Senator Carstairs' arguments do not apply in the least to Bill C-7 or to Senator Moore's amendment. On the contrary, this chamber ought to ensure that youth justice, when applied to young Aboriginal offenders, respects the specifics of their community. This amendment is necessary in order to respond to the requirements of young Aboriginal offenders.

There are a number of different expressions in Bill C-7. Let us not dwell on that. Our criminal law contains many expressions, for instance parole and determination of sentence, which are both in the Criminal Code.

There are three other factors in favour of adoption of the amendment. We all addressed them, as did the witnesses. Aboriginal youth are overrepresented in the youth criminal justice system. I am not going to revisit those statistics. We all agree they are alarming. They are overrepresented.

In its present form, Bill C-7 does not take the specific needs of Aboriginal young offenders into consideration. This we heard in the representations by the Congress of Aboriginal People, the Aboriginal Legal Services of Toronto, and the Federation of Saskatchewan Indian Nations. All of these told us that, as it stood, Bill C-7 did not take the specific needs and rights of Aboriginal youth into sufficient consideration.

The principles set forth in Bill C-7 and defended by Senator Carstairs are complex and too vague. They risk excluding consideration of the needs of young native people in favour of the other principles contained in clauses 38 and 39 with respect to sentencing.

The three groups of witnesses that appeared all tried in different ways, but with single purpose, to show the importance of including in the body of the bill reference to the nature of delinquency in native communities.

Why is there a need to add a paragraph (*e*) to section 718.2 of the Criminal Code in Bill C-7? Clause 140 of the bill provides that the Criminal Code applies in respect of offences alleged to have been committed by young persons, unless they are inconsistent with or excluded by it. In addition, clause 50 provides that a judge may refer to certain provisions of the Criminal Code in sentencing.

The amendment would allow the youth criminal justice system to determine sentences more appropriate to the particular needs of native peoples.

I will now put before you a basic element that Senator Carstairs cleverly avoided mentioning to us. You will recall, honourable senators, that we were asked a few years ago to amend the Criminal Code by introducing paragraph 718.2(*e*). We did so. It was a simple matter. Judges must be sure to give consideration to the particular circumstances of native communities. In 1999, our recently adopted amendment of the Criminal Code was interpreted by the Supreme Court of Canada.

The Government of Canada and the Government of Alberta had submitted to the Supreme Court essentially the same arguments as those made earlier by Senator Carstairs. In short, paragraph 718.2(*e*) simply indicates to the judge that all available sanctions other than imprisonment are to be considered regardless of whether the accused is a native person or not. Second, it represents only one codification of existing principles and of the jurisprudence on sentencing, more particularly of native peoples. You will be surprised to learn that the court did not accept these arguments. The Supreme Court indicated very clearly that Parliament's passage of this paragraph was intended to resolve the problem of the over-incarceration of native peoples in the adult prison system.

I am going to cite two judges, who gave the majority decision, Mr. Justice Cory and Mr. Justice Iacobucci, at point 48, and I quote:

> It can be seen, therefore, that the government position when Bill C-41 was under consideration was that the new Part XXIII was to be remedial in nature. The proposed enactment was directed, in particular, at reducing the use of prison as a sanction, at expanding the use of restorative justice principles in sentencing, and at engaging in both of these objectives with a sensitivity to aboriginal community justice initiatives when sentencing aboriginal offenders.

The court cited many studies and statistics to illustrate the unacceptable situation in which Aboriginals find themselves with respect to the adult justice system, in order to show that the traditional principles on which sentencing is based — deterrence, denunciation, rehabilitation and the protection of society — were not enough to take into account the particular needs of Aboriginals.

On page 64 of the decision, Justices Cory and Iacobucci say:

> The provision may properly be seen as Parliament's direction to members of the judiciary to inquire into the causes of the problem and to endeavour to remedy it, to the extent that a remedy is possible through the sentencing process.

The courts can improve the situation of Aboriginals in the legal system by applying paragraph (*e*) of section 718.2, using the framework of analysis set out by the court in *R. v. Gladue*.

This framework of analysis must include systemic and background factors that explain why Aboriginal offenders often appear before the courts — poverty, level of education, drug or alcohol abuse, moving off a reserve, unemployment, domestic violence, and direct or indirect discrimination.

The framework of analysis set out by the court includes the types of sentencing procedures and sanctions that may be appropriate in the circumstances for the offender because of his particular Aboriginal heritage or connection.

In the course of this exercise, the courts will focus on the individual and on his particular need, on a case-by-case basis, bearing in mind that there is no one criterion to simplify the judge's task. When facing such a situation, the courts must look much more specifically at the needs of the individual.

In summary, the Supreme Court, following an exhaustive analysis of the provision we adopted, has ruled that paragraph (*e*) of section 718.2 constitutes a social protection measure that is justified under paragraph 2 of section 15 of the Constitution Act, 1982.

Second, it applies to all Aboriginal people without exception, whether they live on or off reserve. Third, it does not call for automatic reduction of a sentence. Fourth, it does not afford aboriginal offenders more favourable treatment than non-aboriginal ones as far as sentencing is concerned, because the principles —

• (1710)

The Hon. the Speaker: I am sorry, Senator Nolin, but your speaking time is up. Do you wish to seek leave to continue?

Senator Nolin: Yes, Your Honour.

The Hon. the Speaker: Is that agreed, honourable senators?

Hon. Senators: Agreed.

Senator Nolin: Interpretation of the principles underlying Bill C-7, in particular those relating to sentencing, might take years. Some of the witnesses, including those I have already mentioned, will take the first available opportunity to make use of the Charter, and the section to which I have referred, 15.2, to say that not having included section 718.2(*e*) in the bill is contrary to Aboriginal rights. You can guess what the Supreme Court will say; one has only to read *Gladue.*

Honourable senators, this is why Senator Moore was right in inviting us to amend Bill C-7 so that this provision of the Criminal Code is included in order to ensure that the analytical framework used by the Supreme Court in *R. v. Gladue* will be applied to young Aboriginal offenders.

[*English*]

Hon. A. Raynell Andreychuk: Honourable senators, I rise to speak to Senator Moore's amendment. I want express gratitude to him for his persistence on this issue. Too often in this place we must be prodded to raise issues concerning Aboriginal youth. It is noble that Senator Moore consistently brings these issues forward, despite the difficulties and the pressures that some of us feel from time to time.

We have already heard from Senator Nolin, Senator Moore and others that some provisions of the criminal youth justice bill raise serious Charter issues. It has already been pointed out that adult Aboriginal offenders could benefit to a greater degree from alternatives to incarceration under the Criminal Code than young Aboriginal offenders would under Bill C-7. Thus, there could be a violation of section 15 of the Canadian Charter of Rights and Freedoms, which prohibits discrimination based on age.

The courts, communities and Aboriginal leaders have all said that the justice system simply does not fit Aboriginals and that this issue needs to be addressed. Parliament in its wisdom felt it was necessary to respond to these concerns and passed an amendment to the Criminal Code to at least begin to recognize that the general sentencing provisions are not sufficient to deal with Aboriginal offenders. A specific provision was inserted in the Criminal Code to draw everyone's attention to the fact that, at the time of the sentence, special consideration should be given to Aboriginal offenders. Surely young Aboriginals deserve the same treatment in this bill.

While there is a passing reference to Aboriginal youth in the general principles of sentencing, when it comes to the specific principles embodied in clause 38 of part 4 of Bill C-7, there is absolutely no mention of Aboriginal youth, Aboriginal circumstances, Aboriginal condition, nor is there any word identifying the unique and particular dilemma in which Aboriginal youths find themselves.

I need not belabour the point. Witnesses who appeared before the committee, including the Minister of Justice from Saskatchewan, the Minister of Justice from Manitoba and the Federation of Saskatchewan Indian Nations, continually noted that Bill C-7 does not address the particular problem of Aboriginal youth. Senator Moore's amendment, which puts emphasis on Aboriginal youth at the point of sentencing, at least begins to redress this wrong.

I claim that the provisions of Bill C-7 that relate to young Aboriginal offenders also offends sections of the United Nations Convention on the Rights of the Child. Fundamental precepts in statutory interpretation indicate that, when interpreting legal instruments, generic statutory language must cede the way to specific statutory language. The United Nations convention maintains clear dispositions underlying obligations owed to vulnerable elements of youth populations much more so than does Bill C-7.

Clause 3(*c*)(iv) of the bill states that the measures taken against young persons who commit offences should respond to the needs of Aboriginal young persons. The Convention on the Rights of the Child specifies that children living in exceptionally difficult conditions need special consideration. As anyone who has lived in or visited some of Canada's native Indian reservations or who has visited native inner city neighbourhoods can attest, there are Aboriginal children in this country who are living in desperately difficult conditions and who need special consideration, including those young people who are in trouble with the law.

A single sentence stating that measures taken against young people should respond to the needs of Aboriginal children hardly responds to the exceptionally difficult conditions in which so many Aboriginal children live. We owe the new generation of Aboriginal youth much more than cursory lip service in the preamble and overall principles in dealing with the pressing demands of Aboriginal youth justice. They need some specific attention.

The convention also recognizes the importance of the traditions and cultural values of each group of people in the protection and harmonious development of the child. Canadian Aboriginal communities employ such methods as healing circles in order to dispense native justice. The incarceration of young Aboriginal offenders as a rehabilitative process is proving to be a failure. Clause 3(*c*)(iv) of Bill C-7 does not provide clear language to state that all alternatives to incarceration that are reasonable in the circumstances should be considered when dealing with Aboriginal youth caught up in the youth justice system.

Article 30 of the Convention on the Rights of the Child states that indigenous children shall not be denied the right to enjoy their own culture. This represents an important element in the consideration of Aboriginal youth justice. The article underlines a core value of Canadian society and the respect for the community. We have adopted laws, developed case law and built institutions that support this fundamental value. Article 40 of the convention affirms that every child accused or found guilty of having broken the law is to be treated in a manner consistent with the promotion of the child's sense of dignity and worth. In order to promote a child's sense of dignity and worth in the context of youth justice, there must be recognition of the child's own cultural background as recognized in Article 30. Without such recognition, the child will be stripped of his or her entire identity, thus rendering the imposition of any given sentence with little or no meaning for the young Aboriginal offender.

• (1720)

The importance that Senator Moore's proposed amendment represents in filling the void of the present bill in respect of youth justice for Aboriginals cannot be ignored. If Canada is truly to live up to the commitments that it made to the international community as well as to some of the most vulnerable youth in Canada when it ratified the United Nations Convention on the Rights of the Child, we must be more elaborate in our provisions for Aboriginal young offenders than is presently in Bill C-7.

Honourable senators, I spent some 10 years consistently in the court system and two years part-time in the court system. About 80 per cent of my caseload was related to Aboriginal youth, when the Aboriginal community made up only 20 per cent of the population. Each day, I was confronted with Aboriginal youth with whom I had to deal under existing sections. Those sections did not fit Aboriginal youth. For example, we were asked to bring parents to court, and yet often parents were not the caregivers. There was a community response to caring for children. I point out that there are many more examples, but more often than not, the frustration came when alternative measures, if they were ever available, were simply not the kind that fit Aboriginal youth.

It is necessary that judges, caseworkers, the police, probation officers and all others in the justice system put their minds to the needs of Aboriginal youth and their condition before sentencing. The sentencing of Aboriginal youth in Canada has continued and will continue, in my respectful submission, to lead to incarceration if we do not take some dramatic steps.

Senator Moore has had the courage to stick to this amendment and to put the onus on all in the justice system to bear in mind throughout the process the needs of the Aboriginal child. More particularly, when we come to that point — that is, when we have exhausted everything else and we are about to put an Aboriginal youth into custody — we must be mindful of who that young person is and what their particular needs are. Surely, if society and we in this chamber have come to the conclusion that Aboriginal adults need this attention and if we are to succeed in building a fair and just society, do our Aboriginal youth need less? If we do not pass this amendment, we not only fail the United Nations Convention on the Rights of the Child but also, and more important, the Aboriginal youth in this community whom we hold so dear — a community that we say is just and a community about which we have heard Aboriginal senators in this forum say that the justice system does not fit. Here is one measure that will start making the justice system fit Aboriginal youth.

Honourable senators, we cannot turn our backs on this amendment or on our Aboriginal youth.

The Hon. the Speaker: Is the house ready for the question on the motion in amendment?

Hon. Senators: Question!

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Pearson, seconded by the Honourable Senator Bryden, that this bill be read the third time.

In amendment, it was moved by the Honourable Senator Moore, seconded by the Honourable Senator Watt, that the bill be not now read the third time but that it be amended —

Senator Carstairs: Dispense!

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: There is uncertainty. Will those honourable senators in favour of the motion in amendment please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion in amendment please say "nay"?

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: Call in the senators.

Hon. Terry Stratton: Honourable senators, I should like to defer the vote until tomorrow.

The Hon. the Speaker: The Honourable Senator Stratton is asking that the vote be deferred until 5:30 p.m. tomorrow, according to the rules.

Senator Stratton: If I may, Your Honour, I believe there is agreement for a vote at three o'clock tomorrow, with a 15-minute bell.

Hon. Bill Rompkey: That is agreed, honourable senators.

The Hon. the Speaker: By agreement, then, the vote will not be at 5:30 p.m. but, rather, at 3:00 p.m. tomorrow afternoon and the bells will begin ringing at 2:45 p.m.

We have agreement between the government and the opposition, but let me put the question to the whole chamber. Is it agreed, honourable senators, that the vote will be at three o'clock tomorrow on the motion in amendment of the Honourable Senator Moore on Bill C-7?

Hon. Senators: Agreed.

PARLIAMENT OF CANADA ACT

BILL TO AMEND—MESSAGE FROM COMMONS—
MOTION TO CONCUR IN AMENDMENT ADOPTED

The Senate proceeded to consideration of the amendment by the House of Commons to Bill S-10, to amend the Parliament of Canada Act (Parliamentary Poet Laureate):

1. Page 1, Clause 1

(*a*) replace, in the English version, lines 7 to 9 on page 1 with the following:

"**75.1 (1)** There is hereby established the position of Parliamentary Poet Laureate, the holder of which is an officer of the Library of Parliament"

(*b*) replace lines 20 to 30 on page 1, and line 1 on page 2, with the following:

"(3) The Parliamentary Poet Laureate holds office for a term not exceeding two years, at the pleasure of the Speaker of the Senate and the Speaker of the House of Commons acting together.

(4) The Parliamentary Poet Laureate may".—(*Honourable Senator Grafstein*).

Hon. Jerahmiel S. Grafstein: Honourable senators, I move, seconded by the Honourable Senator Fairbairn:

That the Senate concur in the amendment made by the House of Commons to this bill without amendment; and

That a message be sent to the House of Commons to acquaint that House accordingly.

Honourable senators, in the beginning was the word, and we are told that the world will end with an awesome poem. Poetry is no more and no less than truth. Truth is evoked through the creative turmoil of each poet. The Parliamentary Poet Laureate bill is dedicated both to the hard and the soft light of truth, radiated by the words of each poet. In time, I am convinced that a verbal tapestry of poetic rays about Canada and the world will arise through the successive words of parliamentary poet laureates. The language used by the Poet Laureate will mark the official version of each poem. Translated in French and English, thus unofficial versions will be made immediately available in both official languages. In time, these poems will be stitched together to present a much different perspective of Canada.

• (1730)

Honourable senators, there is already some misconception abroad about the role of the Parliamentary Poet Laureate. It is not a government appointment; it is a parliamentary appointment for a two-year term, made by the Speakers of both the Senate and the Commons, as an officer of the Library of Parliament. He or she has no mandatory duties and responsibilities under this bill. I concur with the amendment agreed to in committee in the other place, which clarifies the minimalist duties of the Parliamentary Poet Laureate. The Poet Laureate may simply write poems when he or she chooses. The role of the Parliamentary Poet Laureate is to write poems, and to have no other official duties, unless he or she decides. Silence will be equally eloquent, if the Poet Laureate chooses to remain silent.

Honourable senators, may I thank our colleagues in the other place, Marlene Jennings and, latterly, Yolande Thibeault, who so brilliantly steered the bill through the Commons debates and the committees meetings which, at times, were distractive, turbulent, sarcastic and which, at times, rose to eloquence.

Of course, my appreciation goes to Mark Audcent, Law Clerk and Parliamentary Counsel to the Senate, who so elegantly and gracefully helped to craft this bill, as he has done so often in the past.

Finally, I would thank all honourable senators, especially those on the committee, who not only encouraged but also unanimously endorsed this bill and helped clear the path for my modest millennium project to move forward toward reality. Hopefully, all Senate colleagues will have added more than a footnote to the glorious history and the sparkling refractive diversity of the culture of our Canada.

Honourable senators, a poem reflects just one poet's reflection of his inner vision, one poet's prism of his or her world and, if we are fortunate, that poem may enlighten and elevate all of us.

Hon. Lowell Murray: Honourable senators, I am sure there is a ready answer to this question, but why is it that the House of Commons has added or changed something in the French version that is not found in the English version, at least as it appears in the Order Paper and Notice Paper?

Senator Grafstein: Honourable senators, I have not read the French version. I have just been following the English version.

Senator Murray: Perhaps the Table understands it. I do not have the bill before me. What I have is the amendment by the House of Commons to Bill S-10. I read in the left-hand column, which is the English column:

(*a*) replace, in the English version, lines 7 to 9 on page 1 with the following:

That is fine. The French version has the same change. It states in French, but not in English:

(4) Le poète officiel du Parlement peut:

a) rédiger des oeuvres de poésie, notamment aux fins des cérémonies officielles du Parlement;

There are also subparagraphs *b*), *c*) and *d*). However, those words are not found in English. I presume there were some corrections to the French version but not to the English version.

Senator Grafstein: I thank the honourable senator for bringing that to our attention. The English version was not changed, but the drafters in the other place felt that the French translation of the English words would be more appropriately redrafted. It did not change in any way, shape or form the substance of the amendment. It is a much more elegant form. I commend the honourable senator on the other side for drawing that to my attention.

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

Hon. Senators: Question.

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Grafstein:

That the Senate concur in the amendment made by the House of Commons to this bill without amendment; and

That a message be sent to the House of Commons to acquaint the House accordingly.

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

Hon. Senators: Agreed.

Motion agreed to.

PRIVACY RIGHTS CHARTER BILL

SECOND READING—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Finestone, P.C., seconded by the Honourable Senator Rompkey, P.C., for the second reading of Bill S-21, to guarantee the human right to privacy.—(Subject-matter referred to the Standing Senate Committee on Social Affairs, Science and Technology on April 26, 2001).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, Order No. 5, a motion by Senator Finestone, seconded by Senator Rompkey, deals with a bill to guarantee the human right to privacy. A decision was taken on April 26, 2001, that the subject matter of that bill be referred to the Standing Senate Committee on Social Affairs, Science and Technology.

This side would like to have a report on the status of that bill for a number of reasons, one of which is as a courtesy to Senator Finestone who, unfortunately, may be with us for only another couple of weeks.

Is it the intent of the Standing Senate Committee on Social Affairs, Science and Technology to schedule this item for study? The Social Affairs Committee has been seized of the matter. Unfortunately, Senator Kirby, who is the chair of the committee, is not here. However, perhaps the Leader of the Government might respond to my concerns.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is my understanding that the committee has apprised itself of the subject matter of this bill and will, in very short order, be prepared to present a report to this chamber on its study of the subject matter of the bill.

Senator Kinsella: I thank the Leader of the Government for her response.

Order stands.

LOUIS RIEL BILL

SECOND READING—DEBATE ADJOURNED

Hon. Thelma J. Chalifoux moved the second reading of Bill S-35, to honour Louis Riel and the Metis People

She said: Honourable senators, I rise this day to speak to Bill S-35, an act that honours Louis Riel as a Metis patriot and Canadian hero, and to acknowledge the Metis people.

It is a great honour and privilege to speak today to this bill. I will do my best to tell honourable senators what it means to me. Mr. Guy Freedman, a Metis writer from Manitoba, has assisted me greatly in this story of our Canadian hero. It is ironic that, 116 years ago today, the Metis people and Riel's family gathered in St. Boniface, Manitoba, to honour this great man and lay him to rest at a funeral attended by members of his family and hundreds of his supporters.

Most Metis — in fact most Canadians — know a great deal about Louis Riel. More has been written about him than Sir John A. Macdonald; but what is written is largely controversial. Pretty much everyone has his own opinion. Was he insane? Was he a hero and a prophet? Just who was he? One thing is for sure: He was the leader of the Metis people at a time when all hell was breaking loose out West. History shows that he was truly a remarkable man.

• (1740)

Riel came into this world on October 22, 1844, at Red River Settlement, on a particularly beautiful sunny morning, according to his mother. Forty-one short years later, Manitoba's Father of Confederation was hanged from the neck until dead, at the gallows in Regina.

Like other great people the world has known and those who were taken from us too soon — Martin Luther King comes to mind — we remember them on the day of their death.

This, of course, is a political statement, and if one thing can be said about us Metis, we are political to the teeth.

To help us put things in perspective, allow me to tell you about the funeral arrangements following the execution of our great Metis leader, Louis Riel. Many people openly protested his hanging, yet protests and appeals, from government leaders to the people of the western plains, had no effect on the government of the day. To the people of the western plains and all the descendents, Louis Riel represented a fair and just society, an inclusive society, a new nation that could take its rightful place in Canada's future.

Riel's body was eventually returned to his family by train. His funeral cortege was a mile long, and hundreds of people packed the church, with as many waiting outside in December's cold in St. Boniface, Manitoba, his beloved home. In contrast to many funerals for leaders and fighters for the rights and fair treatment for the masses, Riel had a hood on his head and a noose around his neck. Father Alexis André, his priest who had double-crossed him, was by his side on the gallows. Father André was crying openly, and it was a very erect, very calm Riel who whispered to him, "Courage, Father."

At Riel's very public hanging, the clergy began to recite The Lord's Prayer, and before the prayer was finished, the trap door suddenly snapped open. The rope jerked, swayed back and forth violently, and then came to a dead stop.

It took almost one month before Riel's body was taken back to his beloved home by train. There was reason to believe it would be tampered with. Let me tell you the real story.

Riel's body was interred in a shallow grave beneath the floor of the church while the son of a local Regina French Canadian businessman and Riel supporter kept armed vigil by it for many days. There was no open attempt made, but at night there were footsteps in the darkness and faces peering in the windows.

At last, when feelings seemed to have died down, Governor Dewdney informed Mr. Bonneau that on a certain night a boxcar would be left on the Albert Street siding to convey the body to Winnipeg. Young Bonneau dug up Riel's frozen body and, taking it in his arms, stumbled through the snowdrifts in Victoria Park, confined it in a box and loaded it on the boxcar. Bonneau accompanied the body to Winnipeg, where he delivered it to Riel's friends and relatives.

Young men like Bonneau are a part of what we all are all about. Even though not Metis, he was no doubt a follower of Riel's vision of what Metis are still fighting for — self-government and a land base. We still have friends like Bonneau.

Riel accomplished in death what he could not do in life. He united the Metis people. I believe his gruesome hanging and the subsequent mistreatment of Metis people across the homeland made all Metis people understand what he was fighting for and what all Metis people were up against.

When the government of the day executed Louis Riel, they effectively executed a whole nation of people. We were denied the right to speak our language. We were not allowed to hold public meetings. We had no voice. Our organized government structures were destroyed. However, government orders could not take away the dreams and visions that Louis Riel had instilled in the people of the West and in the people in Quebec, who were struggling to retain their own cultural identity, which is very similar to ours as Metis, and yet be a part of the new Canada.

Riel was our hopes and our dreams of what Canada could be from coast to coast to coast. Under the leadership of Louis Riel, and before Canada acquired jurisdiction over Rupert's Land and the territory known as the Red River, he established a provisional government based on the principles of tolerance and equality of representation among the Metis majority, the French, the English, and the First Nations. This government elected Louis Riel as its president and drafted and unanimously adopted a list of rights for the governance of this territory. This list of rights was accepted by the Government of Canada as the basis for the entry of the territory into Canadian Confederation and for the passage of the Manitoba Act. Manitoba became the fifth province to join Confederation and the first province of Western Canada. The name "Manitoba" was submitted by Louis Riel and chosen by the Canadian Parliament; hence, Louis Riel is recognized as the founder of Manitoba.

Louis Riel was elected three times to the House of Commons: October 13, 1878; January 13, 1874; and September 3, 1874. However, as a result of political pressure, he was never allowed to take his seat.

I can see all of these events as the beginning of the western alienation that carries on to this day. The people of the territories had become increasingly concerned about the lack of respect and their rights as Canadian citizens. Does all this sound familiar, even in this day and age?

The people looked to Riel's leadership to assist them in defending their homes, their families, and their lands.

In March 1982, the House of Commons and the Senate of Canada unanimously adopted resolutions recognizing the various and significant contributions of Louis Riel to Canada and to the Metis people, in particular recognizing his unique and historic role as the founder of Manitoba. In May 1992, the Legislative Assembly of the Province of Manitoba unanimously passed a resolution recognizing the unique and historic role of Louis Riel as a founder of Manitoba and his contribution in the development of the Canadian Confederation.

• (1750)

Why should the arrowhead sash be the recognized symbol? Our Metis priest, Father Guy Lavallée, gave an opening prayer at the First People's Constitutional Conference in Ottawa on March 14, 1992. His words are so profound as to why the sash should be our symbol that I would like to say the words that he prayed for us:

> I would therefore like to end my prayer, God, on a theme that I started out with at the beginning, namely, a Metis symbol. Let's take a minute and look at the sash. There are other Metis symbols such as our flag, the fiddle and the famous Red River jig.
>
> Metis people, God, have been wearing the sash proudly for many years. When I look at it, I notice that it is composed of many interconnected threads. Many strands, many patterns, many colours contribute to the overall design of the sash.
>
> Our Metis culture, God, is like the sash. The lives of the Metis have been woven together from a variety of cultures, languages, traditions and beliefs. For example, God, we are the descendents of the English, of the French, of the Indians — Cree and Ojibway — and Scots to name a few. We speak a variety of languages: English, Canadian French, Michif French, Michif Cree and Mashkégon.
>
> Look at the sash. It is a composite. It is a mixture. It is Metis. It is made up of a variety of elements, like the lives of the Métis. Look at its patterns, its fabrics, its colours. Nonetheless, these disparate elements form an integrated whole. Similarly, the different ethnic backgrounds and different languages of the Metis all blend into one another to form a rich tapestry like the lives and culture of the Métis.
>
> God, this multi-cultural nature of our identity is what makes us unique, is what makes us Metis. In many ways, God, I think we represent what Canada should be as a unified country.
>
> God, we, your Metis people, recognize our uniqueness before you here today.
>
> At this moment, God, we do not have any fancy ritual to perform for you, nor did we bring any special present to offer you. However, what we do have to offer you, God, is ourselves, our lives, the Metis Nation of Canada, with its history, its pains, its joys and its dreams.
>
> It is in the same spirit of our forefathers at Red River in 1870 and in Batoche in 1885 that we commit and dedicate ourselves to build a truly unified Canada from sea to sea, no less than what Louis Riel and Gabriel Dumont would have wanted if they were alive with us here today.
>
> Amen.

I now urge all of my colleagues to support Bill S-35, as Canada truly does have wonderful, dedicated heroes.

Hon. Senators: Hear, hear!

Hon. Gerry St. Germain: Honourable senators, as a Manitoba Métis, I should like to ask for the opportunity to adjourn the debate on Bill S-35 so that we could speak to this in the future. Bill S-35 is important, and as much as I see partisanship rearing its head on the other side, I am hopeful that it does not exist in respect of this bill.

I compliment Senator Chalifoux on this, and if it please the house I should like to move adjournment of debate.

The Hon. the Speaker: That is in the form of a question to Senator Chalifoux, at least in the first instance.

Senator Chalifoux: Honourable senators, before Senator St. Germain adjourns the debate, I wish to inform all of my colleagues that there is absolutely no partisanship. We are here as Canadians, and we have to really look at who we are as Canadians — no partisanship.

Hon. Senators: Hear, hear!

Hon. Terry Stratton: Honourable senators, as a Manitoban who currently lives about half a mile south of where the burial took place, I am familiar with the history of Louis Riel. I am hopeful that the entire story will be told as we progress through this bill. There was such a problem because of the execution of Thomas Scott, the Orangeman. That story needs to be told as well, on balance, to create an understanding of why these events transpired later. It is a fascinating story.

Although Riel wanted to become independent, I do not think Canadians realize how close Manitoba came to becoming a part of the United States. It was the influx of Orangemen into Manitoba at that time that prevented that from happening. That is the side of the story that should be told as well.

Senator Chalifoux: There are two sides.

Senator Stratton: That is why I ask the question. Can we be assured that both sides of the story will be told? In consideration of my historic roots, I should like to ensure that that takes place.

Senator Chalifoux: Yes, I, too, should like to make it clear, because it is our side of the story that should also be told. There are some interesting facts that were not told, because it was the non-Aboriginal reporters who chose to tell the story. I am hopeful that, in this debate, the entire story will be told.

Senator Stratton: I agree that this is an important debate for Manitoba and the Metis. Yes, Senator Chalifoux is absolutely right: White folks told the story and the Metis did not have the opportunity to tell the story. I want to ensure that there is a balance, and Senator Chalifoux has assured me of that.

This debate would then lead to forgiveness by the Metis of the Prime Minister of the day. Is that possible?

Senator Chalifoux: The debate will rage on, Senator Stratton, because, in my opinion, what happened in history, happened. In those days, bigotry and racism was very much a part of everyday life. We must look beyond that and realize the contributions that our leaders have made. Riel was one of our leaders. In the debate, the true story will be told.

The Hon. the Speaker: If senators wish to ask Senator Chalifoux questions, please proceed.

Hon. Laurier L. LaPierre: Is Senator Chalifoux aware of the racism that existed for the condemnation of Louis Riel? He was told by Sir John A. Macdonald that he would hang, even if every dog in Quebec barked. Consequently, I believe that Senator Chalifoux is doing a great favour by raising this issue for debate.

Was the honourable senator aware that at the beginning of the debate, some time ago, I was opposed to the pardon of Louis Riel? However, since I have met Senator Chalifoux, it is with great honour that I shall support it.

On motion of Senator St. Germain, debate adjourned.

FOREIGN AFFAIRS

BUDGET—STUDY ON ISSUES RELATED TO FOREIGN RELATIONS—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighth report of the Standing Senate Committee on Foreign Affairs (budget—release of additional funds (study relating to foreign relations generally)) presented in the Senate on December 4, 2001.—(*Honourable Senator Stollery*)

Hon. Peter A. Stollery moved the adoption of the report.

Motion agreed to and report adopted.

BUDGET—STUDY ON THE EUROPEAN UNION—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the ninth report of the Standing Senate Committee on Foreign Affairs (budget—release of additional funds (study on the European Union)) presented in the Senate on December 4, 2001.—(*Honourable Senator Stollery*).

Hon. Peter A. Stollery moved the adoption of the report.

Motion agreed to and report adopted.

AGRICULTURE AND FORESTRY

BUDGET—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the seventh report of the Standing Senate Committee on Agriculture and Forestry (budget—release of additional funds) presented in the Senate on December 4, 2001.—(*Honourable Senator Gustafson*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition), for Senator Gustafson, moved the adoption of the report.

Motion agreed to and report adopted.

• (1800)

FISHERIES

BUDGET AND REQUEST FOR AUTHORITY TO ENGAGE SERVICES AND TRAVEL—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on Fisheries (budget—release of additional funds) presented in the Senate on December 4, 2001.—(*Honourable Senator Comeau*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition), for Senator Comeau, moved the adoption of the report.

Motion agreed to and report adopted.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

SEVENTH REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Austin, P.C., seconded by the Honourable Senator Callbeck, for the adoption of the seventh report of the Standing Committee on Rules, Procedures and the Rights of Parliament (official third party recognition) presented in the Senate on November 6, 2001.—(*Honourable Senator St. Germain, P.C.*).

Hon. Gerry St. Germain: Honourable senators, I wish to take the opportunity to thank my B.C. colleague Senator Austin, his committee and his researchers for their work on the issue we are discussing here tonight. I should also like to thank the entire chamber for entertaining my motion and agreeing that some rules governing recognition of other parties are necessary and may become more so in the future. The open-mindedness of honourable senators is appreciated.

Regardless of the effort and goodwill, I must admit to being disappointed with the outcome for a number of reasons, some personal and some partisan. Most significantly, I am disappointed because this chamber has once again revealed its unwillingness to adapt and change in the interests of all Canadians. I am referring to Western alienation, which was mentioned in the last speech.

The Hon. the Speaker: Honourable senators, it is my duty to call attention to the fact that it is now six o'clock. Is it agreed that we not see the clock?

Hon. Senators: Agreed.

Senator St. Germain: Honourable senators, there is a fallacious notion in this chamber that somehow we can and do represent the diversity that exists in this country. Let me burst the bubble — we do not and cannot until we reflect the democratic will of the entire country. Today, some 45 per cent or almost half of Canadian voters are not properly represented in this chamber.

In my submission to the committee, I urged that the following principles be adopted in any resulting recommendations: first, that the right of the majority to govern not be undermined; second, that the voices of the minority groups be fully and equitably heard; and, third, that there be some recognition that political parties are part of the reality of this place.

I never expected the committee to have problems with the first principle. However, I am surprised at the degree to which the committee struggled with the second and third principles. Why is it so hard for the chamber to recognize that the world is changing and that it must be willing to accommodate some of that change? This is particularly confusing when our own precedent speaks to such change.

On the specific recommendations of the committee, let me point out that setting the minimum requirement at five senators, as opposed to four, discriminates against one province — Prince Edward Island. It is the only province incapable of forming a provincial block. While I cannot presently contemplate such a situation, that does not diminish the fact that this rule is discriminatory.

Furthermore, on the point of the number required to form a group, a caucus, I believe the Supreme Court has ruled that a party can consist of as few as two persons. It has also been said in the corridors of Parliament that a party caucus need only have a leader, a whip and possibly one other person.

Using the criteria of Elections Canada for the recognition of political parties is also regionally discriminatory. Only Ontario and Quebec have more than 50 seats, and therefore only those two provinces will be given the ability to have regional caucuses. Under the proposed rules, for example, the Bloc Québécois could have a Senate caucus but a similar party from New Brunswick or Manitoba could not. Party qualifications should not be based on seats, which is regionally discriminatory, but rather on popular vote. This is the procedure used in Germany, France and other democracies.

There was no discussion on the relevant question regarding the appointment of leaders of opposition parties. As I recall, there was considerable dispute as to the precedents. Are Senate opposition leaders appointed by their caucus or by their leader in the other place, as is the Leader of the Government in the Senate?

The Speaker should be given the authority to determine whether a group qualifies for party status and should be in a position to arbitrate disputes on such matters. Such a role is afforded the Speakers of both places in the British Parliament. By providing the Speaker with this role, the tyranny of the majority to erode the rights of smaller caucuses would be diminished. A future Senate would then not be able to arbitrarily remove or change rules on party status.

Finally, I am concerned that nothing in the committee report refers to conversations between the officers of this place and the officers of the House of Lords. We know inquiries did take place. What opinions were given? Why is this chamber not privy to the results of those inquiries? Should that information not form part of this report?

This is one of the most important aspects of my request. Regardless of these details, it appears that the committee is recommending that the Canadian Alliance, due to its limited representation in this chamber, be denied any additional resources to carry out its responsibilities. This approach is grounded neither in precedent nor in Canadian tradition. For example, in B.C., the recent election left the NDP with two seats out of a possible 77 seats. The minimum qualification for party status is four seats. The NDP has been denied official opposition status but is still recognized by the Speaker as the opposition, asks questions during Question Period and, as a gesture toward the democratic necessity of a healthy opposition, was given an annual budget of $300,000.

In the 1980s, the NDP in Alberta normally elected only one or two MLAs to a Progressive Conservative-dominated legislature. The great Peter Lougheed and Don Getty governments also recognized the role and responsibilities of the small opposition, which often included only one caucus member — NDP leader Grant Notley. Also in the 1980s, former New Brunswick Premier Frank McKenna was faced with the dilemma of having no opposition in the legislature. Mr. McKenna, in his wisdom, recognized that some workable opposition was necessary and therefore provided resources to political parties that did not even hold elected office.

In Manitoba, after the 1994 election, when the Liberal caucus was reduced to less than the required four members to be granted official status, Mr. Filmon's government unofficially recognized the Liberal Party as the third opposition party. It provided at least two thirds of the financial resources normally only provided for status, recognized opposition parties, thereby enabling the members of the Liberal caucus to fulfil their functions and obligations to their minority group throughout the province. I know that the present leader in this place is fully aware of that precedent.

In a recent workshop on the role of the opposition, the Commonwealth Parliamentary Association stressed that not only did the opposition have a crucial role to play in a parliamentary democracy but also that full access to resources was crucial if the opposition was to perform its functions effectively. Clearly, most Canadian legislative assemblies have realized that it is their obligation to jealously guard the rights of opposition minorities. They realized that to discount the voices of so many people, simply because of the quirks of our election system, is a dangerous path to blindly follow.

Honourable senators, when looking for direction on this issue, one other matter seems to have been entirely neglected – that is, the precedent set by the House of Lords in our mother Parliament. The authoritative work by Erskine May on British parliamentary practice states:

> The official opposition party (by reference to the House of Commons) and the opposition party with the largest number of members in the Lords, other than the official opposition, are given financial assistance from public funds in respect of their parliamentary duties.

Other precedents that my researchers obtained from the Commonwealth and other democracies pointed in a similar direction; yet the recommendation before us has taken very little of the precedents into consideration. It is as if the Senate, simply because it has the right, prefers to operate in a vacuum.

I suggest that because this place can make its own rules, it behooves us to justify our actions even more than in the other place. If our rules are made without reference to precedent or without reference to the purpose of this chamber as envisioned by the Fathers of Confederation, then I believe we are making rules at whim. Whim is hardly the basis for decision making in a place that owes its existence to tradition and intent.

I should remind honourable senators that former Liberal Prime Minister Abbott, who was later appointed to the Senate, had the following to say upon his entry into this chamber on June 17, 1871:

> I never despaired of the Senate; never thought there was any danger of its functions not being appreciated by the people, if it were only true to itself; and what we have to do now, as I think we are emerging from our state of transition, is to prove to the people that we possess powers equally important and exercise them in a manner equally beneficial to the country in our own departments to those that are possessed and exercised by other branches of the legislature in theirs.

• (1810)

Unfortunately, if Abbott were with us today, he truly would despair for this place. Our functions and our roles are not appreciated by the people, and we have failed to prove that we are willing to exercise our powers in a manner equally beneficial to the other branches of the legislature.

This place has some fundamental obligations, obligations that I fear are we are not able to live up to because of the barriers and constructs we have placed on the operation of this place. Because we are appointed, because we are not regionally representative and because we do not properly represent the political and cultural diversity, we have allowed this chamber to become emasculated.

I believe that Senator Kinsella, in his heart, recognizes this reality. He recently spoke in this place about the need to recognize and give voice to minorities, including not only minorities of race and colour, but also minorities of geography and creed. Senator Kinsella said:

> As senators, one of the things that we are called upon to do is to take into consideration the interests of minorities in Canada. That is the purpose of this place. When you stand for the cause and you articulate the cause and you promote it and protect the rights of the minority, that is not popular. It will, particularly, not be popular in terms of the majority government of the day of whatever party.
>
> A certain crisis of conscience is descending on us in this chamber, and history will be harsh with this generation of us who have the privilege to serve in this chamber if we do not, from time to time, respond to the constitutional obligation that the Fathers of Confederation defined for this chamber.

The honourable senator concluded his remarks by saying:

> If we cannot respond as defenders of the minority,...then perhaps the time has come to abolish this place. I believe this is that serious.

Thus, we diminish our importance to the Canadian system by serving the political masters of the other place. We are afraid to resolutely oppose or challenge the government because of our lack of democratic credentials and, by doing so, we diminish our relevance.

I fundamentally believe the Senate does have a role to play in our country. It does have a role as the protector of the regions and the minorities. We do have a role in challenging and questioning the government and its legislative agenda. We do have a role as a more thoughtful and deliberate body, but those roles can never be realized in today's environment. By refusing to reform ourselves, we relegate ourselves to obscurity and irrelevance.

The Senate, by its refusal to substantively change and thereby reassume its intended responsibilities, has indirectly contributed to many of the problems facing our nation. Our failure to be a voice for the regions and minorities has allowed the provinces to assume a role the Fathers of Confederation never intended. Would regional and linguistic protests manifest themselves in the House of Commons the way they have today if we were truly doing our job?

The Senate cannot work in a vacuum. We have an obligation to be more than we are now. We have to stop pretending we are relevant to the effective governance of this country, when increasingly we are not. However, the tragedy here is not our lack of relevance; the tragedy is that this chamber could contribute so much more, but is likely to decide otherwise.

Honourable senators, my intentions in raising the issue of party and status in this chamber have been twofold. First, I was seeking a greater role and greater resources for the party I represent, something we all have an obligation to do as part of the confrontational nature of our political system. I believe the Fathers of Confederation wanted an institution where regions and their reasoned political voices would be recognized and heard as equals, or at least seen as such. Second, I have been trying to raise the issue of Senate reform. In all my arguments and submissions I have attempted to show what other jurisdictions have accomplished.

Unfortunately, I must admit failure on both counts. This place will likely add some basic rules that it should have had in the first place. The fundamental questions raised have been glossed over to a degree. The issues of precedence have not been addressed and the fundamental role of this place regarding regional or minority representation was not discussed. It appears that this exercise has been a rather long one for the answers given.

In closing, honourable senators, a country and its public institutions, corporations and political bodies are often judged on how it treats its minorities. Rules of parliamentary practice must be written, but those rules should not be written so as to inhibit minority interests and regions — and mainly regions — from participating equally in our Canadian democracy. With all due respect, honourable senators, it appears that in dealing with this question the Senate is, to a degree, neglecting one of its basic tenets.

We may control our own destiny here in the Senate, honourable senators, but the privilege is paid for by those we represent — the taxpayers, the electorate the citizens of this country. I believe that democracy is being denied. Having said that, honourable senators, I rest my case.

Hon. Nicholas W. Taylor: Honourable senators, may I ask a question of Senator St. Germain?

The Hon. the Speaker *pro tempore***:** I am sorry, but the time allocated to Senator St. Germain has expired.

Senator St. Germain: May I request leave for one question?

The Hon. the Speaker *pro tempore***:** Is leave granted for one question?

Hon. Senators: Agreed.

Senator Taylor: The honourable senator built his case on proportional representation. When elected members of the House of Commons switch to another party or form a new party, they must go back to the electorate at the next election to seek approval for their new political clothes. Senators, on the other hand, are appointed by the Prime Minister until the age of 75. Therefore, if we switch parties, we need not go back for approval to either the Prime Minister who appointed us or to the party that was in power at the time of our appointment.

Why is it that a senator who leaves the party he or she was appointed under should not have to resign?

Senator St. Germain: Honourable senators, I believe that I was appointed to represent a region, and I made my decision based on how I could best do that. With regard to whether I should resign, many senators have left the Liberal Party and sat as independents. They have not seen fit to resign. That is essentially the same as joining another party.

This debate could go on at length. Perhaps Senator Taylor and I should discuss this outside of the chamber. My argument is that regional representation is key. Senator Chalifoux talked about Western alienation. If we were really representing our regions, we would reflect that.

In the late 1930s, when the Labour Party became the official opposition in the House of Commons in Great Britain, the government of the day appointed members of that party to the House of Lords in order that it would be represented there. They took this action on their own. What we are looking at here is representation for the region. You know the region that we are from is not happy with the way we are operating. Why do you think there are Reform and Canadian Alliance seats? Not because they are in love with the policies and the way this government is operating. I hope that answers your question.

• (1820)

The Hon. the Speaker *pro tempore***:** Is the house ready for the question? Order, please! Order, honourable senators!

Leave was granted for one question, honourable senators. If there are more questions, I must ask again for leave.

Is leave granted, honourable senators?

Some Hon. Senators: No.

On motion of Senator Corbin, debate adjourned.

BANKING, TRADE AND COMMERCE

BUDGET—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the twelfth report of the Standing Senate Committee on Banking, Trade and Commerce (budget—release of additional funds) presented in the Senate on December 5, 2001.—(*Honourable Senator Kolber*).

Hon. E. Leo Kolber moved the adoption of the report.

Motion agreed to and report adopted.

LESSONS TO BE DRAWN FROM TRAGEDY OF TERRORIST ATTACKS IN UNITED STATES ON SEPTEMBER 11, 2001

INQUIRY—DEBATE ADJOURNED

Hon. Pierre De Bané rose pursuant to notice of December 5, 2001:

> That he will call the attention of the Senate to certain lessons to be drawn from the tragedy that occurred on September 11, 2001.

He said: Honourable senators, I wish to rise today to speak from both my head and my heart. In particular, I should like to share my reflections about some long-term lessons for Canada arising out of the tragic events of September 11, 2001.

In the immediate aftermath of such a horrible catastrophe, it is natural that people everywhere should react with shock, anger and sadness. It is natural, too, that governments should move quickly after such events to address and take action on the most pressing initiatives that seem appropriate. They have an obligation to ensure order and safety for the public, justice for the victims and retribution to the misguided extremists who are responsible for it.

However, as the weeks pass, we are gradually able to rise above the immediate challenges and responses of the crisis and we can begin to take a longer view of the situation. Indeed, I believe that taking a long view and encouraging careful thinking beyond the immediate pressures of the day is a responsibility that we, as senators, must take seriously, because we are placed in a special position. We are freer than elected parliamentarians to focus on Canadian long-term needs and interests.

For these reasons, I suggest we can and must begin to take a long-term perspective to think about the lessons Canada should learn as a result of September 11, so that we can leave a legacy of peace and security to our children and our grandchildren.

I think honourable senators will agree that our founders showed remarkable wisdom when they defined the words "peace, order and good government" as the core values of our Constitution. When times are peaceful and the economy is booming, those words lack the élan of their counterpart terms in the American Constitution, which speaks of life, liberty and the pursuit of happiness.

However, in times of national stress and uncertainty, it does not take long before we discover that "peace, order and good government" are the very preconditions for any society whose citizens have power to enjoy life, liberty and happiness. Conversely, it is clear that life, liberty and happiness do not necessarily guarantee peace, order and good government.

The first question we must ask ourselves when we adopt a long-term perspective about the events of September 11 is whether or not they were truly watershed in world history. Were the events of September 11 so momentous that they will change fundamentally the future course of human events? This is an important question because, obviously, the more profound the changes brought about by September 11, the more profound our reactions must be. One only has to look, for example, at the recent history of Lebanon, Congo, Spain, Israel, Palestine and the United Kingdom, to mention only a few, to see, in the words of Hannah Arendt, "the banality of evil" — that is, to see how ordinary and seemingly "normal" violence can appear when it occurs in so many parts of the world.

In my experience, the inhumanity of man to man may be forgiven, but it is never forgotten. It changes the world when it happens, usually for the worse, and peace and order will not prevail unless a way is found to heel the wounds and avert a further cycle of vicious conflict.

Honourable senators, it would take me more time than I have to discuss the many dimensions of the historical change through which we are living. I intend to focus on three important lessons for Canada in the tragic events of September 11: one at the international level, one at the domestic level, and one at the level of the people, of day-to-day Canadians across this wonderful country of which we are privileged to be citizens.

[*Translation*]

At the international level, I think that the big lesson of September 11 for Canada is that the world more than ever needs Canada to return to a role of moral and practical international leadership. This should be similar to the days of "Pearsonian Internationalism": the days when Canada, as a middle-sized country, not a superpower, set an example of sacrifice for the common good. We promoted values of international understanding and harmony. We played an active role in promoting peace and tolerance among nations and especially between age-old rivalries and bitternesses.

Over the years, we have become recognized around the world for our willingness to sacrifice Canadian lives and wealth to try to bring the world away from the abyss of hatred and vengeance and towards the only hope of humanity — understanding and mutual tolerance.

In the service of our ideals and in service to humanity, Canada has been an active participant in UN peacekeeping initiatives for over 50 years.

The G7 is a means, one of many means, open to Canada to promote its interests, including its interest in helping to lead the community of nations to broader visions and higher ideals. We should belong to it only if it helps us promote the ideals of a world in which peace, order and good government, the great Canadian ideals, should prevail for all countries and for all people, and not just for the lucky few.

• (1830)

I wish to pay tribute to the Prime Minister of Canada, the Right Honourable Jean Chrétien, who has decided to include the question of aid to Africa on the agenda for the next G7 meeting in Canada.

In short, the time has come for Canada once again to become a leader of the middle, to set a moderate course for people in large, medium and small countries of every description around the world. The world needs a return of the idealism of Canada. This is the first great lesson for Canada from September 11.

I turn now to one of the chief lessons that I think we should draw at the domestic level as a result of September 11. There has been much comment about the apparent shortcomings of our immigration practices, if not our policies. I believe there has been justification in many of the criticisms. I believe there is a need for Canada and Canadians to reassess and reform our ideas, our habits, as well as our policies and programs directed at immigration and the integration of new Canadians into Canadian society. In my opinion, the entire body of immigration policies and programs at the federal and provincial levels and the systems for welcoming and rapidly integrating new Canadians have been in need of a comprehensive overhaul for many years. September 11 has made any further delay unthinkable.

As an immigrant to Canada myself, I do not criticize immigration policies lightly. However, I believe there is real danger to legitimate immigrants, of which Canada has great need, if illegitimate immigrants, not at all needed by Canada, seem to be favoured by our policies and practices.

I am aware that important changes in policies and measures have been considered in recent weeks by the Canadian government and more are no doubt to be expected. The Honourable Elinor Caplan has just concluded an agreement with the U.S. government that will benefit both countries and enhance the security of the citizens of our two countries. One of the chief messages of September 11, in my opinion, is that we have to do a better job of screening the entry of new Canadians, choosing the best for Canada's needs, deporting the worst without delay, and then helping new Canadians to integrate quickly and happily into the Canadian fabric.

However, getting our immigration policies right is only half the challenge. Anyone who has had the experience of being a new Canadian, as I have, will know that there can be a dissonance between the joy with which one appreciates becoming part of such a great country, and the disappointment when one discovers that the process of integration can be very slow and painful.

To summarize, Canada needs a high level of immigration to grow and prosper; but this calls on us to do a better job of selecting and managing the flow of candidates for citizenship. Then, once they have been chosen and received into Canada, we must do a much better job of integrating them into our communities from sea to sea.

[*English*]

Continuing in this line of thought, and without waiting for complex policy processes to reach a conclusion, in light of the tragedy of September 11, I call on Canadians to make special efforts immediately to open their minds and hearts to the Islamic communities in Canada. They have a special need for warmth and welcome at this time.

Indeed, it is not generally known that, according to a report in *The Times* of London, the atrocities of September 11 were historically the worst terrorist attacks ever committed against Muslims in the West. Far more Muslims than British or Canadian subjects died in the World Trade Center. The same report noted that, although the media have been full of moving stories about various nationalities among the victims, similar reports about the Muslim victims have not been seen.

Canadians need to be aware that Canadian Muslims have been particularly hurt by the events of September 11. They have gone through a more harrowing experience than other Canadians. We must understand their feelings. They need to know they are seen as valuable members of the Canadian fabric. Indeed, our Muslim population is a source of great strength to Canada, as we define and advance our goals for the future. We need to embrace them. They make Canada a better country. We need to tell them that now.

I want to pay special tribute to one of the most respected members of our institution, the Senate of Canada, who is a devout Muslim, our esteemed colleague Senator Mobina Jaffer.

I repeat my important message: This is the time for Canadians everywhere to open their hearts and their minds to the Muslims in our midst. Moreover, promoting peace, order and good government in Canada requires that the friendships we need to build with Canadians Muslims should naturally be a two-way street. Muslim Canadians want to learn about Canada and to integrate into the national fabric as quickly as possible.

We, as individuals and as institutions, must make the appropriate efforts to understand and appreciate their origin, history, values and beliefs. I think the schools are already deeply engaged in this, but it needs to be done at all levels of Canadian society. In this way, September 11 can be turned from bad into good in Canada, if we mend and strengthen our approaches to immigration, treat potential immigrants better, and improve our approach to the Canadianization and integration of new Canadians.

[*Translation*]

This brings me, honourable senators, to the third and final element in this review of how September 11 should change Canada — this one at the level of individual Canadians.

I think that you will agree with me when I say that the tragic events of September 11 revealed a pressing new need for Canadians to become much better informed about the world we live in. Whether with respect to international news, history, languages or culture, my impression is that Canadians, and especially young Canadians, have not been as well educated by their schools or informed by the media about foreign affairs as they need to be in order to understand and play their roles as good citizens in a troubled world.

Perhaps we should give consideration in the weeks ahead to special ways in which we can awaken, nourish and sustain a new level of awareness about international affairs among all Canadians. How might we do that? I leave my ideas on that question to further opportunities I will have to discuss this question both in the Senate and in the Foreign Affairs Committee. Indeed, I could see us setting aside time for a full debate on this question, which goes to the heart of preparing young Canadians for leadership at the global level. By debating it and encouraging our committees to address it in many different contexts, perhaps we can raise its visibility and priority throughout the country. That would be a real service to the future of Canada.

To sum up, honourable senators, I believe September 11, 2001, has fundamentally changed Canada and its future. The tragic events and their aftermath have shown that, if the world is to avoid similar or larger catastrophes, Canada needs to resume its international leadership role as a "leader in the middle" in international affairs. Canada needs to completely overhaul its immigration policies and to come up with programs and ideas to build bridges of understanding between Canadians and newly arrived future Canadians. Canadians need to become much more informed about world affairs and Canada's place in them, with help and encouragement from many quarters, including from the Senate.

While these may not be the only lessons that we should draw from September 11, nor the only measures that these tragic events require from the government and from Canadians, they are among the most important ones, in my opinion.

Hon. Marcel Prud'homme: Honourable senators, I have a question for Senator De Bané. I will have an inquiry.

The Hon. the Speaker *pro tempore***:** Honourable senators, Senator De Bané's speaking time has expired. If the honourable senator wishes to continue, he must have leave of the Senate.

The Hon. Fernand Robichaud (Deputy Leader of the Government): Leave is granted for one question and one answer.

Senator Prud'homme: I know the honourable senator's opinions well. The purpose of his inquiry was to draw the attention of the Senate to certain lessons to be learned from the tragedy. Would it be possible, in future debate, to hear from the honourable senator, given his experience, on not only the lessons to be learned but also on the causes of the September 11 tragedy?

• (1840)

Senator De Bané: Honourable senators, I wanted to draw three lessons from this. First, there was the role Canada should play internationally; second, there was the way Canada could facilitate the integration of immigrants — and on this score, I wanted to pay tribute to the Muslim community, which is suffering greatly but has contributed so much to our Canada — and finally, there was the need to make Canadians aware of the major issues of our times.

Clearly, some issues have to be dealt with as soon as possible, as they are central to the suffering, not only of the Palestinians — in a conflict that has lasted for more than 50 years — but of all Arab populations.

On motion of Senator Roche, debate adjourned.

[*English*]

NATIONAL FINANCE

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF EFFECTIVENESS OF PRESENT EQUALIZATION POLICY

Hon. Noël A. Kinsella (Deputy Leader of the Opposition), for Senator Murray**,** pursuant to notice of December 11, 2001, moved:

> That the date for the presentation by the Standing Senate Committee on National Finance of the final report on its study on the effectiveness and possible improvements to the present equalization policy which was authorized by the Senate on June 12, 2001 be extended to February 26, 2002; and
>
> That the committee be permitted, notwithstanding the usual practices, to deposit its report with the Clerk of the Senate if the Senate is not then sitting and that the report be deemed to have been tabled in this Chamber.

Motion agreed to.

The Senate adjourned until Thursday, December 13, 2001, at 1:30 p.m.

CONTENTS

Wednesday, December 12, 2001

PAGE

SENATORS' STATEMENTS

Richard D. Parsons
Appointment to Chief Executive Officer of AOL Time Warner.
Senator Oliver 1985

Anti-Terrorism Bill (Bill C-36)
Opinion in Opposition. Senator Bryden 1985

Human Rights Defenders
Amnesty International Solidarity Quilt Project.
Senator Wilson 1986

Freedom
Senator LaPierre 1986

Withdrawal of Veterans Associations from Advisory Committees to Department of Veterans Affairs
Senator Meighen 1987

One Hundredth Anniversary of First Wireless Transatlantic Message
Senator Cochrane 1987

Visitor in the Gallery
The Hon. the Speaker 1987

ROUTINE PROCEEDINGS

International Boundary Waters Treaty Act (Bill C-6)
Bill to Amend—Report of Committee.
Senator Stollery 1988

Banking, Trade and Commerce
Committee Authorized to Meet During Sitting of the Senate.
Senator Kolber 1988

Legal and Constitutional Affairs
Committee Authorized to Meet During Sitting of the Senate.
Senator Milne 1988

The Senate
Notice of Motion to Strike Special Committee on Crime and Violence. Senator Cools 1988

Privacy Rights Charter
Notice of Inquiry. Senator Finestone 1989

Access to Census Information
Presentation of Petitions. Senator Milne 1989

QUESTION PERIOD

National Defence
The Budget—Adequacy of Additional Allocation.
Senator Forrestall 1989
Senator Carstairs 1989
Cutbacks to Budget—Possibility of New White Paper.
Senator Forrestall 1989
Senator Carstairs 1989

Transport
Air Travellers Security Charge. Senator Oliver 1990
Senator Carstairs 1990

Foreign Affairs
The Budget—Allocation to Africa Fund.
Senator Roche 1991
Senator Carstairs 1991
The Budget—Allocation to Developing Countries.
Senator Roche 1991
Senator Carstairs 1991
The Budget—Allocation to Africa Fund.
Senator Wilson 1991
Senator Carstairs 1991

Transport
Air Travellers Security Charge. Senator Gustafson 1991
Senator Carstairs 1991
Air Travellers Security Charge—Criteria for Imposition of Tax. Senator Kinsella 1992
Senator Carstairs 1992

The Senate
Passage of Bill S-12. Senator LaPierre 1992
Senator Carstairs 1992

Foreign Affairs
Recruitment of Officials from Within Public Service.
Senator Bolduc 1992
Senator Carstairs 1992

Delayed Answers to Oral Questions
Senator Robichaud 1993

National Defence
Sea King Helicopters—Programs for Extension of Life of Aircraft. Question by Senator Forrestall.
Senator Robichaud (Delayed Answer) 1993

Secretary of State for Multiculturalism
Anti-Terrorism Bill—Government Plan in Response to Minority Groups. Question by Senator Kinsella.
Senator Robichaud (Delayed Answer) 1993

ORDERS OF THE DAY

Business of the Senate
Senator Robichaud 1993
Senator Kinsella 1993
Senator Roche 1994

PAGE

Criminal Code (Bill C-46)
Bill to Amend—-Second Reading. Senator Carstairs 1994
Senator LeBreton 1994
Referred to Committee of the Whole. 1996

Anti-Terrorism Bill (Bill C-36)
Third Reading—Debate Continued.
Senator Lynch-Staunton 1996
Motion in Amendment. Senator Lynch-Staunton 1998
Senator Prud'homme 1998
Senator Kelleher 1998
Senator Grafstein 1999
Senator Murray 1999
Senator Di Nino 1999
Senator Bryden 2000

Criminal Code (Bill C-46)
Bill to Amend—Consideration in Committee of the Whole.
Ms Anne McLellan, Minister of Justice and Attorney General of Canada 2002
Senator LeBreton 2003
Mr. Hal Pruden, Counsel, Criminal Law Policy Section, Policy Sector, Department of Justice 2004
Senator Kinsella 2004
Senator Atkins 2004
Senator Di Nino 2005
Senator Banks 2005
Senator Roche 2005
Senator Fairbairn 2006
Senator Stratton 2006
Report of Committee of the Whole. Senator Losier-Cool 2008

Anti-Terrorism Bill (Bill C-36)
Third Reading—Motion in Amendment—Debate Continued.
Senator Prud'homme 2008
Senator Kinsella 2008
Senator Andreychuk 2009
Senator Di Nino 2010

Business of the Senate
Senator Robichaud 2010

The Estimates, 2001-2002
Supplementary Estimates (A)—Report of National Finance Committee Adopted. Senator Bolduc 2010

Appropriation Bill No. 3, 2001-02l (Bill C-45)
Second Reading—Order Stands. Senator Kinsella 2012

Yukon Bill (Bill C-39)
Second Reading. Senator Cochrane 2012
Referred to Committee. 2013

PAGE

Youth Criminal Justice Bill (Bill C-7)
Third Reading—Motion in Amendment—Vote Deferred—Debate Continued. Senator Nolin 2014
Senator Andreychuk 2016
Senator Stratton 2017
Senator Rompkey 2017

Parliament of Canada Act (Bill S-10)
Bill to Amend—Message from Commons—Motion to Concur in Amendment Adopted.
Senator Grafstein 2018
Senator Murray 2018

Privacy Rights Charter Bill (Bill S-21)
Second Reading—Order Stands. Senator Kinsella 2019
Senator Carstairs 2019

Louis Riel Bill (Bill S-35)
Second Reading—Debate Adjourned. Senator Chalifoux 2019
Senator St. Germain 2021
Senator Stratton 2021
Senator LaPierre 2022

Foreign Affairs
Budget—Study on Issues Related to Foreign Relations—Report of Committee Adopted. Senator Stollery 2022
Budget—Study on the European Union—Report of Committee Adopted. Senator Stollery 2022

Agriculture and Forestry
Budget—Report of Committee Adopted. Senator Kinsella 2022

Fisheries
Budget and Request for Authority to Engage Services and Travel—Report of Committee Adopted.
Senator Kinsella 2022

Rules, Procedures and the Rights of Parliament
Seventh Report of Committee—Debate Continued.
Senator St. Germain 2022
Senator Taylor 2025

Banking, Trade and Commerce
Budget—Report of Committee Adopted. Senator Kolber 2025

Lessons to be Drawn from Tragedy of Terrorist Attacks in United States on September 11, 2001
Inquiry—Debate Adjourned. Senator De Bané 2026
Senator Prud'homme 2028
Senator Robichaud 2028

National Finance
Committee Authorized to Extend Date of Final Report on Study of Effectiveness of Present Equalization Policy.
Senator Kinsella 2028