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OFFICIAL REPORT
(HANSARD)

Tuesday, April 30, 2002

THE HONOURABLE DAN HAYS
SPEAKER

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THE SENATE

Tuesday, April 30, 2002

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

Prayers.

[*Translation*]

ROYAL ASSENT

NOTICE

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

RIDEAU HALL

April 30, 2002

Mr. Speaker,

I have the honour to inform you that the Honourable Louis LeBel, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy of the Governor General, will proceed to the Senate Chamber today, the 30th day of April, 2002, at 3 p.m., for the purpose of giving Royal Assent to certain bills.

Yours sincerely,

Barbara Uteck
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

[*English*]

SENATORS' STATEMENTS

MEMORIAL SERVICE FOR PRINCESS PATRICIA'S CANADIAN LIGHT INFANTRY SOLDIERS KILLED IN AFGHANISTAN

Hon. Joyce Fairbairn: Honourable senators, on Sunday I had the privilege of attending the memorial service in Edmonton honouring the four young soldiers from the Third Battalion, Princess Patricia's Canadian Light Infantry Battle Group who were killed in Afghanistan under the tragic circumstances of friendly fire on April 17 — Sergeant Marc Léger, Corporal Ainsworth Dyer, Private Richard Green and Private Nathan Smith. At the heart of the ceremony were their families and loved ones, as well as six of the eight comrades who were wounded in the attack and who pushed aside their own injuries to be there for their friends. All of them have our profound gratitude, sympathy and respect.

They were surrounded by the presence of the Governor General, the Prime Minister, federal political leaders, senators, ministers, members of the House of Commons, the Premier of Alberta, the Mayor of Edmonton, the United States Ambassador to Canada and thousands of citizens. From far and wide the Canadian military gathered to honour its own — not only in large numbers at the Skyreach Centre but also on video from Afghanistan and through strong, eloquent and loving eulogies by soldiers whose words, in memory of their regimental soulmates, were read aloud by other friends. Via television, Canadians across the country witnessed the deeply traditional ceremony of farewell and were moved by its solemnity and the lament of its music — the bagpipes, drums, brass and chorus.

The intensity and outpouring of emotion presented our nation with, perhaps, its most graphic lesson since the wars of the last century of the historic and fundamental role our Armed Forces contribute to our country and those other lands consumed by war and conflict. I hope fervently that this lesson remains in our minds and hearts and that the pride, respect and support of the past two weeks will continue to be offered every day to all our men and women in uniform.

One of Canada's finest, General (Retired) and Colonel of the Princess Patricia's regiment, John de Chastelaine, reminded us on Sunday:

> ...soldiers exist to fight. They carry out other roles but their reason for being is to wage war when that is necessary. All of them face privation and fear and some suffer injury and death.

Their families are left to wait and hope and then mourn and hold on to their memories. General de Chastelaine also reminded us that a country not worth fighting for is not a country. May Canada and all its citizens take that to heart as our Armed Forces continue to fight for us.

SIXTY MINUTES PROGRAM ON CANADIAN IMMIGRATION AND SECURITY

Hon. Laurier L. LaPierre: Honourable senators, I do not expect any senator to agree with the following. *Sixty Minutes* has come and gone. Its item on "Canada, Canadian Immigration and Security" was predictable. The two Canadians who vilified their country and its immigration policies and security arrangements — I will not mention their names so as not to sully the pages of the *Debates of the Senate* — were also predictable, considering the source.

Three thoughts came to my mind, especially after reading the transcript of the program. My first thought was that the program was deliberately anti-Canadian. There was no attempt to search for the truth and the values behind our policies on immigration and security. I anticipated that. After all, the Americans refused to take any responsibility for what happened in their country on September 11, 2001. It was all Canada's fault.

My second impression was that the program was profoundly racist, especially on the part of the two Canadian twits who vomited all over their compatriots. If you read the transcript, as I have, you will have a hard time coming to any other conclusion.

The third thought that came to my mind was that the two Canadian creatures, with their perfect English and establishmentarian pedigrees, have had their 15 minutes of glory. I advise them to enjoy the moment because, for the rest of their mortal lives and for as long as history exists, they will live in infamy.

• (1410)

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence of guests in our gallery. They are, the Right Honourable Peter Ala Adjetey, Speaker of the Republic of Ghana; the Honourable Papa Owusu-Ankomah, leader of the majority party of Parliament and Minister of Parliamentary Affairs; Honourable Alban Sumana Kingsford Bagbin, leader of the minority party in Parliament; the Honourable Eugene Atta Agyepong, majority party MP and Chair of the Finance Committee; Honourable Theresa Baffoe, minority party MP; His Excellency Samuel Arthur Odoi-Sykes, High Commissioner of Ghana to Canada; and Mr. Kenneth Enos Kofi Tachie, Clerk of the Parliament of Ghana.

On behalf of all honourable senators, I bid you welcome.

ROUTINE PROCEEDINGS

AGRICULTURE AND FORESTRY

BUDGET—STUDY ON AGRICULTURE AND AGRI-FOOD INDUSTRY—REPORT OF COMMITTEE PRESENTED

Hon. Jack Wiebe, Deputy Chair of the Standing Senate Committee on Agriculture and Agri-Food, presented the following report:

Tuesday, April 30, 2002

The Standing Committee on Agriculture and Forestry has the honour to present its

NINTH REPORT

Your Committee was authorized by the Senate on March 20, 2001 to examine international trade in agricultural and agri-food products, and short-term and long-term measures for the health of the agricultural and the agri-food industry in all regions of Canada.

Pursuant to Section 2:07 of the *Procedural Guidelines for the Financial Operations of Senate Committees*, the Budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report of said Committee are appended to this report.

Respectfully submitted,

LEONARD J. GUSTAFSON
Chair

(*For text of budget, see today's* Journals of the Senate*, Appendix "A", p. 1529*)

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

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

BANKING, TRADE AND COMMERCE

BUDGET—STUDY ON DOMESTIC AND INTERNATIONAL FINANCIAL SYSTEM—REPORT OF COMMITTEE PRESENTED

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

Tuesday, April 30, 2002

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

FIFTEENTH REPORT

Your Committee, which was authorized by the Senate on Tuesday, March 20th, 2001, to examine and report upon the present state of the domestic and international financial system, now, respectfully requests approval of funds for 2002-2003.

Pursuant to section 2:07 of the Procedural Guidelines for the Financial Operation of Senate Committees, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

E. LEO KOLBER
Chairman

(*For text of budget, see today's* Journals of the Senate*, Appendix "B", p. 1539*)

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

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

BILL ON ACCESSION TO WORLD TRADE ORGANIZATION AGREEMENT BY PEOPLE'S REPUBLIC OF CHINA

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-50, to amend certain Acts as a result of the accession of the People's Republic of China to the Agreement Establishing the World Trade Organization.

Bill read first time.

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

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

NATIONAL SECURITY AND DEFENCE

NOTICE OF MOTION TO EXTEND DATE OF FINAL REPORT OF SUBCOMMITTEE ON VETERANS AFFAIRS STUDY ON VETERANS HEALTH CARE

Hon. Michael A. Meighen: Honourable senators, I give notice that on May 1, 2002, I shall move:

> That, notwithstanding the Order of the Senate adopted on October 4, 2001, the Standing Senate Committee on National Security and Defence, which was authorized to examine and report upon the health care provided to veterans, be empowered to present its final report no later than October 31, 2002.

QUESTION PERIOD

TRANSPORT

REGULATIONS TO EXTEND NUMBER OF DRIVING HOURS OF LONG DISTANCE TRUCK DRIVERS

Hon. Norman K. Atkins: Honourable senators, my question is to the Leader of the Government in the Senate. Approximately one year ago, I raised the fact that the Canadian Council on Motor Transport Administrators was contemplating recommending to the government that regulations be amended to extend the number of hours a long-distance trucker can drive per week to 84 hours. It was also contemplated that the number of consecutive hours driven during a day may be increased to 14.

The United States regulators have proposed a 12-hour-a-day driving limit, and a 60-hour workweek, monitored by mandatory onboard electronic recorders.

Could the Leader of the Government in the Senate bring honourable senators up to date as to where the recommendations stand regarding hours of driving in Canada? Is the Canadian Council of Motor Transport Administrators still considering those recommendations?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question.

It is my understanding that those recommendations are being examined at present by the Transport and Government Operations Committee of the House of Commons for report and recommendations to the minister.

Senator Atkins: Is the Leader of the Government able to tell honourable senators whether the government or the council will take into consideration the recent IPSOS-Reid poll that indicates that 85 per cent of Canadians are opposed to an increase in driving hours?

Senator Carstairs: As the honourable senator has experienced, governments tend to be most interested in poll results on a number of issues. I can assure the honourable senator that those poll results will be given consideration, as will the questions asked in those polls, so that there will be no confusion.

Senator Atkins: Honourable senators, will the Leader of the Government undertake today that, when these new trucking hours are presented in draft form, she will ask the government to refer them to the Standing Senate Committee on Transport and Communications for study and review?

Senator Carstairs: Honourable senators, with the exception of the reference of bills to committee, I do not make recommendations to individual committees. However, it would seem quite appropriate that the Transport Committee study those draft regulations, should they wish to do so.

PUBLIC WORKS AND GOVERNMENT SERVICES

PURCHASE OF CHALLENGER AIRCRAFT FOR GOVERNMENT FLEET

Hon. J. Michael Forrestall: Honourable senators, I have been informed by reliable sources that on the morning of Thursday, March 28, 2002, at approximately 9:00 a.m., the government signed a requisition for two Challenger 604 executive jets.

• (1420)

At approximately 5:30 p.m. that same day, a contract for the purchase of those two jets was signed. At 7:30 p.m. that very same day, both aircraft were delivered to the Government of Canada.

Can the minister confirm that these three documents, completing the transaction, were all signed on one day, that is, the Thursday before the Easter long weekend?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I cannot verify the honourable senator's timing as to when those various orders were signed. I can affirm for the honourable senator that, indeed, the Treasury Board documentation was signed on Thursday, March 28. That is when the contract was signed. My understanding, however, is that the aircraft were not delivered.

Senator Forrestall: Honourable senators, perhaps they were not delivered and someone just made use of them.

Honourable senators, there is no doubt that someone in cabinet must have wanted to travel very badly and in some degree of luxury for the weekend because, in fact, the planes were used. Obviously, someone likes the smell of a new executive jet — and "smell" is a good word to use in this particular case.

Can the minister explain to the chamber why this government has taken more than eight years to replace the Sea King helicopters? Can the minister tell us how it is that the Liberal government of the day can do in 15 hours that which it has not done, for the well-being of the Canadian Armed Forces, in eight years?

Senator Carstairs: Honourable senators, as the honourable senator knows, the process for the purchase of the Sea Kings, which is a $2.9-billion purchase — the largest single purchase for

the military in its history — has undergone an extensive process. There is no doubt that the original purchase authorized by the former government was determined not to be in the best interests of the Canadian people. That was verified by the election results. During the election campaign, the government made absolutely no bones about the fact that that was what they would do.

We now know that the contract and the final statements will be issued this summer. The choice of aircraft will, hopefully, be made later this year, while a decision about the aircraft systems will be made early in the following year.

Hon. Marjory LeBreton: Honourable senators, the aircraft were bought and paid for on Thursday, March 28, just before Good Friday and the Easter weekend. The minister has said that they were not delivered. The fact is that, apparently, they were used by someone in the government. Will the Leader of the Government in the Senate inform us who used the aircraft, even though they were "not delivered"?

Senator Carstairs: Honourable senators, my understanding is that they were not delivered, so I cannot understand how they possibly could have been used.

However, if my information about their being delivered is wrong and someone used them, I will get that information for the honourable senator.

Hon. Gerry St. Germain: Honourable senators, my understanding of this one-day wonder deal is that, obviously, it was a sole-source scenario. How do the taxpayers in British Columbia and Newfoundland — in fact, taxpayers from right across the country — know that we received value for our dollars if there was no bidding process and no competition? Was this just a gift from the government to its good friend Bombardier?

Senator Carstairs: Honourable senators, I suspect the honourable senator knows that there is only one aircraft company in this country that can produce that particular piece of equipment.

A decision was made, and rightly so, that when the Prime Minister and ministers of the Crown travel not only across this country but to foreign locations, they should act as an advertisement for an excellent Canadian product.

Senator St. Germain: Honourable senators, the minister has not answered the question on valuation. How was the valuation for this particular item established? The people of Canada have a right to know. Did we pay too much for it? Did we get a red-hot deal, or was this just another gift to Bombardier?

Senator Carstairs: Honourable senators, I resent the comment that we give gifts to any company in this country. We do not.

In terms of value, the Challenger is not recognized by only the Canadian government as good value for money. It has been recognized by a number of corporations in this country and in the United States as excellent value for money.

Senator Forrestall: Honourable senators, if the minister has any difficulty finding out about the use of the particular aircraft, she can give me a call and I will give her the names of the people in the tower in the Florida airport where the aircraft landed.

CUSTOMS AND REVENUE AGENCY

SECURITY AT PORTS—POSSIBILITY OF INQUIRY

Hon. Michael A. Meighen: Honourable senators, my question is addressed to the Leader of the Government in the Senate. She will be relieved to know that it is not about helicopters. I want to move from that area of denial on the part of the government to another area of denial on the part of the government.

My question concerns security at the major ports in this country, a subject we have already raised in this chamber. Senator Angus has made an able speech on it, pointing out that just like the Standing Senate Committee on National Security and Defence, so ably chaired by Senators Kenny and Forrestall, he too called for an inquiry, under the Inquiries Act, into the state of security at our airports.

Honourable senators, we read today, in the *Ottawa Citizen,* that Lieutenant Mark Petska, President of North America's Anti-Smuggling Investigators Association, said at a conference in Halifax that Colombia's drug cartels use Halifax to import cocaine and heroin because it is closer than California and easier to enter than U.S. ports.

Honourable senators, this is exactly what the report of our National Security and Defence Committee said and exactly what Senator Angus has been saying.

Could the minister tell us whether the government is prepared to reconsider its flat denial of the necessity of an inquiry under the Inquiries Act, given the new facts that keep surfacing?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the honourable senator's question relates to two areas.

Yes, Mr. Mark Petska did make the comments. However, the Canada Customs and Revenue Agency would maintain that it takes its border protection mandate extremely seriously and exercises enhanced vigilance at many ports, including the Port of Halifax. Recently, there has been an exchange of services between Canada and the United States so that they can work in partnership, in particular with containers. They share information on a daily basis. Hopefully, that will cut down on the amount of smuggling of contraband and of terrorist activities in both countries because the United States recognizes that it, perhaps, has not had a fully viable program in place.

As to the second point, as the honourable senator knows, the Honourable Senator Kenny has put a motion before the Senate asking for a comprehensive response, from the government, to the report, 150 days from the date of the publication of the report, which has been the custom in the other place but which has not been the custom in this place. I think that is a step in the right direction.

• (1430)

Senator Meighen: Honourable senators, it is my recollection that, notwithstanding Senator Kenny's motion, the government immediately said, as soon as the report was filed, there is no more money for defence, and it rejected the call for an inquiry under the Inquiries Act. Be that as it may, I agree with the honourable leader that our authorities in the Port of Halifax and in all ports in Canada take the responsibility seriously. However, they are understaffed, under-equipped and under-trained. If we are to

properly address this growing problem, more money and resources have to be devoted to equipment, training and personnel.

The honourable leader knows that some money has been spent on security at airports, but could she tell the house if more money will be forthcoming for security at ports?

Senator Carstairs: Honourable senators, part of the monies designated for the security package is destined to be applied to our ports. However, the conference that the honourable senator has referenced is important. There are 150 investigators from Canada and the United States representing Canadian and American customs and police officials to try to further understand the needs of our ports and to make those needs known to government officials.

Senator Meighen: Honourable senators, the honourable leader has said that part of the money is to be allocated for ports security. Could she perhaps determine how much money that will be and how much money will be allocated for airports and other facilities?

Senator Carstairs: Honourable senators, the budgetary figures are not that specific and are to be based on the need as directed. However, as the honourable senator knows, the tax, or the "charge" as the Minister of Finance likes to refer to it, that is now paid by airline passengers in Canada will be specifically targeted to the airlines. Therefore, the other monies are available for port matters.

[*Translation*]

NATIONAL DEFENCE

MEMORIAL SERVICE FOR PRINCESS PATRICIA'S CANADIAN LIGHT INFANTRY SOLDIERS KILLED IN AFGHANISTAN—INTERPRETATION SERVICES

Hon. Laurier L. LaPierre: Honourable senators, I am very sorry to have to ask this question of the Leader of the Government. I was very moved by the ceremony held in Edmonton on Sunday, in honour of our brave soldiers killed on the battlefield.

[*English*]

This has distressed me greatly. The ceremony was a national event and yet francophones who speak an official language of Canada had the misfortune of participating through the voice of an interpreter, especially after the speeches of the Governor General and the Prime Minister. Even the families of two soldiers of French Canadian origin had to participate in the same manner. We are here to fashion a unity in diversity and a nation founded on the proposition that the love we have for our country and the service that we do for our country are expressed in both official languages. What happened in respect of the French language in Edmonton was shameful. Can the honourable leader give a reason for this utter and complete disrespect to and disregard for almost one-third of Canadians?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, while many of us regarded this as a national event, in actuality the event was hosted and sponsored by the Princess Patricia's Canadian Light Infantry, which is not a bilingual unit. The military tailored the memorial to the families and to the PPCLI Unit. The honourable senator is quite right in that it was mostly in English with translation made available on the national broadcast. There was some French spoken by the host, the military chaplain, the Governor General and the Prime Minister. It is important to point out that if the memorial had been held for a French regiment, the Van Doos, for example, it would have been almost entirely in French.

Senator Prud'homme: Never. May I say never.

Senator Carstairs: The units make their decisions as to how to conduct these affairs.

PUBLIC WORKS AND GOVERNMENT SERVICES

AUDITOR GENERAL'S REPORT— UNTENDERED CONTRACTS

Hon. Terry Stratton: Honourable senators, my question is for the Leader of the Government in the Senate about untendered contracts, which follows somewhat the line of Senator Forrestall's questions. It seems that there are numerous such contracts being issued lately.

In her latest report, the Auditor General of Canada, Sheila Fraser, revealed that Health Canada and Public Works and Government Services did not follow government contracting rules and regulations when they spent over $25 million on the Canadian Health Network. According to the auditor, although a Web site was developed, there was no assurance that best value was received from this expenditure. Assets purchased were under-used and over-claims were made.

In view of the uproar that recently occurred over something similar, when Public Works and Government Services paid twice for a sorely inadequate report, does the Leader of the Government in the Senate have any comment on this observation about the failure of those departments to adhere to proper contracting rules and regulations?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the Honourable Anne McLellan, Minister of Health, has been quite clear in her acceptance of the judgment of the Auditor General of Canada. The minister has also indicated that changes will be made so that similar kinds of contracts and any continuation of this contract will be done with all due process.

Senator Stratton: Honourable senators, on a supplementary question, many people share my concern that there seems to be a great number of untendered contracts being let, including the contract for the new "Taj Mahals." Does the Leader of the Government in the Senate have a list of these untendered contracts? The Honourable Don Boudria, Minister of Public Works and Government Services, made a statement about another untendered contract last week. There should be a summary of the number of such contracts and their values because they are becoming a concern to Canadians.

Senator Carstairs: Honourable senators, as the honourable senator knows, contracts are available through access to information for all Canadians. The process is such that contracts should be tendered, under most circumstances. In some situations sole-sourcing is necessary because there is only one source, and that makes it difficult.

As to the honourable senator's offhanded comment about "Taj Mahals," basic Challengers were ordered, and nothing has been added to them. They are to replace two Challengers currently in service, which will be sold. Those revenues will supplement the purchase price of the new Challengers. The only essential difference between the new and the old Challengers is that the new ones have greater capacity for distance travel and greater ability to land at smaller airports across this country.

[*Translation*]

ORDERS OF THE DAY

CRIMINAL LAW AMENDMENT BILL, 2001

MESSAGE FROM COMMONS—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of Honourable Senator Carstairs, P.C., moved, seconded by the Honourable Senator Robichaud, P.C.,
>
> That the Senate do not insist on its amendment numbered 1(*a*) to Bill C-15A, to amend the Criminal Code and to amend other Acts to which the House of Commons has disagreed; and
>
> That a message be sent to the House of Commons to acquaint that House accordingly.

Hon. Pierre Claude Nolin: Honourable senators, there are many aspects to Bill C-15A. We must focus our debate on one particular aspect of this bill, child pornography. The debate is a highly emotional one. Two fundamental values are at odds: on the one hand, the protection of children and, on the other, freedom of expression.

We can say without a shadow of a doubt that protecting children against abusers and users of child pornography must be a priority for all Canadian parliamentarians. For this reason, I support the part of Bill C-15A having to do with child pornography.

• (1440)

We have received a message from the other place containing the following words:

> That a Message be sent to the Senate to acquaint Their Honours that this House disagrees with the amendment numbered 1(*a*) made by the Senate to Bill C-15A, to amend the Criminal Code and to amend other Acts...

The important part follows:

> ...because the amendment could exempt offenders from criminal liability even in cases where they knowingly transmit or make available child pornography.

What was this amendment 1(*a*)? It is important to remind honourable senators, so that there will be a proper understanding of where we are at in the debate.

Amendment 1(*a*) relates to clause 5(2) of Bill C-15A and concerns an amendment to the Criminal Code, section 163.1 (3). Never mind the figures, though. Let us concentrate on the text. The text proposed by the government in Bill C-15A reads as follows:

> Every person who transmits, makes available, distributes, sells, imports, exports or possesses for the purposes of transmission, making available, distribution, sale or exportation any child pornography is guilty of...

The rest of the text sets out the penalties for this criminal act.

We are therefore being asked to create a new type of offence of the type "every person who." The amendment accepted by the Standing Senate Committee on Legal and Constitutional Affairs read as follows:

> (3.1) A custodian of a computer system who merely provides the means or facilities of telecommunication used by another person to commit an offence under subsection 163.1 (3) does not commit an offence.

You will, I think, understand even without having taken part in the committee's proceedings, that the problem lies with the word "transmits." An Internet service provider obviously transmits. Its facilities are used for transmission purposes. It lends or leases them to others who transmit information via this network.

The purpose of the amendment was to ensure that Canadian merchants who, in the ordinary course of their business, provide data communication services, would not be held criminally responsible. These Internet service providers very legitimately made representations on the wording of the clause in question. While they expressed their support for the objective pursued by the government, they asked to be protected. It is fair and reasonable that we should spend our time and efforts to ensure that an act truly achieves its objective.

If we remember the speeches in this chamber and the evidence given by the then Minister of Justice, we see that the government's only objectives are to track down and bring to justice the criminals who use, make and produce child pornography, and who use the Internet to transmit it.

The message received from the other place is disturbing. Throughout our debates, whether in committee or here in this house, there was never any suggestion to allow offenders to avoid facing their criminal responsibility. If someone in this house can convince me that this is what we tried to do, I will apologize and sit down.

If you read our texts and debates, you will see that we never wanted to allow any offender to avoid facing criminal responsibility. On the contrary, we wanted to ensure that the real offenders are tracked down and found guilty, and we wanted to avoid including in that category people who act in good faith and who merely provide a legitimate service.

Honourable senators, I realize that this does not specifically relate to the message received from the Commons, but in order to understand it, you must read the debates of the other place. You will be stunned to see the confusion there. We are all against child pornography, but when passion prevails over reason in a debate, we lose sight of the fundamental issue. Fighting child pornography must always be a priority of ours. We must do so in the respect of our values. If you read the *House of Commons Debates*, you will see that the members of the other place first targeted the courts because, in a ruling issued in 2001, the Supreme Court developed around a section of the Criminal Code the articulation of two defences that are already included in the Code. The fact that the other place took note of that did not help clarify things.

The Court of Appeal of British Columbia brought down another ruling with the same parties in March. I must admit it did not help improve anything when it comes to understanding the debate. The fact remains that we are adults able to take things into consideration. The Supreme Court brought down a judgment and articulated the defences set out in the Criminal Code. I do not wish to enter into this debate today, and I shall tell you why later. In the other place, the debate was completely disjointed and had nothing to do with the reality of Bill C-15A. It was a series of speeches strung together in opposition to the courts, or in opposition to our chamber, as though we were completely lost, out of touch with everyday reality and promoting the commission of criminal acts. No one in this chamber supports this theory. Quite the opposite, we want to do effective and reasonable work.

• (1450)

This confusion must be eliminated. There is no question that the courts gave a broad interpretation to these two means of defence set out in the Criminal Code since 1993. Should we — this is certainly a decision that we will have to make — limit the application of these two means of defence in the Criminal Code? These are not new defences. The courts have based their judgments on the two defences set out in the Criminal Code, and they have interpreted them very broadly. It has to do with the notion of the artistic value of a literary or graphic representation. Should we limit these two defences? I believe we should. This is not the subject of today's debate.

Before we discuss and approve Bill C-15A, it is important to ensure that we have covered all of the issues, and resolve and wrap up all of the unfinished business and unanswered questions raised by the debate surrounding consideration of Bill C-15A. It is my contention that there remains one problem that has not been resolved. It is not by kowtowing to the other place, especially after having heard and read the debate that took place there, that we are going to resolve this problem.

An honest Internet service provider in Canada could be charged with the offence I read you earlier. That is certainly not what we want! If an Internet service provider is part of a conspiracy to transmit child pornography, he does not meet the criterion in the amendment. We have all the means in the world in the Criminal Code to make sure that he is found guilty.

Will the burden of proof on the Crown attorney at this trial be more onerous? Yes, it certainly will. This is also part and parcel of the fundamental values in which we believe. We think that the Crown must provide satisfactory legal proof of each of the elements of the crime with which the accused is charged. I would not want to see an honest Internet service provider sentenced — and I am sure you would agree — because it is unwittingly transmitting child pornography.

Honourable senators, I have a suggestion. We could refer this message to the Standing Committee on Legal and Constitutional Affairs. We must wrap up all the loose ends on this debate. I would respectfully submit that we have not yet done so. We are not in a corner, but we are looking at two options. Do we want to rush to wrap up this debate and persuade ourselves that we have done a good job, knowing that we have left an issue unresolved? We are wrapping up debate today. We are saying that Bill C-15A is good. In fact, many parts of this bill are good. They must be quickly implemented, but one issue remains.

The Hon. the Speaker: Honourable senators, Senator Nolin's time is up.

Senator Nolin: I request an additional two minutes.

Hon. Fernand Robichaud (Deputy Leader of the Government): Agreed, so that he may conclude his remarks.

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

Hon. Senators: Agreed.

Senator Nolin: The other option is to quickly tie up the loose ends of the bill as it stands, by accepting the message from the other place. Otherwise, we have to decide to do our duty and to once again refer the bill to the Legal and Constitutional Affairs Committee. Its members will certainly have had the time to reflect a little further, with everything that they have heard since passing the amendment in question. Debate can be resumed on this amendment alone, in an attempt to restore clarity to all the confusion that surrounded the debate in the other place on Bill C-15A, and then the bill can be reported to the Senate. This can be done very quickly.

On motion of Senator Andreychuk, debate adjourned.

The Senate adjourned during pleasure.

• (1510)

ROYAL ASSENT

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

> An Act respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal and to make consequential amendments to other Acts (*Bill C-33, Chapter 10/2002)*
>
> An Act to provide for the recognition of the Canadien Horse as the National horse of Canada (*Bill S-22, Chapter 11/2002*)

An Act to amend the Foreign Missions and International Organizations Act (*Bill C-35, Chapter 12/2002)*.

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

[*English*]

FOOD AND DRUGS ACT

BILL TO AMEND—THIRD READING—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Cook, for the third reading of Bill S-18, to amend the Food and Drugs Act (clean drinking water).—(*Honourable Senator Sibbeston*).

Hon. Tommy Banks: Honourable senators, with the concurrence of Senator Sibbeston, I wish to speak to Bill S-18.

Honourable senators, in 1950, I discovered Lucky Strike cigarettes. Their motto, coming out at the end of the war, was a Morse code that said "LSMFT, LSMFT," which meant Lucky Strike Means Fine Tobacco. It did and still does. It is a careful blend of the finest Turkish and Virginian tobaccos, cured in a process that involves southern molasses. To smokers, the result is ambrosia. When I go to the United States, I still try to find packages of plain Lucky Strike cigarettes just to smell them, because it is a transport of aromatic delight.

One day, in about 1970, I went to my local pusher for my supply. He told me that not only did he not have any Lucky Strike cigarettes that day but that he would never again have any Lucky Strike cigarettes because the Government of Canada had determined that, in some sense, we ingest cigarettes. It was then the policy of the Government of Canada that those things which we, in some sense, ingest ought to be subject to a degree of control and scrutiny on the part of the public interest by the Government of Canada. That was the end of LSMFT for me.

The Government of Canada went to the Liggett Tobacco Company and said, "You have to tell us what is in that formula and how you produce these cigarettes." The Liggett Tobacco Company said, "Are you kidding? We have not told the State of Virginia how we make the cigarettes in 100 years, and we will certainly not tell you." The Government of Canada said, "Well, if you will not tell us what you do to make these wonderful cigarettes, then you cannot bring them into Canada." The Liggett Tobacco Company said, "Okay, goodbye," and that was the end of Lucky Strikes in Canada.

It happens, despite the great inconvenience to my tastes, that I am in favour of the idea that the Government of Canada should, in the public interest and in the interests of the public health, oversee and provide scrutiny and some national regulations and standards to those things that we, in some sense, ingest. We regulate bubble gum. We regulate Coca-Cola. We regulate Sweet Marie candy bars and bread and milk and beef, but we do not regulate water that comes out of the end of the taps in our kitchens.

What is the difference between water and all the other things that we, in some sense, ingest and are on those lists of things that are subject to scrutiny? One difference is that we could get away without bubble gum and without Sweet Marie bars, and we could even survive without bread and milk and meat. It would be an inconvenience, but we could do it. However, we cannot survive without water. It is the one thing that is a pre-condition of life, not just for all Canadians but for every living thing on this planet.

Canadians have come to reasonably expect and it has come to be regarded as a right that when we buy something to, in some sense ingest — and whether we pay a public enterprise or a private one to deliver it to our homes is beside the point — that there is nothing in it that is likely to make us very ill or, God forbid, kill us. One reason for that is the unassailable moral rectitude of every person involved in the chain of production of that ingestible thing, right down to the point that we pay for it and use it.

Behind that elegant concept of civic duty, surely, is the fact that there are consequences of failing to ensure the relative safety or the public health of Canadians. Those consequences come in a number of forms. Municipal bylaws and provincial laws provide consequences, but the most important standards are national standards, which obtain whether someone contributes to the production and sale of that food item in Corner Brook, Victoria or Inuvik. It does no good to move a plant to the next province, which might have slightly less stringent regulations, because those national standards will follow the plant. The national consequences of failing to ensure, to the extent that it is reasonably possible, the health of Canadians will follow a company and cannot be escaped.

It is an absurd dichotomy that everything we can ingest is on that list, and the one thing without which we cannot live and the one thing that Canadians are most proud of having — clean water coming out of the end of our taps, at a price — is not on that list. We can fix that absurd dichotomy by supporting this bill, which redresses that problem in an elegant, simple and straightforward way. The bill acknowledges that we ingest water, that water ought to be subject to national standards, and that the failure to deliver a safe product to Canadians ought to be susceptible to national sanctions and national consequences. That, honourable senators, is why I shall vote for this bill. In addition, when we pass it here — as I sincerely hope we shall — I shall work hard to ensure that it is passed in the other place.

• (1520)

This bill ought to be judged and we ought to vote on it based on its merits and its merits alone, on its intent and on its content, and not because it will intrude into somebody else's bailiwick and not because people in some other places do not like good, substantive, simple, straightforward bills that actually do something to come from this place.

I urge all honourable senators to do the same. If you hear objections from people who would rather we did not trespass on their bailiwick — tough. We should regulate water exactly the same way we regulate bubble gum and beef and Lucky Strike cigarettes.

Hon. Senators: Hear, hear!

The Hon. the Speaker *pro tempore*: Does the honourable Senator Andreychuk have a question?

Hon. A. Raynell Andreychuk: I do, if Senator Banks will accept it.

Senator Banks: I would be pleased to accept a question from the honourable senator.

Senator Andreychuk: Thank you for your impassioned speech about water being a prerequisite to life itself. Can I interpret this to mean that you believe there is a right to clean water and sanitation; and if so, what is your opinion on the fact that Canada, at the recent meetings of the Human Rights Commission, voted against a resolution that would have deemed clean water and sanitation a right?

Senator Banks: Honourable senators, as I am unfamiliar with the meeting to which the honourable senator refers, I cannot comment on it.

I wish to make clear to honourable senators what I am talking about. When I pay someone, or when any Canadian pays someone, to deliver, whether across a counter or out of the end of a pipe, an ingestible product, that product ought to be subject to national standards and to national consequences for failing to meet those standards, not on the part of people who might afterwards process it, but on the part of the people who are responsible for delivering it to me out of the package, from the grocer's shelf or out of the end of a pipe. I am talking about standards that ought to apply to the people who purvey water, whether they are public or private enterprises, and we have both in Canada.

Senator Andreychuk: Part of the dilemma is the shortage of water and the use by one jurisdiction of water that may preclude water elsewhere. Would you include that regulation also?

Senator Banks: No. That regulation would fall under other legislation entirely.

Hon. Nicholas W. Taylor: I also wish to address a question to the honourable senator.

The Honourable Senator Banks introduces something new to the bill. We have debated in the past about the quality of food ingested. Those who oppose the proposed legislation, in particular provincial governments — and as you know, I was chairman of a committee that considered this matter — placed a great deal of emphasis on the fact that water is in the environment and therefore is provincial and not federal.

Senator Banks speaks of ingestion. That is interesting. Does the honourable senator have any other examples of something that is environmental but becomes, when ingested, subject to the federal act?

Senator Banks: Every food, of any description of which I am aware, falls under the purview of this act and is subject, in some degree or other, to control, scrutiny and sanctions, as a consequence of failing to measure up to some standard. I do not believe that there is a food, whether it is packaged or has come directly to a grocery store from a market garden, that is not subject to a degree of scrutiny and control under this act. I believe that to be true. My examination of the question has not shown me any foodstuff that one can imagine — Smarties, packaged ice — that is not, to some degree, subject to national standards and penalties for failure to meet those standards. If there is any, I should be interested to know of it.

Senator Taylor: Does the honourable senator know of any jurisdiction in Canada where the Food and Drugs Act is either relaxed or more strictly enforced when the action is taking place within a province, or is it the same in all 10 provinces? Does the Food and Drugs Act go up and down within the provinces?

Senator Banks: I cannot speak to the efficacy of the enforcement mechanisms that exist from province to province, but there is nothing in the Food and Drugs Act that contemplates a relaxation, or a different application of its regulations, in any province or territory of Canada.

The Hon. the Speaker *pro tempore*: It is understood, honourable senators, that this order will stand in the name of Senator Sibbeston.

On motion of Senator Banks, for Senator Sibbeston, debate adjourned.

BILL TO REMOVE CERTAIN DOUBTS REGARDING THE MEANING OF MARRIAGE

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Cools, seconded by the Honourable Senator Wiebe, for the second reading of Bill S-9, to remove certain doubts regarding the meaning of marriage.—(*Honourable Senator Jaffer*).

Hon. Gerry St. Germain: Honourable senators, I am pleased to rise in my place today to speak to Bill S-9.

In this place, Bill S-9 has generated interesting and informative comments on both sides of the debate. The proponents of Bill S-9 set out to define the meaning of the term "marriage." The opponents of Bill S-9 feel there is no need for such a bill, since the meaning of marriage is well established in society.

However, is the term "marriage" and its meaning in our laws well understood? Having gained several changes to the federal and provincial laws to equalize the economic and social consequences associated with all forms of personal relationships, the gay community has challenged the courts with the claim that their individual rights are infringed because only heterosexual couples can enter into marriage. In the courts, the petitioners want legal recognition without distinction from opposite sex marriages. They claim this can be achieved by changing the legal definition of marriage. However, by changing

the meaning, marriage will be made into something it is not, just to accommodate and embrace other relationships.

Marriage is not defined by federal statute, but there are two acts that touch on the substance of the relationship: the Marriage Act and the Modernization of Benefits and Obligations Act.

In the absence of a statutory definition, marriage is a legal construct or relationship defined by common law. Bill S-9 seeks to define in statute law and remove the doubts over the meaning of marriage. Bill S-9 does not seek to change the meaning of marriage.

In examining marriage, we must keep in mind that, while a language does evolve and new words are added to it, we alone cannot unilaterally redefine a word that has a clear meaning and a history known to the rest of the world.

Lewis Carroll, in his book *Through the Looking Glass*, makes a valid philosophical pronouncement on the meaning and definition of words. He writes:

> When I use a word, it means just what I choose it to mean — neither more nor less.
>
> However, can one make words mean so many different things?

• (1530)

In his comments on Bill S-9, Senator Banks suggested:

> We must find, sooner or later, a word or a term to properly describe the union between a man and a man or between a woman and a woman....That word is not...'marriage.'

I am inclined, honourable senators, to agree with Senator Banks' position.

Christianity views the meaning of marriage as a solemn union freely, publicly and legally entered into between a man and a woman. Marriage is a unique way of life, of benefit to couples, future children and society. It is universally accepted that marriage is an institution that legitimizes this union that is open to children and willing to accept the responsibility of educating them.

The issue of defining marriage or re-interpreting the concept of marriage in common law was brought before the Supreme Court of British Columbia and is presently before the Ontario bench. In British Columbia, the Honourable Mr. Justice Ian Pitfield ruled on the petition, saying:

> Under Canadian law, marriage is a legal relationship between two persons of opposite sex. The legal relationship does not extend to same-sex couples.
>
> Parliament may not enact legislation to change the legal meaning of marriage to include same-sex unions.
>
> Under section 91 (26) of the *Constitution Act, 1867,* Parliament was given exclusive legislative jurisdiction over marriage, a specific kind of legal relationship.
>
> By attempting to change the legal nature of marriage, Parliament would be self-defining a legislative power conferred upon it by the Constitution rather than enacting legislation pursuant to the power.
>
> Alternatively, Parliament would be attempting to enact legislation in respect of civil rights exclusively within the legislative authority of the province.
>
> 'Marriage,' as a federal head of power with legal meaning at Confederation, is not amenable to Charter scrutiny either. One part of the Constitution may not be used to amend another.

In *Egan v. Canada*, the importance of marriage as a social institution was characterized as follows:

> Marriage has from time immemorial been firmly grounded in our legal tradition, one that is itself a reflection of longstanding philosophical and religious traditions.
>
> But its ultimate raison d'être transcends all of these and is firmly anchored in the biological and social realities that heterosexual couples have the unique ability to procreate, that most children are the product of these relationships, and that they are generally cared for and nurtured by those who live in that relationship. In this sense, marriage is by nature heterosexual.
>
> It would be possible to legally define marriage to include homosexual couples, but this would not change the biological and social realities that underlie the traditional marriage.

Honourable senators, in constructing a definition of marriage, we would be remiss to solely examine the common law when there is also a wide body of knowledge in the area of natural law and canon law.

In the *Code of Canon Law, a Text and Commentary,* canon 1057(1) states:

> Marriage is brought about through the consent of the parties, legitimately manifested between persons who are capable according to law of giving consent; no human power can replace this consent.

As well, canon 1057(2) says:

> Matrimonial consent is an act of the will by which a man and a woman, through an irrevocable covenant, mutually give and accept each other in order to establish marriage.

The Roman law tradition held that consent alone made marriage, while the Germanic tradition held that sexual consummation was necessary for a true marriage.

A lengthy debate ensued, but was settled in 1181 by Alexander III, who stated that while consent alone made marriage, subsequent consummation added the element of absolute indissolubility to the covenant. The covenant between the spouses exists for the specific purpose of creating and sustaining the marital community.

Although the right to marriage is one of the most fundamental human rights, it is not absolute. Potential spouses are subject to civil and canonical requirements, which have been justly enacted for their good, the good of possible children, and the good of community. In short, the basic requirements of law envision spouses capable not only of a wedding ceremony, but also of a marital relationship.

In both civil and canon law, certain prohibitions or impediments have been enacted in view of the effect a prohibited marriage would have on the spouses, the children and the community. These are not an unjust denial of individual freedom, but a limitation placed on the right to marry for the good of all concerned. Throughout history, both secular society and the Church have recognized not only a right but also an obligation to provide either customary or legal structures which, in certain instances, restrict the exercise of the right to marry. These restrictions respond, in the first place, to the natural law requirements for a true marital community. In addition, certain restrictions have been enacted in response to particularly critical problems experienced by the Church with respect to marriage, for example, clandestine marriages, arranged marriages and incestuous marriages.

The canon states a broad principle of freedom. All persons not prohibited by divine or ecclesiastical law are free to enter a marriage covenant. The gay community has embarked on a journey to compel Parliament to redefine marriage. We have heard from the courts, but what has Parliament said lately on the subject?

Members in the House of Commons affirmed on June 9, 1999, by a vote of 216 to 55:

> That, in the opinion of this house, it is necessary, in light of public debate around recent court decisions, to state that marriage is and should remain the union of one man and one woman to the exclusion of all others, and that Parliament will take all necessary steps within the jurisdiction of the Parliament of Canada to preserve this definition of marriage in Canada.

The Senate continues to support this position with Bill S-9.

Parliament alone must resolve this matter. We must provide a definition that is clear and universally understood.

Let us conclude the second reading debate and refer Bill S-9 to the appropriate committee for further study as soon as possible.

I believe this bill should be adjourned in the name of Senator Jaffer**.**

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Would Senator St. Germain accept a question?

Senator St. Germain: Yes.

Senator Kinsella: In his remarks, the honourable senator made reference, on a few occasions, to a code of canon law. Could he tell us which edition of the code of canon law he is referring to?

Senator St. Germain: I believe the honourable senator would have the reference; however I can provide it. It is pages 740 to 743.

Senator Kinsella: I was curious whether it was the code of canon law revised about a decade ago. The honourable senator also made reference to a date in the 12th century. There were also several references to natural law. Is that the pre-Grotian version of the code of canon law?

Senator St. Germain: While Senator Kinsella was busy establishing himself as an academic and an understudy of natural law, I was out there making certain the business community continued to thrive as it should. I do not profess to be an expert on this, as the honourable senator categorizes himself, but I, as a layman, and as someone who has studied this subject in a cursory manner, think that I would defer to him, who I have deferred to in the past, to possibly explain to the Senate further, if he so desires.

• (1540)

[*Translation*]

Hon. Pierre Claude Nolin: Honourable senators, on what fundamental principle or value does he base his argument? Since 1982 — or 1974 in the case of Quebec — we have had freedom of conscience and religion. The senator made a long speech. He referred to the Bible. This only concerns a certain number of Canadians. Under what fundamental value can he say that he is right and that those who do not agree with him are wrong because they do not share his Judeo-Christian values?

For a few months now, same-sex marriages have been allowed in Quebec. There was no debate and this change went through without a hitch.

[*English*]

Senator St. Germain: Honourable senators, when I speak in the Senate, I speak about my values. I am not speaking about those of Quebec or what Quebecers feel is right in the province of Quebec. These are my values, which are based on my beliefs. As the honourable senator has said, he is a Roman Catholic; as such, that is the basis for his beliefs.

What we are talking about here is the definition of the word "marriage." This is the argument. It is on that basis that I stand to defend "marriage" as being between members of the opposite sex.

[*Translation*]

Senator Nolin: Honourable senators, did you consider the possibility that someone might argue that our legislative definition goes against a constitutional value? Should this be the case, all our legislative efforts would be useless. Did you consider this possibility?

[*English*]

Hon. Anne C. Cools: Honourable senators, Senator St. Germain described very eloquently how the first in what will be a series of court judgments has essentially outlined the state of the law. Senator St. Germain told us that Mr. Justice Pitfield upheld marriage and based his ruling on the fact that marriage, in the British North America Act, 1867, section 91.26, is a head of power. I would invite all senators to read that judgment.

My question to Senator St. Germain is about an opinion that I have been reading of a famous homosexual activist from British Columbia. I am reading here from a publication called *Xtra West*, and the individual is the managing editor, whose name is Gareth Kirby. Mr. Kirby, in a September 6, 2001, article titled, "No, no, no, to marriage rights," is obviously speaking to organizations like Egale and others, when he clearly states:

> The lawyers and politicians in our community have run amuck on this one. They need reining in. I, for one, will not donate a single penny to any fight for marriage recognition.

Senator Stratton: Question.

The Hon. the Speaker *pro tempore*: Senator Cools, I am sorry to interrupt, but Senator St. Germain's time is up.

Does the honourable senator wish to ask for leave to continue?

Senator St. Germain: I will just try to answer this one question.

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

Senator LaPierre: No.

The Hon. the Speaker *pro tempore*: Honourable senators, leave is not granted.

Senator Cools: Ask for leave one time; I will fix you!

Senator LaPierre: Don't threaten me. You will be in great trouble if you do.

The Hon. the Speaker *pro tempore*: Honourable senators, this debate will stand in the name of the Honourable Senator Jaffer.

NATIONAL SECURITY AND DEFENCE

BUDGET—STUDY ON NATIONAL SECURITY POLICY—REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the sixth report of the Standing Senate Committee on National Security and Defence (budget 2002-2003), tabled in the Senate on April 25, 2002.—(*Honourable Senator Kenny*).

Hon. Tommy Banks: Honourable senators, I move the adoption of this report.

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

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I move the adjournment of this debate on the basis that either the chairman or the deputy chairman should be here to answer budget questions.

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

Hon. Senators: Agreed.

On motion of Senator Lynch-Staunton, debate adjourned.

ABORIGINAL PEOPLES

BUDGET—STUDY ON ISSUES AFFECTING URBAN ABORIGINAL YOUTH—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the seventh report of the Standing Senate Committee on Aboriginal Peoples (budget 2002-2003), tabled in the Senate on April 25, 2002.—(*Honourable Senator Chalifoux*).

Hon. Thelma J. Chalifoux: I move the adoption of this report.

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

Hon. Senators: Agreed.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, may I ask the chair of the committee how much the committee requested? We know from the report how much is being recommended. Did the committee receive 100 per cent of its budget? If not, what percentage did the committee receive?

Senator Chalifoux: We received approximately 40 per cent. We asked for $390,000; we got $186,000.

Senator Kinsella: That is helpful to know. In order that all committees are treated fairly, we now have a standard of 40 per cent.

Will this amount of money cover all the anticipated work of the committee until the end of this fiscal year?

Senator Chalifoux: No, it will not, but we are looking at revisiting all of our priorities. The amount will not cover all of our projected activities.

Senator Kinsella: Therefore, what we are being asked to approve is not a budget. We do not know the amount of the budget. Could the honourable senator provide a ballpark figure of what the budget will be for the committee within this fiscal year? Will this amount represent 50 per cent of the budget that the committee will actually be requesting? Is it the honourable senator's understanding that the total amount of money being sought by the committee will be within the total amount of money in the budget that the government has approved?

Senator Chalifoux: I thank the honourable senator for the question. We have determined in our committee that we will do the work we can within the budget that we have. This is where it will happen.

• (1550)

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

[*Translation*]

ILLEGAL DRUGS

BUDGET—REPORT OF SPECIAL COMMITTEE ADOPTED

The Senate proceeded to consideration of the fourth report of the Special Committee of the Senate on Illegal Drugs (budget 2002-2003), tabled in the Senate on April 25, 2002. —(*Honourable Senator Nolin*).

Hon. Pierre Claude Nolin: Honourable senators, I move the adoption of the fourth report of the Special Senate Committee on Illegal Drugs.

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I would like to ask Senator Nolin the same questions asked of Senator Chalifoux, whether the committee he chairs received the full amount it requested from the Standing Senate Committee on Internal Economy, Budgets and Administration, as well as the percentage of this budget that it did receive.

Senator Nolin: Honourable senators, the answer to your question is no. The amount that we requested was cut by 47 per cent. Following a discussion with the members of the Standing Senate Committee on Internal Economy, Budgets and Administration, we accepted this reduction.

There is no question that the committee will not be able to visit as many Canadian communities as it had intended to visit to undertake an intelligent debate with Canadians on the committee's findings.

However, we will use other means at our disposal, such as videoconferencing. It will be less personalized, since we will not have the same type of interaction with as many Canadians as we would have wanted. We will be able to visit six Canadian communities, across the country. For the other communities, we plan on using video conferencing. We are therefore satisfied with the budget we were granted.

Senator Robichaud: Honourable senators, if I understand correctly, the committee will stay within the amount granted for the current fiscal year in doing its work.

Senator Nolin: Correct. The mandate given to the committee expires at the end of August, at which time we will table our report. This budget covers the five-month period from April 2002 to the end of August 2002.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

[*English*]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

BUDGET—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the twelfth report of the Standing Senate Committee on Energy, the Environment and Natural Resources (budget 2002-2003), tabled in the Senate on April 25, 2002.—(*Honourable Senator Taylor*).

Hon. Nicholas W. Taylor: Honourable senators, I move the adoption of the report.

Hon. Terry Stratton: Honourable senators, I should like to address a question to the chair of the committee. Again, as has been echoed twice previously, what percentage of the total request for your budget did you achieve?

Senator Taylor: We achieved about 43 per cent, although I was under the impression that come fall, in case we had anything new, we might be able to apply for a supplement, but it is not in our present budget. As a matter of fact, they cut back our budget to visit the West Coast. This week we will be video conferencing.

Senator Stratton: Senator Nolin's report has to be finished by the end of August. The honourable senator's committee achieved 43 per cent of its budget and Senator Chalifoux's committee achieved 40 per cent of its budget. Has that ever been explained to you at all?

Senator Taylor: I do not know whether it has been explained. As the honourable senator probably knows, we have three pieces of legislation. I think we have more legislation to consider than the other committees. Also, we are finishing the Nuclear Fuel Waste Act and the Endangered Species Act legislation may be referred to the Energy Committee, so it looks like we will be a busy committee. We also have to finish an energy report. Of course, the things that take precedence are the bills referred to the committee by the house. We will have three and possibly four, so that may account for keeping us out a little more.

Senator Stratton: Honourable senators, Senator Chalifoux has stated that her committee will adopt its work according to the budget it has achieved. Is the honourable senator's committee prepared to do the same?

Senator Taylor: I do not think there is much choice. We have to adapt to what is there. There is always the possibility, as I observed in the Senate I believe last year, of going for Supplementary Estimates, although we did not need them. It is hard to say how much the committee will spend, but as it now stands, we certainly intend to spend every dollar we get and hopefully that will cover everything.

Senator Stratton: It would be nice to not spend every dollar.

Senator Taylor: If there are alternatives to that, I would appreciate being so informed.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

STUDY ON EFFECTIVENESS OF PRESENT EQUALIZATION POLICY

REPORT OF NATIONAL FINANCE COMMITTEE— DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Keon, for the adoption of the fourteenth report of the Standing Senate Committee on National Finance entitled: *The Effectiveness of and Possible Improvements to the Present Equalization Policy*, tabled in the Senate on March 21, 2002.—(*Honourable Senator Rompkey, P.C.*).

Hon. Bill Rompkey: Honourable senators, I wish to congratulate Senator Murray and the committee on an excellent report and also to indicate that Senator Cools, who is not here, was the deputy chair of that committee, and my colleague Senator Furey served on that committee as well. I want to talk about the recommendations with particular reference to my own province.

The committee recommended that the equalization ceiling be abolished and no longer form part of the equalization calculation. The federal government's justification for the imposition of the ceiling, which has been in place since 1982, is that it restricts the rate of increase in federal expenditures. The committee clearly demonstrates that this is not a sound argument. The reality is that federal revenues since 1982 have grown more rapidly than the entitlement of the provinces to equalization. In the most recent year, 2000-01, for which we have figures, federal revenues were nearly three times as great as they were in 1982-83. Provincial entitlements, by contrast, were only 2.6 times as large as in the base year.

The committee's recommendation is soundly based and will make the equalization program better serve the purposes for which it was set up by helping the provinces to provide reasonably comparable services to citizens at reasonably comparable levels of taxation. I support it and I urge the government to do so as well.

The committee recommended that the floor provisions in the program be continued. These protect the provinces from sharp reductions in entitlements year after year. The floor provision, in layman's terms, prevents fiscal surprises to a province. That is a valid and worthy policy goal and I support it.

• (1600)

The concept of equalization is simple, although the calculations are technical. The key calculation is the standard fiscal capacity for the 10 provinces. To use laymen's terms again, how much would a province raise by the taxes it levies on its citizens using the standard rate? The difference between this amount and the amount actually received at the standard rate of taxation is the amount received as equalization. The national standard is currently determined on a five-province basis because Alberta and the four Atlantic provinces are excluded. The calculation takes into account British Columbia, Saskatchewan, Manitoba, Ontario and Quebec. The equalization-receiving provinces — all but the three wealthiest — argue that this is unfair. They claim that a five-province standard means that their revenues are not brought up to a truly national level, which is the constitutional promise. They say that the only fair and just measure is a 10-province standard. The committee recommends that the 10-province standard be accepted, and I endorse this recommendation.

The committee acknowledges that there will be a cost to the Government of Canada, but I make the point that every province, except Ontario and Alberta, will benefit. The honourable senators who sat on the committee also concluded that a five-province standard does not fulfil the intent of the program, which is to provide adequate funding to allow provinces to provide comparable services to their residents. Stability in the level of equalization payments is desirable, but it should not come at the expense of adequacy and the level of payments.

Honourable senators, this is an important recommendation. The committee tells us that the use of the five-province standard instead of the 10-province measurement has translated into reduced services for some Canadians. To put the point bluntly, a failure to adopt the 10-province standard will mean that Canadians who live in some of the less affluent provinces will not receive the same level of health care, education or other public services as do their fellow Canadians who are fortunate enough to live in wealthier provinces.

There are two recommendations of the committee, numbers seven and eight, that most directly concern Newfoundland and Labrador and address the generic solution and the Atlantic Accord. These are special arrangements that had been developed because of the unique situation in a number of provinces. The generic solution addresses problems that arise when one province has a preponderant share of the revenue gleaned by a provincial government from a particular natural resource. The overall formula cannot cope with this. In effect, the tax rate of that province distorts the national tax yield for that resource. The result is to penalize the province that owns the resource. The economic consequence would be such that the province would be just as well off, perhaps better off, if it levied no taxes or royalties at all on these resource developments.

The generic solution applies to every province, and from time to time Saskatchewan, Quebec, Newfoundland and Nova Scotia have come under it. Briefly put, it allows a province to receive a portion of the income it gleans from the resource, whether that income is a royalty or a tax, without suffering a reduction in the equalization entitlement. The penalty is a form of clawback.

The present arrangement was put in place by Parliament in 1994 at the request of the Prime Minister and the Minister of Finance. It was a significant improvement. Before then, the province was obliged to include 100 per cent of its revenue from specific resources in the equalization entitlement, whereas now only 70 per cent is included. In other words, 30 per cent is exempt from the clawback provisions.

The offshore oil and gas revenues being earned by Newfoundland and Labrador and Nova Scotia fall within this arrangement. The committee recommends that the generic solution be changed to allow the province to retain a greater portion of the revenue without suffering a reduction in its equalization entitlement. The committee's recommendation does not specify a percentage. The recommendation goes to the heart of the issue, and I urge its support.

Newfoundland and Labrador and Nova Scotia are two of the poorest provinces measured in terms of their fiscal capacity. They do, however, have significant oil and gas resources off shore. The equalization formula is a powerful deterrent to their full and proper development because the provinces derive remarkably little revenue from them. Even with the generic solution, they lose 70 per cent in equalization for each dollar they receive in revenue. This is a classic case of penalizing a province because it is poor.

The generic solution should be amended as the committee recommends. My suggestion is that the province should be allowed to keep at least 70 per cent of the revenue it earns from the development of the resources that it protects. Some will argue that this is akin to a person on welfare seeking to exempt a windfall such as a lottery prize. However, far from being the case of a welfare recipient wanting to spend his lottery winnings, this is the case of someone working to earn income to better himself and his family having to pay a tax of 100 per cent on his earnings. The development of these resources is in the interests of every Canadian, not just the people of the province concerned. The generic solution is not the perfect answer, but it is the best answer that we have been able to put in place thus far.

Honourable senators, the change to the generic solution will cost the Government of Canada money, but let us remember that the Canadian tax regime and the constitutional division of fiscal responsibility between the Parliament of Canada and the provincial legislatures gives the federal government between 80 per cent and 90 per cent of each dollar taken by governments collectively from a resource development. If one divides into two piles each dollar earned by both levels of government from Hibernia or Terra Nova or White Rose, the federal pile will have 85 cents and the provincial pile will have 15 cents. That is why the generic solution must be changed.

The committee also recommends that the federal government review the equalization provisions of the Atlantic accords. The committee questions whether these provisions have fully met the intent for which they were designed. They obviously have not. The accord came into being because the Supreme Court decided that offshore resources belonged to the Government of Canada and not to the provinces. However, honourable senators will remember that onshore resources in Alberta, Saskatchewan and Manitoba originally belonged to the Government of Canada, as well. The Parliament of Canada gave these resources to the provinces in the 1930s, and there is no reason in principle or in logic or in policy not to treat offshore resources on the same basis.

The two Atlantic accords — one with Nova Scotia and one with Newfoundland and Labrador — are an attempt to remedy this inequity. They exempted a portion of the revenues earned by the provinces from their offshore oil and gas resources from the equalization clawback. The problem was that they did so on a declining scale. The Nova Scotia exemptions ran for only 10 years and those of Newfoundland and Labrador for only 12 years. That demonstrates the unreasonable nature of the arrangement. The exemptions should not decrease from year to year; they should last as long as the offshore resources last. These resources are finite, and they will be fully harvested within a period of 15 or 20 years. Nova Scotia and Newfoundland and Labrador are entitled to reap the full benefits from them without any impact on their equalization entitlements.

Statistics, it is often said, can be the tools of the devil, but facts are facts. Allow me to give honourable senators two such statistics that put the fiscal position of the Government of Newfoundland and Labrador fairly and fully.

I will speak first to the "tax effort," a phrase used by economists to describe the tax burden that a provincial government places upon its citizens. Newfoundland and Labrador's tax effort for the fiscal year just concluded is 112 per cent. The national average is 100 per cent. Thus, it can be readily seen that the citizens of my province are paying more than their fair share of taxes compared to the average Canadian. The circumstance that, per capita, incomes in Newfoundland and Labrador are substantially lower than that of any other province, increases the burden. People in my province are doing their best to pay their way.

The second set of statistics relates equalization payments to the province's own source revenues. This is a fair comparison among the seven equalization-receiving provinces. Newfoundland and Labrador's equalization entitlements last year, 2001-02, were 57 per cent of the province's own revenues from all sources, including natural resource revenues. That is the highest proportion of any of the seven provinces. Further, and this is the telling and significant figure, equalization payments as a proportion of Newfoundland and Labrador's own source of revenue have increased steadily over the eight or nine years.

• (1610)

The committee's report shows us that equalization was 46.8 per cent of Newfoundland's revenues in 1994 and that it rose to 49 per cent in 1997-98. No other province drew as high a proportion of its income from equalization. There can be no argument with the statement that the trend goes from bad to worse, or to put the matter another way, the poor get poorer.

Put that together with the tax burden being borne by the citizens of my province and set it against the standard of public services there, and senators will appreciate why I state that my province has a claim upon the Government of Canada. The recommendations in this report will go a substantial way to honouring that claim.

Finally, let me note that the committee received representations from the Ministers of Finance from five of the receiving provinces and from the Premier of Newfoundland and Labrador. Each put forward suggestions for change that ran substantially on the same lines as the committee's conclusions. It is fair to say, then, that the report will have strong support among the equalization-receiving provinces, and that, too, is a telling argument in its favour. In fact, I believe Senator Murray has received messages from each of the provincial premiers in the four Atlantic provinces with positive comments on the committee report. The news stories have reflected that accordingly.

The members of the committee have done good work, and we owe them a debt of gratitude. The report will be regarded, I think, as a major milestone in the long history of equalization payments — a major step forward in the effort to develop fair and appropriate mechanisms to discharge the constitutional obligation that obliges the Government of Canada to help the provinces provide comparable public services at comparable levels of taxation. Once more, I congratulate and thank all those who worked to make the report the landmark document that it is. Their recommendations deserve our support and they deserve the support of the Government of Canada.

The Hon. the Speaker *pro tempore***:** Honourable Senator Taylor, do you have a question?

Hon. Nicholas W. Taylor: Yes. Being from Alberta, which is accused of perhaps not putting enough money into the pot —

The Hon. the Speaker *pro tempore***:** I regret to advise that Senator Rompkey's time has expired.

Senator Rompkey, are you asking for extra time?

Senator Rompkey: I would be prepared to answer Senator Taylor's question.

Senator Taylor: Subsurface rights in the Prairie provinces were granted to the government. Therefore, it is only fair that the oil and gas resources in Newfoundland and Nova Scotia are as well.

Do not forget that, in the West, our rights are restricted to the area between our borders. There should be a statue in every village square of Joe Clark because he introduced the concept of sharing offshore wealth. At that time, the offshore was only 10 or 12 miles out to sea and the provinces only had a few miles of it. As senators know, international treaties now give every country oil rights that are halfway to the other country. Consequently, Newfoundland and Nova Scotia have rights in oil and mining much larger than their original area. In other words, their rights are so far out to sea that they extend almost halfway to Africa. For that reason, the comparison with the situation in Alberta and Saskatchewan is a bit rough. We are restricted to what goes on between our borders. Was that mentioned in the committee?

Senator Rompkey: I do not think that point was discussed in the committee at all. We are talking about a matter of principle. I accept the fact that my honourable friend is talking about territory and area and the extent of the resource.

When Mr. Chrétien was Minister of Energy, there was a discussion about whether the offshore would overheat the Newfoundland economy. He said that he was not afraid to inflict prosperity on Newfoundland. That is the position we should take.

Moreover, we are not asking for all the revenue to stay in Newfoundland. We are asking for a fair share. I said 70 per cent should be excluded. Instead of being 70-30, it should be the other way around. Still, much of the money goes to the Government of Canada. Let me repeat the figures again. Offshore, for every dollar of government revenue that comes in now, the federal government gets 80 to 90 cents. When Voisey's Bay is developed in northern Labrador — not the biggest nickel mine in the world but one of the richest, and it will be there for 20 or 30 years — of every dollar of government revenue, almost 90 cents comes to the Government of Canada either in taxes or the clawback of equalization.

We are asking for some fairness and equity. We do not want to keep all the dollars coming in, but we do want to keep a fair share.

On motion of Senator Stratton, debate adjourned.

STUDY ON CANADA'S HUMAN RIGHTS OBLIGATIONS

REPORT OF HUMAN RIGHTS COMMITTEE— DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Andreychuk, seconded by the Honourable Senator Johnson, for the adoption of the second report of the Standing Senate Committee on Human Rights, entitled: *Promises to Keep: Implementing Canada's Human Rights Obligations*, tabled in the Senate on December 13, 2001.—(*Honourable Senator Poy*).

Hon. Vivienne Poy: Honourable senators, it is my pleasure to speak to the second report of the Standing Senate Committee on Human Rights. Over the last year, it has been my privilege to serve on this committee and to learn more about international and national human rights issues.

I thank the many witnesses who appeared before the committee and shared their knowledge with us. As Senator Andreychuk stressed in her speech before this chamber, Canada is now entering the third phase of the evolution of human rights in which we must strive to live up to the commitments laid out in the various international human rights instruments that we have ratified.

According to the Department of Foreign Affairs, Canada has ratified most of the principal UN treaties on international human rights. As a result of our willingness to ratify these instruments, as well as the well-justified respect accorded to our Charter of Rights and Freedoms, Canada is known as a leader in the field of human rights.

Honourable senators, do we still deserve this reputation? I ask this question because, as Senator Andreychuk noted, we have not implemented into national legislation many of the rights contained in the treaties to which we are party, while many other Western nations have developed mechanisms for integrating ratified treaties into their laws.

It is true that our federal system of governance makes implementation difficult, but as many witnesses before our committee observed, this is not an insurmountable barrier. As things stand, there is a lack of coherence between Canadian Human Rights Commission rulings and reviews and petitions at the international level.

• (1620)

The question is this: Do we really believe in the human rights principles that we have agreed to in ratifying these treaties and covenants, or is our commitment merely rhetorical? If we are to go beyond rhetoric, we need to implement national legislation as soon as possible so that all Canadians can have full recourse to human rights law.

A first step in this direction, as our committee recommended, would be to include references to key international human rights instruments in the Canadian Human Rights Act so as to more fully harmonize international and national legislation. In particular, the issue of poverty, which afflicts various social groups in Canada, needs to be incorporated so that discrimination on the basis of social condition is prohibited. These measures would be in keeping with the Paris Principles of 1991, which Canada, along with the UN Human Rights Commission and the General Assembly, endorsed.

Although we have always ranked high in the UN human development index for our quality of life, we have also been criticized, in recent years, by this same report for our failure to tackle poverty, particularly among children, Aboriginal peoples, minorities and women. The homeless are crowding our urban sidewalks, and one in six adults cannot read, while 5 million Canadian children live in poverty. The gap between Canada's rich and poor continues to grow. Honourable senators, we cannot ignore these issues.

Canada has committed itself to the protection of both civil and political rights, and social and economic rights, by signing the international covenants. In fact, when CIDA ventures abroad, it recognizes the close interaction between poverty alleviation and governance issues in the development of a nation.

As the head of the Canadian Human Rights Commission, Michelle Falardeau-Ramsay, said, these two sets of rights cannot be separated if quality of life is to be ensured:

> The international community has recognized for some time that human rights are indivisible, and that economic and social rights cannot be separated from political, legal, or equality rights. It is now time to recognize poverty as a human rights issue here at home as well.

Critics of social and economic rights, which are positive rights, often argue that negative rights, such as freedom from torture, freedom from arbitrary arrest, freedom of conscience, et cetera, are easier and cheaper to enforce than positive rights. One of the most important rights in a democracy, the right to vote, is in fact a positive right. Ultimately, our access to rights depends on our social and economic position in society. Despite the Charter and our best intention as a society, many inequalities do exist, and for those who find themselves on the bottom rungs of our economy, human rights are a luxury they cannot afford in their struggle for survival.

Martha Jackman wrote this recently in the *National Journal of Constitutional Law*:

> It requires little imagination to question the value and meaning of a right to freedom of conscience and opinion without adequate food; to freedom of expression without adequate education; to security of person without adequate shelter and health care. In each case there exists a fundamental interdependence between the classical right, which is constitutionally recognized, and the underlying social and economic right, which is assumed to be a matter, not for the state, but for the market, for individual initiative, or even nature.

Thus, all rights require access to resources. However, many poverty-related claims, such as those related to social assistance and to low-income women, that are brought before Canada's Human Rights Commissions are ignored, despite their legitimate basis in international law.

Aside from harmonizing international and domestic legislation, one of the most pressing issues that has emerged since September 11 is the need to maintain a proper balance between demands for collective security and human rights. We need to closely monitor our domestic situation to ensure that security concerns do not supersede the rights of Canadians.

Aside from assuring that the different levels of government respect human rights in practice, we need to encourage all Canadians to talk about these issues. One way to do so is to give them the information they need through education. How many Canadians know what international human rights instruments Canada has ratified? How many Canadians understand how to file a complaint under these treaties at the international level? Even if much of this legislation is not codified into Canadian law, Canadians need to know what principles Canada has publicly committed to uphold.

It is my personal desire that the Standing Senate Committee on Human Rights will raise awareness of the importance of human rights among parliamentarians and among all Canadians. For too long, we have taken Canada's human rights record for granted. There is a tendency to be complacent, even when there is much more to achieve.

Now is the time for Canada to take our international human rights commitments more seriously, both nationally and globally. Our committee was informed that there has not been an intergovernmental meeting on human rights at the ministerial level in some 13 years. Much has happened in the field of human rights during that period. It is obviously time for the federal, provincial and territorial ministers to sit down together.

As the committee hearings have made evident, many questions need to be addressed if Canada is to retain its status in the international arena as a champion of human rights.

This month, we celebrate the twentieth anniversary of the Canadian Charter of Rights and Freedoms. Let us take this opportunity to review our many triumphs over the past 20 years, but also to set our course for the future.

Honourable senators, as the Standing Senate Committee on Human Rights continues its fine work, it will play a pivotal role in shaping that future and moving the human rights agenda forward in Canada and around the world.

Hon. Senators: Hear, hear!

Hon. Marcel Prud'homme: Will the honourable senator accept one or two questions?

Senator Poy: Yes, if I am able to.

Senator Prud'homme: Honourable senators, I attend this important committee as often as I am able to. As honourable senators are aware, I am a member of no committee because my choice is Foreign Affairs, where I think I have expertise, but I am deprived of sitting as a supplementary on that committee. I make no concessions; therefore, I am a member of no committee. Talk about the rights of parliamentarians.

The Human Rights Committee is doing fabulous work. I attend that committee on Mondays whenever I can as a non-member. The chair treats me as if I were a member of the committee; if I raise my hand, the chair recognizes me. I appreciate Senator Andreychuk's courtesy and Senator Poy's able participation.

One thing strikes me about the Human Rights Committee, however. Why is it that that committee attracts mostly women, compared to the Banking Committee and other committees where the membership is made up mostly of males? Why is the Human Rights Committee entirely composed of women, except for two Conservative senators, Senators Kinsella and Beaudoin? Senators Andreychuk, Kinsella and Beaudoin, the three Conservative representatives, are two men and a woman.

Senator Joyal is not a member. He attends as a volunteer, as I do. All the members for the government — my party for 40 years — are women. May I make a plea to the House Leader?

• (1630)

Maybe there should be some adjustment there, so that males could have the same sensitivity that the committee shows. It is a suggestion.

My question is: The honourable senator does believe in the universality of human rights, does she not?

Senator Poy: Yes, I do.

[Senator Poy]

Senator Prud'homme: As we talk about almost everything touching on human rights except the one thing that is of greatest interest to world peace, something that could explode overnight, could I ask the honourable senator to ask her committee if the time has come for some women — and I feel that women have more guts than men, and I do say so publicly on the record — to decide that they will study the human rights situation of the Palestinian people?

I put my question to Senator Poy, as I do to the able chair, very humbly. Will the honourable senator at least consider studying the possibility of looking into this very explosive matter and promote the idea through her very important committee?

I repeat, I was not wrong in the past when I predicted things I was horrified to see happening. It will become worse and worse.

For those colleagues who are very cynical, I would remind them that this committee sits on Mondays, and we should tip our hats to the members who chose to sit on those days.

Senator Poy: Honourable senators, I am glad the Honourable Senator Prud'homme mentioned that in the Human Rights Committee there are more women than men. It is something I have noticed in many other meetings I attend regarding peace and security as well. It is mainly women, but I cannot answer why that is so.

To answer the question regarding studying the Palestinian question, I think it would be more appropriate if the honourable senator put it to our chair and deputy chair. I am vitally interested in that myself, though I retain, as my main concern, the rights of Canadians here in Canada. We need to solve that problem first before we can solve the problems of the world.

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

STATUS OF PALLIATIVE CARE

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Cordy calling the attention of the Senate to the status of palliative care in Canada.—(*Honourable Senator Morin*).

Hon. Yves Morin: Honourable senators, I would like to speak briefly on the subject of palliative care, and describe a remarkable experience in my own city.

Palliative care can be defined as the care of patients whose disease is not responsive to curative treatment, where control of pain and other symptoms, and psychological, social and spiritual problems, is paramount. The goal of palliative care is the achievement of the best possible quality of life for patients and their families.

[*Translation*]

In Canada, palliative care has taken on considerable importance over the years, thanks to kind souls who were very quick to understand the importance of providing such services. One example of these: Quebec City's Maison Michel-Sarrazin, named after the first physician in New France.

The first of its kind in Canada, this facility is recognized throughout the world as a source of reference and expertise on palliative care. Created in 1975 after several years of reflection, it set itself the objective of palliating the suffering of terminal cancer patients by providing the appropriate care and support for patients and for their loved ones. The activities of Maison Michel-Sarrazin cover the whole range of palliative care.

As far as care per se is concerned, it provides free of charge accommodation, medical and psychosocial care, music therapy, physiotherapy and pastoral services. All of these are adapted to the needs of palliative care patients and their loved ones.

Other services available include liaison services and home care, a permanent help line, and follow-up for grieving family members.

The Maison Michel-Sarrazin expands its impact through publications on the medical, philosophical and ethical aspects of palliative care. Every year, it organizes the Michel-Sarrazin lecture, and invites a world-renowned speaker to address a specific aspect of the end of life.

The Maison Michel-Sarrazin is also an accredited teaching site for palliative care. It provides several courses on theory coupled with practicums for students and practising professionals, leading to a certificate in palliative care.

The creation in 1983 of a palliative care Chair at Laval University was another element in the continuity of collaborative efforts between it and the facility. In order to successfully carry out its research mission, the Maison has had an active multidisciplinary research team in place for the last ten years.

All these efforts have earned the Maison Michel-Sarrazin an international reputation. Indeed, it has served as a model for a number of palliative care centres throughout the world, including in Quebec, Canada, Europe and China.

As you may imagine, this institution is a perfect example of what determination can accomplish. Its history is one of love, as was so admirably written by Yolande Bonenfant, in a book entitled *La petite histoire de la Maison Michel-Sarrazin*. This centre was built by people who believed and fought with unwavering faith, so that terminally ill patients could leave this world with dignity.

Allow me to pay a well deserved tribute to its founders. I am referring to Dr. Louis Dionne, his wife, Claudette Gagnon, and Dr. Jean-Louis Bonenfant. I would be remiss if I did not also mention the excellent work done by the team of caregivers, the support staff and all the dedicated volunteers and generous contributors who work ceaselessly to keep the flame burning.

As I pointed out, one of the great merits of this institution is that it was established at a time when palliative care was a totally neglected area in the health sector. These people believed in their dream. Their efforts were rewarded and we are proud of them.

We also want to express our appreciation to our honourable colleague, Senator Sharon Carstairs, for her remarkable work in the area of palliative care. I will not go into the details of her commitment. She has long been actively involved in this area and we are all aware of her contribution. It is largely thanks to her determination that palliative care now has a place of choice in our health policies. To be sure, her vast experience in this area and her legendary perseverance will help develop and improve access to quality palliative care for Canadians.

[*English*]

The Hon. the Speaker: Honourable senators, if no other senator wishes to speak to this inquiry, it is considered debated.

• (1640)

Hon. Marcel Prud'homme: Honourable senators, has only one honourable senator spoken on this matter?

Some Hon. Senators: No, no.

Senator Prud'homme: If no honourable senator speaks, the matter dies. Am I to understand that?

The Hon. the Speaker: Honourable senators, the matter does not die; it is considered debated. Does the honourable senator wish to adjourn the debate? We have gone on to the next item, but is there leave to revert to a motion for adjournment of the debate, honourable senators?

Senator Prud'homme: I ask for leave to revert.

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

Hon. Senators: Agreed.

On motion of Senator Prud'homme, debate adjourned.

INTERNATIONAL DAY FOR ELIMINATION OF DISCRIMINATION

INQUIRY

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Poy calling the attention of the Senate to the significance of March 21st, the International Day for the Elimination of Racial Discrimination.—(*Honourable Senator Andreychuk*).

Hon. A. Raynell Andreychuk: Honourable senators, I rise today to speak in support of Senator Poy's inquiry concerning the United Nations International Day for the Elimination of Racial Discrimination. In her speech to this chamber, given on March 19, 2002, my respected colleague mentioned that eliminating racism raises not only ideological issues but carries with it legal and economic implications as well. I should like to share some thoughts on the legal implications that the issue of racial discrimination raises.

The inherent dignity of the individual has always been the core value of human rights. The expression of the profound dignity and worth of the individual goes as far back as the origins of the world's major religions, and continues in scores of laws, treaties and theses that fill the legislatures and libraries throughout the world today. Racial discrimination is the very negation of this human rights legacy.

It is in recognition of racial discrimination's affront to human dignity that national laws and international instruments have been elaborated to support the equality of all people in society. In Canada, the Canadian Charter of Rights and Freedoms protects individuals from acts of discrimination by governments. The human rights codes, acts and charters of the Canadian provinces, as well as the Yukon Territory, all maintain provisions aimed at eliminating racial discrimination in such areas as employment, goods and services, accommodation and contracts, amongst others. Let us not forget the anti-discrimination provisions contained in the Canadian Human Rights Act.

In the international arena, the United Nations Declaration of Human Rights recognizes the fundamental dignity of the individual and the equality of all in its articles 2 and 7, which state respectively:

> Everyone is entitled to all the rights and freedoms in this Declaration, without distinction of any kind, such as race...
>
> All are equal before the law and are entitled without any discrimination to equal protection of the law.

These same rights are also set out in the International Covenant on Civil and Political Rights, as well as the International Covenant on Economic, Social and Cultural Rights. The preamble to the International Convention on the Elimination of all Forms of Racial Discrimination states:

> ...any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or practice, anywhere...

In addition to the various national and international legal instruments that fight racial discrimination, the International Day for the Elimination of Racial Discrimination, as declared by the United Nations General Assembly and recognized every March 21, pays respect to the 69 people killed in 1960 in Sharpeville, South Africa, while they were demonstrating peacefully against apartheid "pass laws."

Honourable senators will recall these humiliating passes that Black and other non-White South Africans had to carry when entering areas outside of the state-designated Black townships. They contained the bearer's photograph and such detailed information as place of origin, record of employment, tax payments and any encounters the bearer may have had with the law. It was a crime not to present one's pass upon request by the police.

Unfortunately, racial discrimination represents the voice of ignorance that claims to offer simple, albeit misguided, solutions to complex issues. Canada has not always proven itself to be immune in this area. There exist reasonable arguments stating that, even recently, this country, in response to issues such as illegal refugees and terrorist attacks, has, in certain cases, been marred by acts of racial discrimination.

As an example, an article entitled "Canada's immigration policies — contradictions and shortcomings," published in the winter 2001 issue of the Canadian Race Relations Foundation's newspaper *Perspectives*, states that Canada's new immigration legislation "opens the door to decision making based not on individual facts, but supposed group characteristics or the prejudices of the decision maker."

The role that laws play in helping victims of racial discrimination regain their dignity becomes apparent before observations such as those made by the Canadian Race Relations Foundation. The case of Mr. Selwyn Pieters is but one example that highlights the point that the courts can correct injustices suffered by victims of discrimination. As reported in the February 6, 2002, issue of the *Globe and Mail*, this Toronto man received both an apology and an undisclosed cash payment from the Canada Customs and Revenue Agency after complaining to the Canadian Human Rights Tribunal that he was the victim of racial profiling by the agency.

Legal texts can therefore represent an important tool in the fight against racial discrimination. Mr. Pieters' access to the courts certainly provided him with recourse to justice. In addition, Mr. Pieters' settlement contains commitments that are aimed at the wider goal of eliminating the alleged racial profiling that occurred in the agency's operations. The settlement provides that the agency "shall retain an anti-racism expert, external to CCRA, to provide anti-racism and cultural diversity training to all customs officials or officers," among other engagements. Such a commitment to eliminate racial profiling must be applauded.

Anti-discrimination laws are not the only means available to fight racial discrimination. Not everyone has the financial ability to gain access to the courts. Also, because of the insidious nature of discrimination, and due to the various subtle forms that it adopts, not all cases can be readily proven in court. For example, when an entire ethnic community is portrayed in the press in a manner that relies upon racial stereotypes, the courts may not always be able to offer the most appropriate form in which to address the issue.

The portrayal of Canada's ethnic communities in the mainstream press raises serious concerns and has been identified by the ethnic press as a problem, on more than one occasion. On September 18, 2001, *Pakeeza*, an Urdu-language paper published in Toronto, made the following plea:

> A week after the attacks on the United States, the Islamic Supreme Council of Canada, and Muslims Against Terrorism...made a formal appeal to the Canadian media not to pinpoint Muslims as perpetrators of the (September 11 terrorist) attack.

Honourable senators, we must then ask ourselves, beyond laws, how can we ensure that the dignity of the individual is best respected in Canada? A number of activities and initiatives have been undertaken in this country to seek to eliminate racial discrimination. I wish to commend one to this chamber.

• (1650)

Since 1989, an annual anti-racism campaign whose slogan is "Racism - Stop it!" has sought to inform young Canadians about racism and provide ways in which to combat it. According to a report entitled "Hate-Motivated Violence," commissioned in 1994 by the Department of Justice, racially motivated crimes tend to be perpetrated by people in their teens or early twenties who are acting out prejudices shared by friends and family. Therefore, it is no surprise that the campaign is focused on reaching Canadian youth and impressing upon them the value of equality, mutual respect and acceptance of diversity.

As part of the campaign's activities, a kit has been made available to educators and youth groups that organizes activities promoting respect and tolerance among youth and highlighting the destructive nature of racism. The kit represents the collaborative work of the Department of Canadian Heritage, by whom the kit was prepared, and the Ontario Multicultural Association in cooperation with the Canadian Council for Multicultural and Intercultural Education, upon whose work the elaboration of the kit was based.

Education, knowledge and special programs, in addition to anti-discrimination laws, are all necessary tools in eliminating racial discrimination. In order to keep racism at bay, we must continue to develop a strong culture of equality and respect for diversity in this country. Each one of us has a role to play. Parliamentarians must denounce racism wherever it surfaces. Those of us who have a public audience must resist using facile stereotypes that are empty of meaning but charged with prejudice. Parents must impress upon their children and teachers upon their students that no one is better or worse a person due to skin pigmentation, religious belief or cultural background.

Every citizen bears the responsibility of identifying racial intolerance, wherever it appears, and denouncing the harm it sows. Only within a culture of tolerance, as reflected in the legal texts to which we adhere and the acts and attitudes of our citizens, will we truly recognize the dignity and worth of all citizens.

I thank Senator Poy for again raising this timely issue. It is regrettable that despite the issue being raised annually in March, we still must continue year after year to do so. Perhaps it is inevitable with new generations, but I am pleased that Canada is addressing those problems, and I am pleased that Senator Poy again reminded us of it.

Hon. Marcel Prud'homme: Will the honourable senator accept a question?

Senator Andreychuk: Yes, I will.

Senator Prud'homme: We talk about the elimination of racial discrimination, and Senator Poy said that she is in favour of everything I may have said, but she is more interested in attacking racial discrimination in Canada first. I, of course, agree with Senator Poy and with Senator Andreychuk.

If what I am about to say is not true, I shall withdraw it tomorrow. We talk about racial discrimination and we talk about racial profiling. Is Senator Andreychuk aware of a recent incident where a member of a House of Commons committee travelling outside Canada was politely asked to step aside so that he could be questioned further, the result being that he was questioned a little too long and missed his plane? Is that the kind of racial discrimination that we should address? If such an incident is true, should we take action in this case?

Senator Andreychuk: Honourable senators, I am not aware of that incident, so I will not comment on it. However, I will join my colleague on the committee to say that I think we must address discrimination and human rights issues in Canada simply because it is our responsibility as Canadian parliamentarians. Canada now has multilateral and bilateral obligations, and so I see that our international obligations are just the other side of the coin of our national obligations. I think that is what we want to address first. In doing so, we have an ability to look at cases and issues that happen outside of Canada because they reflect on Canada and they may involve Canadian citizens.

If Senator Prud'homme is prepared to give me further details, I think we can look at every issue in the steering committee and determine if there is a place for this issue in our work.

Senator Prud'homme: I hope I was clear. This incident took place in Canada.

Senator Andreychuk: Thank you for that clarification. I was not clear on that point. If the honourable senator can give us the details, I think that we can look at the matter. Every issue that is raised is worthy of being taken into account, as are those raised by Senator Prud'homme.

The Hon. the Speaker: If no other senator wishes to speak to this inquiry, it is considered debated.

FOUNDATION TO FUND SUSTAINABLE DEVELOPMENT TECHNOLOGY

RESOLUTIONS OF STANDING COMMITTEES OF ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES AND NATIONAL FINANCE— MOTION TO FORWARD TO COMMONS— DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator DeWare, seconded by the Honourable Senator Kinsella:
>
> That the Senate endorse and support the following statements from two of its Standing Committees in relation to Bill C-4 being An Act to establish a foundation to fund sustainable development technology.

From the Fifth Report of the Standing Senate Committee on Energy, the Environment and Natural Resources the following statement:

> "The actions of the Government of Canada in creating a private sector corporation as a stand-in for the Foundation now proposed in Bill C-4, and the depositing of $100 million of taxpayer's money with that corporation, without the prior approval of Parliament, is an affront to members of both Houses of Parliament. The Committee requests that the Speaker of the Senate notify the Speaker of the House of Commons of the dismay and concern of the Senate with this circumvention of the parliamentary process."

From the Eighth Report of the Standing Senate Committee on National Finance being its Interim Report on the 2001-2002 Estimates, the Committee's comments on Bill C-4:

> "Senators wondered if this was an appropriate way to create such agencies and crown corporations. They questioned whether the government should have passed the bill before it advanced the funding. The members of the Committee condemn this process, which creates and funds a $100 million agency without prior Parliamentary approval."

And that this Resolution be sent to the Speaker of the House of Commons so that he may acquaint the House of Commons with the Senate's views and conclusions on Bill C-4 being An Act to establish a foundation to fund sustainable development technology.—(*Honourable Senator Meighen*).

Hon. Terry Stratton: Honourable senators, I rise today to say a few words concerning the motion set down by our former colleague Senator DeWare concerning the establishment of foundations beyond the reach of Parliament. While former Senator DeWare's motion deals with Bill C-4 and the funds for sustainable development technology, it has relevance to the recent work done by the Auditor General on these types of funds.

For this reason, and because I think the Finance Committee heard from the Auditor General last week concerning this issue, I believe we should keep this motion alive. I move to adjourn the debate in order that I may speak to the issue more fully at a later time.

On motion of Senator Stratton, debate adjourned.

• (1700)

[*Translation*]

NOMINATION OF HONORARY CITIZENS

INQUIRY

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Prud'homme, P.C., calling the attention of the Senate to the way in which, in the future, honorary Canadian citizens should be named and national days of remembrance proclaimed for individuals or events. —(*Honourable Senator Nolin*).

Hon. Pierre Claude Nolin: Honourable senators, I am pleased to speak to this inquiry by Senator Prud'homme, who wishes to draw our attention to the way in which, in the future, honorary Canadian citizens should be named and national days of remembrance proclaimed for individuals or events.

My point is relatively simple. So-called ordinary — for the purposes of this discussion — individuals who wish to become Canadian citizens must go through an established, regulated process with all sorts of controls. At the end of it all, they become Canadian citizens. Why is the process to all intents and purposes discretionary when it comes to naming someone an honorary Canadian citizen? There are certainly very good reasons for appointing non-Canadians honorary Canadian citizens.

I think it would be very appropriate for these designations to be carefully analyzed by a group of Canadians. It could be a committee of this Chamber, a joint committee of both chambers, a committee of Canadians who are members of the Order of Canada, and so on.

Senator Prud'homme's purpose was to obtain some sort of framework. Do we want this to be a purely discretionary process or should there be a set procedure? In my view, there should be a set procedure. It is complicated to become a Canadian citizen, and I believe that it should also be complicated for a non-Canadian to become an honorary Canadian citizen.

The Hon. the Speaker: If no other senator wishes to take part in this debate, this inquiry will be considered debated.

The Senate adjourned until Wednesday, May 1, 2002, at 1:30 p.m.

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