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(HANSARD)

**Wednesday, April 2, 2003**



THE HONOURABLE DAN HAYS  
SPEAKER

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## THE SENATE

Wednesday, April 2, 2003

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

[English]

Prayers.

[Translation]

### CANADA-UNITED STATES RELATIONS

#### WAR WITH IRAQ

### SENATORS' STATEMENTS

#### JUSTICE

##### DECISION OF QUEBEC COURT OF APPEAL ON YOUTH CRIMINAL JUSTICE ACT

**Hon. Gérard-A. Beaudoin:** Honourable senators, the Quebec Court of Appeal has just brought down a decision on the new Youth Criminal Justice Act.

According to the court, the legislation is constitutional, overall, and complies with international law. It comes under the Parliament's jurisdiction over criminal law and is not contrary to international conventions that have been ratified by Canada.

However, the court added that two elements in the law are contrary to section 7 of the Canadian Charter of Rights and Freedoms.

The court feels that imposing adult sentencing on adolescents at age 14, unless there is application made for an exception to this, constitutes an excessive reversal of the burden of proof. This presumption of adult sentencing is neither necessary nor justified under section 1 of the Charter.

Similarly, publication of the names of young offenders who have been found guilty is contrary to section 7 of the Charter. This exception to the principle of confidentiality constitutes an attack on the adolescent's psychological security.

I am pleased that the appeal court mentions, in passing, the work done in the Senate on Bill C-7.

I am pleased with this dialogue, if I may use the term, between the judiciary and the legislative. It is a very good thing. Each plays its role within its respective sphere.

That is what I wanted to bring to my colleagues' attention.

Honourable senators will recall that certain members of the Standing Committee on Legal and Constitutional Affairs had proposed amendments that were not retained.

If they had been, the bill would have been less open to criticism.

It is now up to the Minister of Justice to decide whether or not to appeal this decision.

**Hon. Edward M. Lawson:** Honourable senators, I understand that the Minister of Defence for Prime Minister Blair was giving a report on progress in Iraq. He said, "Prime Minister, I have good news and bad news." Prime Minister Blair said, "Do give me the good news." The minister said, "The missiles and the precision bombs of the U.S. are so accurate that we severely damaged or destroyed six of Saddam Hussein's palaces that, we believe, house weapons of mass destruction." Prime Minister Blair said, "What is the bad news?" The minister replied, "They were all insured by Lloyds of London."

I want to make a few comments about the speech by Ambassador Cellucci. A few days after the tragedy of September 11, when there was the gathering on Parliament Hill, a memorial for the Americans, I was never more proud of Prime Minister Chrétien when he said, standing alongside the ambassador, "At a time like this, we think of the Americans as friends, neighbours and family." I never felt more close to the Americans than after Ambassador Cellucci made his response to our Prime Minister. I say that because I worked in the U.S. for many years. We keep a home in California for when it is cold here and because we love the United States and its people. We are always treated with respect and warmth and made to feel at home in the U.S.

Foul and crude invectives have been hurled at our American friends, neighbours and family by MPs, by staff and by a cabinet minister. How does the U.S. respond? Do they respond in kind? No. Ambassador Cellucci comes to Toronto to speak to a Canadian audience and the Canadian press. He tells us the plain, unvarnished truth with dignity, respect and professionalism. The U.S. had counted on Canada because they had always been there over the years, standing beside them, an ally they could rely and depend upon. On this occasion, the Americans were disappointed because we were missing from action.

The ambassador did go on to say quickly that the contribution we made in sending ships, troops and military personnel was a larger contribution than many of the coalition partners had made. He made a point of saying that he was also disappointed with the remarks, on the day that the war started, made by a cabinet minister against the President of the United States and leader of the coalition forces. The President of the United States, the country with the largest contribution of money, munitions, personnel and people at risk, was accused of being a failed statesman for leading the war for freedom of the Iraqi people. The Americans did not expect this from their friends, neighbours and extended family in Canada. Also, many Americans — and I spend a lot of time in the United States — felt it was giving aid and comfort to the enemy in a time of war.

• (1340)

When the ambassador made his speech, did he make disparaging remarks about our Prime Minister? No. Did he attack the Canadian people? No. He conducted himself with dignity and professionalism, so much so that, by comparison, his Canadian critics came across as insensitive, ignorant boors.

How did we respond? Some MPs demanded that Mr. Cellucci be recalled as the U.S. ambassador and be sent packing from Canada. For what? For simply telling the truth.

My time is up, honourable senators. I will finish tomorrow.

## BRITISH COLUMBIA

### GEORGIA STRAIT CROSSING PIPELINE PROJECT

**Hon. Pat Carney:** Honourable senators, the Georgia Strait Crossing Pipeline hearing in Sidney is over and evidence is being considered by the Joint Review Panel. Individuals and groups have expressed concerns about the GSXPL project, which runs underwater between Washington State and Vancouver Island. They have asked me to bring these concerns to your attention.

One issue they raise is that there are better ways to bring energy to Vancouver Island than another underwater pipeline. From the outset of this proposed project, the public has questioned B.C. Hydro's need for the project because there are less costly, less environmentally damaging ways to provide energy to Vancouver Island.

As a result of this public concern, the Minister of the Environment, David Anderson, explicitly recognized the need to evaluate alternatives to the project as part of the Canadian Environmental Assessment Act, the CEAA. Under oath in cross-examination, an official from GSX Pipeline Limited stated that it did not conduct an environmental effects assessment of the undersea cable option.

GSXPL's failure to provide the environmental effects assessment as required under the CEAA raises the issue of how the joint review panel can render a decision with respect to this application.

I will outline some of the problems identified by the critics. The pipeline corridor goes directly through the proposed southern Strait of Georgia National Marine Conservation Area and through the habitat of the southern resident population of killer whales, which are listed as endangered. This route skirts Saturna Island, where I live.

The killer whale population is particularly at risk from persistent toxic chemicals. While GSX Pipeline acknowledges toxins are a contributing factor in the decline of this population, they have refused to conduct any study on the effects of the

contaminants that pipeline construction will stir up, or which toxins may be introduced and how much of them could influence the food chain.

Killer whales are also subject to significant noise interference from boats and ships because of the proximity of their summer range to Victoria and Vancouver.

The pipeline proponents have relied on anecdotal information from fishermen rather than on scientific studies for habitat needs and, as a result, no baseline data were provided on these endangered species. As well, no acoustic studies were conducted for the construction phase of the project, nor was any consideration given to the environmental effects of possible pipeline leaks.

A unique and isolated non-migratory harbour porpoise population lives in the middle of the southern Georgia Strait, and the proposed pipeline corridor goes directly through the middle of their habitat. There is no other place for these small marine mammals to go if they are dislocated. No studies have been conducted for either this species by the pipeline proponents nor for the resident Steller's sea lions, also listed by the province as threatened.

The pipeline company has failed to identify 14 current great blue heron nests along the land portion of the pipeline, and similarly, while construction is planned for the winter, no studies were undertaken to identify winter water birds along the shoreline, many of which are also listed as threatened or endangered.

**The Hon. the Speaker:** Senator Carney, I regret to inform you that your time has expired.

[Later]

Honourable senators, Senator Carney has asked for the floor before we proceed to Orders of the Day.

**Senator Carney:** Honourable senators, I ran out of time during Senators' Statements in the middle of the final sentence of my statement, rendering it senseless. I seek leave to amend the record to complete that final sentence.

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

**Hon. Senators:** Agreed.

**Senator Carney:** Honourable senators, given the failure of the Georgia Strait Pipeline to provide these environmental assessments as requested by the Canadian Environmental Assessment Act, critics claim that the pipeline proponents have not met the requirements, as set out by law.

[Translation]

Wednesday, April 2, 2003

**ROUTINE PROCEEDINGS****CANADIAN HUMAN RIGHTS COMMISSION**

## 2002 ANNUAL REPORTS Tabled

**The Hon. the Speaker:** Honourable senators, I have the honour to table the two reports from the Canadian Human Rights Commission, the 2002 Annual Report and the report entitled "2002 Employment Equity: A Year-End Review," pursuant to the Canadian Human Rights Act.

**INTERNAL ECONOMY, BUDGETS  
AND ADMINISTRATION**

## THIRTEENTH REPORT OF COMMITTEE PRESENTED

**Hon. Lise Bacon,** Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Wednesday, April 2, 2003

The Standing Committee on Internal Economy, Budgets and Administration, has the honour to present its

## THIRTEENTH REPORT

Your Committee adopted a Revised Policy on Equipment, Furniture and Furnishings and recommends its adoption.

The amendments will serve to update the Policy on Equipment, Furniture and Furnishings, originally passed by the Senate on November 19, 1997, to respond to current needs.

Respectfully submitted,

LISE BACON  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall these reports be taken into consideration?

**Senator Bacon:** I wish to inform honourable senators that their office will receive a copy of this policy today.

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

## FOURTEENTH REPORT OF COMMITTEE PRESENTED

**Hon. Lise Bacon,** Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

## FOURTEENTH REPORT

Your Committee adopted a *Revised Policy on Telecommunications* and recommends its adoption.

The amendments will serve to update the Policy, originally passed by the Senate on November 7, 1989, which became obsolete due to new technologies.

Respectfully submitted,

LISE BACON  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall these reports be taken into consideration?

**Senator Bacon:** I wish to inform honourable senators that their offices will receive a copy of this policy today.

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

**BUSINESS OF THE SENATE**NOTICE OF MOTION TO AUTHORIZE COMMITTEES TO  
MEET DURING ADJOURNMENT OF THE SENATE

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with the leave of the Senate, I give notice that, at the next sitting of the Senate, I will move:

That, pursuant to rule 95(3), during the week of April 7 to 11, 2003, all Standing or Joint Committees of the Senate be authorized to meet even though the Senate may then be adjourned for a period exceeding a week.

**CRIMINAL CODE**

## BILL TO AMEND—FIRST READING

**Hon. Jean Lapointe** presented Bill S-18, to amend the Criminal Code (lotteries).

Bill read first time.

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

**Senator Lapointe:** I would just like to mention that the bill deals with video lottery terminals, better known as video poker.

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

[English]

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO TABLE REPORT DURING ADJOURNMENT OF THE SENATE

**Hon. Lorna Milne:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Committee on Rules, Procedures and the Rights of Parliament be permitted, notwithstanding usual practices, to deposit an interim report with the Clerk of the Senate should the Senate not be sitting, and that the report be deemed to have been tabled in the chamber.

• (1350)

## QUESTION PERIOD

### HEALTH

#### SEVERE ACUTE RESPIRATORY SYNDROME— UNITED STATES CENTERS FOR DISEASE CONTROL AND PREVENTION—REQUEST FOR ASSISTANCE

**Hon. Wilbert J. Keon:** Honourable senators, my question is for the Leader of the Government in the Senate and deals with the SARS health problem.

First, I would like to acknowledge the letter from Minister McLellan this morning and the information on the Web site, which, in large part, answers the question I directed to the honourable leader yesterday.

Today, it was reported that Health Canada, at the request of the Province of Ontario, had asked the U.S. Centers for Disease Control and Prevention for assistance in containing the outbreak of SARS. The CDC responded that it was unable to help due to its inability to spare the manpower as it deals with its own cases of disease in the United States. Ontario's Commissioner of Public Safety, Dr. Jim Young, has confirmed that Health Canada has been asked by the province to repeat the request for assistance from the CDC.

Can the honourable minister tell me where all of this stands at the present time? Has there been a repeat request?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I do not know whether there has been a repeat request, but I do know that the Government of Canada is willing to do anything it is asked by the provinces to facilitate our finding out as much about this disease as we can. If that request has been made, we can be almost guaranteed that a subsequent request will be made of the Centers for Disease Control and Prevention.

#### SEVERE ACUTE RESPIRATORY SYNDROME— NEED FOR ADDITIONAL RESOURCES

**Hon. Wilbert J. Keon:** Honourable senators, is the honourable minister comfortable that, between Health Canada and the provincial resources, the situation is well under control, or are further resources required?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, it may be true that additional resources may be required. Two things are happening that cause us some concern. One is the number of cases within the Toronto area and the number of health care professionals impacted in that particular area. We are not just dealing with citizens who could not be proactive in the disease. We are also dealing with the loss of those individuals if they themselves are quarantined and, therefore, unable to provide care to others.

The Government of Canada would respond favourably to the suggestion of using our resources, but we have limited numbers of doctors and nurses in the direct control of Health Canada, as the honourable senator is well aware. I would not be surprised, however, if requests are made by the Government of Ontario to other provinces to help it meet the needs in the Toronto community, and I think that such requests would receive favourable responses.

### FINANCE

#### BANK MERGERS—MINISTER'S REVIEW OF HOUSE OF COMMONS COMMITTEE REPORT

**Hon. Donald H. Oliver:** Honourable senators, my question is for the Leader of the Government in the Senate and deals with bank mergers.

In October of last year, the Minister of Finance and the Secretary of State for Financial Institutions asked the House of Commons Finance Committee and the Senate Banking Committee to help sort out the public interest aspect of large bank mergers.

The Senate committee tabled its report last December and the House committee tabled its report last week. Both committees agree that mergers are a legitimate strategy for banks. Now the Minister of Finance has stated that he will take a full 90 days to review the House report, which is only 16,000 words in length.

Why will the finance minister's review take so long? Is that not simply another attempt to delay bank mergers until the Prime Minister, who is opposed to bank mergers, leaves office?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the Prime Minister does not intend to leave office in 90 days, so the Honourable Minister of Finance, who has indicated he requires 90 days to review that particular study, is not making an unusual determination. By the time that report is sent to the bureaucrats with whom he would want to discuss it as well as to people in the community, I think a 90-day study period is legitimate. Let me repeat: There is no intention on the part of the Prime Minister to be gone within 90 days.

BANK MERGERS—  
REASONS FOR REQUESTING REVIEW

**Hon. Donald H. Oliver:** Honourable senators, all the banks have been asking for clarity. One banker, Mr. Ed Clark of the TD, said he believes that federal politicians are afraid to approve a bank merger because they think it will unleash a wave of deals, leaving Canada with just a few financial institutions. He said:

I think, deep down, what's bothering the government is they can't quite see their mind around how many financial institutions, ultimately, they want...so they have a fear that if they open it up, they'll end up with fewer than what they think will provide service to the Canadian consumer.

The finance minister will delay even further, by another 90 days, that clarity the banks are seeking. I would like to know why the government asked the House and the Senate to prepare those reports in the first place? Why did the government take the time of both the Senate committee and the House committee when there was no intention to move quickly on the issue of clarity for banks to merge? What was the real reason?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the real reason was that the Honourable Minister of Finance wanted to hear from senators in this place and members of the other place with respect to issues impacting on mergers. He has now heard that it is a legitimate activity in the mind of both the House of Commons and of the Senate. Of course, as the Minister of Finance in this country, he also has to be extremely concerned about service to the Canadian community. Mr. Clark, I think, has identified a clear and ongoing concern.

Regarding the issue of 90 days to review a report, given that my honourable friend and I have been in politics as long as we have, he and I know that it often takes years for governments to review a report. I think the admission that it would be done in 90 days is nothing short of miraculous.

• (1400)

BANK MERGERS—POLITICAL PROCESS

**Hon. Marcel Prud'homme:** Honourable senators, I have the honour of being a member of the Banking Committee, even though for me it was, after 39 years, quite a change of mentality. I will probably table amendments to the report. The report was not unanimous, although the press said, "The Banking Committee said the following." I went along to create a consensus, but there are major disagreements in my view, after having listened attentively. I share very much what the minister just said.

I also believe that we should not hurry and that any change should come in the next government. I said that to the president of a bank. Imagine me, talking to the presidents of banks. Strangely, he agreed with me that the rules should be clear. Personally, I do not believe, nor will I ever accept that we completely eliminate the political process, whether it be senators elected to the banking committee, or even the minister. I know the

pressure that can come from lobbyists. They would prefer to go in their little clubs and then say, "It is done, and to hell with the members of the House of Commons and the Senate." I do not approve. I do not agree, and —

**Some Hon. Senators:** Question!

**Senator Prud'homme:** I hope the minister will refer my point of view to the Minister of Finance before he takes his report into consideration.

**Hon. Sharon Carstairs (Leader of the Government):** I thank the honourable senator for his intervention. The issue here is clear: Two studies have been done. I think the honourable senator is correct. That was the proper process to follow. Elected members of the House and members of this chamber should have been consulted. They should have been canvassed for their ideas. The minister now has those ideas and clearly they will form a particularly significant part of his final decision.

NATIONAL DEFENCE

PERSONNEL AND EQUIPMENT  
SERVING IN PERSIAN GULF

**Hon. J. Michael Forrestall:** Honourable senators, my question is for the Leader of the Government in the Senate. I am pleased now to know that, by way of definition, review within 90 days would be miraculous. I would hate to ask what that says about the Sea King replacement project.

Honourable senators, a week ago, it was reported that our Aurora maritime patrol aircraft in the Persian Gulf were feeding the Americans direct intelligence on Iraqi naval movements. This week, the government has admitted that there are, in fact, 31 Canadian soldiers in harm's way. Today, we find out that a U.S. central command spokesman stated that Canada is searching vessels for Iraqi government officials attempting to flee the country. If this is support of the U.S.-led coalition, could the minister so indicate and, perhaps, get quickly to Minister Graham the note that we are doing our best?

**Hon. Sharon Carstairs (Leader of the Government):** As the honourable senator has indicated, there are, in fact, 31 members of the Canadian military serving in the area at the present time. The vast majority of those are not in Iraq. I made that statement yesterday and I reiterate it today. However, there are some, who have been identified, as the honourable senator knows, in major Canadian newspapers, who are serving with either British units or American units. They are not engaged in active combat.

In terms of the honourable senator's question concerning the vessels, we have now, with the arrival of HMCS *Iroquois* and HMCS *Fredericton*, five ships. There may be six vessels there at the moment, but we will be moving one of them out on the basis of the rotating schedule for ships in the Persian Gulf. They have one function and one function only in their capacity in the war against terrorism, and their inspections of troops or individuals is directly related to the war on terrorism. That is what they were sent there to do.

PERSONNEL SERVING WITH COALITION FORCES IN  
PERSIAN GULF—INVOLVEMENT OF JTF2

**Hon. J. Michael Forrestall:** Honourable senators, I appreciate that response. We will see how things unfold.

Could the minister indicate whether or not the government is providing any other assistance to the U.S.-led coalition? If it is, would any of that assistance involve JTF2?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I can tell the honourable senator opposite that JTF2 is not engaged in that endeavour, to my knowledge. The Canadian government made a decision that they would not participate in the war in Iraq. However, several weeks before that, we renewed our commitment to the war against terrorism and, as the honourable senator well knows, the planning is ongoing for troops to go to Afghanistan in August.

FOREIGN AFFAIRS

WAR WITH IRAQ—EXPLANATION FOR  
ATROCITIES BY IRAQI TROOPS

**Hon. J. Michael Forrestall:** Honourable senators, I would like to get into what we will do after the war and who we will send there to provide peacekeeping or other support.

Can the minister indicate whether or not the Minister of Foreign Affairs has called the resident Iraqi diplomat to his office as of yet to demand an explanation for the reported Iraqi war atrocities? Additionally, has the Government of Canada demanded an explanation for the desecration of the Commonwealth war graves cemetery that is the final resting place of 1,123 Canadians, and if not, why not?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, to the best of my knowledge, the Iraqi diplomat has not been invited to meet with the Minister of Foreign Affairs.

In terms of war atrocities or the desecration of war graves, I would hope that neither has occurred. We will have to await clearer evidence, I believe, of a great many things that we are hearing and seeing on a daily basis on television and reading in newspapers. All too often, what we read one day or even see one hour is repudiated the next. I think we should be careful not to rush to judgment on any of these issues.

NATIONAL DEFENCE

SOUTH KOREA—PERSONNEL SERVING  
WITH UNITED STATES FORCES

**Hon. Norman K. Atkins:** Honourable senators, my question is to the Leader of the Government in the Senate. I am shifting to another part of the world. There are approximately 37,000 U.S. troops stationed in South Korea, an area where a game of brinkmanship between North Korea and the U.S. continues unabated. There are also estimated to be 100,000 U.S. citizens in the country, either business people or tourists. If the brinkmanship between the U.S. and North Korea reaches a flash point, 1 million people could be at risk in the first days of the ensuing conflict. Do we have any Canadian soldiers stationed in South Korea, serving in an exchange program with U.S. forces?

**Hon. Sharon Carstairs (Leader of the Government):** I must suggest, honourable senators, that I have no knowledge whatsoever about Canadian troops serving in South Korea with American forces. As I indicated earlier, we have a policy of exchange that has been going on for many decades, so it is, indeed, possible that there are some Canadian troops there. However, I will have to verify that information and get back to the honourable senator.

FOREIGN AFFAIRS

SOUTH KOREA—CANADIAN CITIZENS  
VISITING COUNTRY

**Hon. Norman K. Atkins:** Would we have any estimate as to how many Canadian business people or tourists we might have in South Korea at this moment in time?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, we would not have any estimates of the Canadian business people, or even visitors, unless those individuals had made contact with the Canadian embassy. Since South Korea has not been designated, at this point, an advisory area, most would not register in that way. Any figures I can provide to the honourable senator might be woefully inadequate.

TRANSPORT

AIR CANADA—GOVERNMENT REVIEW  
OF VARIOUS CHARGES

**Hon. Leonard J. Gustafson:** Honourable senators, my question is about the current situation with respect to Air Canada. It appears now that the government bail-out will not have to take place. That said, reports in the media indicate that the government will be initiating a review of all airline taxes, security charges, user fees and rents to see what else can be done to help the Canadian airline industry. Could the Leader of the Government in the Senate please provide us with more information as to the scope of the review?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the government has never had any intention of bailing out Air Canada. Certain discussions were ongoing with Air Canada with respect to what the government might be able to do for Air Canada, but a bail-out is well beyond what could be used as a phrase to describe those discussions.

• (1410)

The rents on airports have been reviewed. I anticipate that the results have either been reported to the Minister of Transport or will be in short order. User fees were already examined last fall, which is exactly the reason why the user fee on a one-way ticket was reduced from \$12 to \$7.

**Senator Gustafson:** Honourable senators, the plight of the Canadian airline industry and the government's role in it cannot be considered merely within the context of the current problem that Air Canada is experiencing. There are other issues, such as the broad range of government taxes, security charges and various rents that place an onerous burden not only on Air Canada but also on other airlines.



As part of any government proposal to help Air Canada, what is the likelihood that the government will consider a reduction in the various taxes and charges that travellers and airlines must pay?

**Senator Carstairs:** Honourable senators, we have already seen a substantial reduction in the security fee, as I just indicated, from \$12 to \$7. The rents that airports are required to pay, which they then pass on by way of fees, have been under review for some time and I expect the report on that soon.

As to Air Canada's particular difficulties, I recommend that the honourable senator listen to and read the testimony of many transportation experts who believe that the problems are far broader than the problems the honourable senator has identified.

**Senator Gustafson:** Honourable senators, as the airline industry is entering into one of the busiest periods of the year, could the Leader of the Government in the Senate please inform us how tight the timelines will be for the government review of airline charges, taxes and rents? In other words, is the government acting with any sense of urgency with regard to this situation?

**Senator Carstairs:** Honourable senators, although this would traditionally be a very busy season, there are a number of factors impacting air travel today, not the least of which is SARS, which I discussed earlier in Question Period, and also the war in Iraq. These unfortunate events may result in this not being the busiest season for airline traffic, particularly to destinations outside Canada.

Government reviews are ongoing, and the government is fully aware of the difficulties faced by Air Canada. A committee is undertaking a review of conditions for transport. I assure the honourable senator that any review of rents and user fees will take the entire airline industry into consideration and not only Air Canada.

#### AIR CANADA—ALTERNATIVE SERVICE

**Hon. Leonard J. Gustafson:** Honourable senators, is the government considering an alternative to Air Canada? This is a vast country and it certainly needs an airline, and the other airlines are not very large. Is the government considering any alternative?

**Hon. Sharon Carstairs (Leader of the Government):** If the honourable senator is asking whether the Government of Canada is going to go into the airline business again, the answer is no.

**Senator Gustafson:** Honourable senators, that was not my question. I am wondering whether the government would entertain bringing in American Airlines to deal with the situation. After all, one cannot walk from Regina to Ottawa.

**Senator Carstairs:** Honourable senators, I would suggest that the American airline industry is in as much, if not more, difficulty as Air Canada. I am not sure that airlines in the United States are looking to expand at this time.

## FOREIGN AFFAIRS

### WAR WITH IRAQ— POSSIBLE SPREADING OF CONFLICT

**Hon. Consiglio Di Nino:** Honourable senators, in news reports today, Israel claimed that the Syrian-backed Hezbollah terrorist group fired anti-aircraft shells into Israel, this at a time when the Syrians are helping Iraq in the war against the U.S.-led coalition. Israel responded by warning Syrian President Bashar al-Assad of the might and force of the Israeli army. The shelling of Israel can be interpreted as an attempt by Syria to embroil them in the Iraqi conflict and thus potentially spread the conflagration throughout the Middle East.

Yesterday, in response to my question on Syria, the minister responded that Canada would very much regret the spread of the war beyond the Iraqi border. Surely, the Canadian government can do more than passively regret if the Iraqi conflict spreads. Does the minister not think it is time that Canada take some proactive steps to try to stem the spread of this conflict?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, with the greatest respect, one of the dangers of war on any front in the world is that what may begin between two or three parties can escalate, engaging other parties. That is what I was referring to yesterday when I indicated that the Canadian government hopes that this will not happen.

Hezbollah has been conducting terrorist activities for some time in Israel. I do not think one should take one more incident as escalation of a war between two neighbouring countries.

**Senator Di Nino:** Honourable senators, surely the minister would agree that if Canada can play a role at this time, particularly in light of the position it has taken vis-à-vis the Iraqi war, it would be its usual respected role of intermediary and peacekeeper. Be it in Iraq or in North Korea, some of us believe that we should be working with the United Nations, our allies and the stakeholders in these conflicts, to attempt to bring some sense to the situation that exists today. This is what I am asking. This is what I believe the Government of Canada should be doing.

I am asking the Leader of the Government in the Senate, as the minister responsible to the Senate: Is the Canadian government doing that? If not, why not?

**Senator Carstairs:** Honourable senators, the Canadian government is an active member of the United Nations, and one of the fundamental reasons we have remained out of the war with Iraq is our commitment to the United Nations. The reality is that Canada is very concerned about what is going on in North Korea and what could potentially be going on in Syria and Iran. The Government of Canada will do whatever it can to avoid the spread of this war.

#### RESPONSE BY GOVERNMENT TO CONFLICTS

**Hon. Consiglio Di Nino:** Honourable senators, I thank the minister for her answer. However, I would like a more specific response from either the minister herself or from her cabinet colleagues, on how the Government of Canada is addressing these situations.

**Hon. Sharon Carstairs (Leader of the Government):** The honourable senator will have to put a little faith and trust in the government. I realize that is difficult, given where he sits in this place, but having a little faith and trust in the Government of Canada, under the very capable administration of the Right Honourable Jean Chrétien, will ensure that Canadian values will continue to be represented worldwide.

## THE SENATE

### INQUIRY ON LEGACY OF WASTE DURING CHRÉTIEN-MARTIN YEARS—ALLEGATIONS OF CORRUPTION BY MULRONEY GOVERNMENT

**Hon. Terry Stratton:** Honourable senators, my question is directed to the Leader of the Government in the Senate. Yesterday, during the course of his comments on the legacy of waste in the Chrétien-Martin years, Senator Bryden said:

That was the deal cancelled by Prime Minister Chrétien, which under our examination showed hard evidence of the waste, corruption and cronyism that was rife in the Mulroney Tory government, particularly during its dying days.

That is an excerpt from page 1117 of yesterday's *Debates of the Senate*.

Unfortunately, Senator Bryden was not willing to respond to questions that might have clarified his remarks. In any event, Senator Bryden claimed that there was hard evidence of corruption. This is a serious charge of criminal wrongdoing that now forms part of the record of the Senate.

• (1420)

It is important that we clarify the steps the government has taken during the last nine years to ensure that this hard evidence has been dealt with properly.

First, would the Leader of the Government in the Senate tell us on what date that hard evidence was sent to the RCMP or to any other police force for investigation?

Second, what was the hard evidence of corruption? Will the Leader of the Government table that evidence in the Senate today? Without any wish to compromise a possible investigation, will the Leader of the Government inform this chamber if the RCMP or any other police force undertook an investigation on the basis of the hard evidence supplied by the government and if that investigation has been resolved? Did the RCMP or any other police force lay any charges? If so, when and what was the outcome of criminal proceedings?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I have a very challenging job. I must represent every single minister of the Crown in this place. It is a challenge. I do not, however, have to represent the views of every single senator

in this chamber. Honourable Senator Bryden is quite capable of defending Senator Bryden. I welcome the opportunity for Senator Stratton to put those questions to Senator Bryden. However, to question me on what a senator may or may not have said in this chamber is not within my mandate.

**Senator St. Germain:** It was character assassination; he was a coward not to answer!

**Senator Stratton:** Honourable senators, those were fairly serious charges that were placed on the record by Senator Bryden yesterday. They need to be clarified. As Senator Bryden is not the chair of a committee and this was not done through a committee, he should be requested to answer, through the minister, to us, in this chamber, those questions that I posed.

What is the hard evidence of the corruption in the Mulroney Tory government to which the senator referred? Will the Leader of the Government in the Senate inform us as to the specific category or categories under which the hard evidence fell? Specifically, which offence or offences did that hard evidence point to and who were the individuals within or outside government to whom the hard evidence applied? When and how did that hard evidence come into the hands of the government?

I realize the leader cannot answer that question, but I think Senator Bryden owes this chamber a response, through the minister, to those questions.

**Senator Carstairs:** Honourable senators, with the greatest respect to Senator Stratton, I am not responsible for the statements made by senators.

### WAR WITH IRAQ—REQUEST FOR BRIEFING BEFORE FOREIGN AFFAIRS COMMITTEE

**Hon. Marcel Prud'homme:** Honourable senators, I had a supplementary question. I told my honourable friend that I had a supplementary question but he went ahead and asked his question. I wanted to follow on Senator Di Nino's question with a short supplementary question.

**The Hon. the Speaker:** Perhaps you could ask for leave. Our time for Question Period has expired.

**Senator Prud'homme:** I was short-circuited by my friend Senator Stratton. I have a very short question.

**The Hon. the Speaker:** I gather you are anxious to seek the leave of the chamber to proceed?

Is leave granted, honourable senators, to extend the Question Period for Senator Prud'homme's supplementary question?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I am prepared to allow Senator Prud'homme to put his question today. He was clearly prevented from putting that question because Senator Stratton wanted to put his question. However, I am not prepared to have Question Period extended beyond the question of Senator Prud'homme.

**Senator Prud'homme:** Honourable senators, Senator Di Nino asked a very precise question. He is a member of the prestigious Standing Senate Committee on Foreign Affairs. I continue to ask the chairman of the committee, who is not here temporarily — I do not want to go against the rules — to schedule a meeting to ask a multiplicity of questions. Would the minister kindly ask the Chairman of the Standing Senate Committee on Foreign Affairs if he, along with the Deputy Chair, Senator Di Nino, would see fit to hold a briefing session where these questions may be asked of the appropriate ministers? It is unfair to put this question to the Leader of the Government in the Senate, who bears the responsibilities of every department.

I know the chairman is the master of his own domain, but I would kindly ask the minister to ask him: In cooperation with Senator Di Nino, his deputy chair, would he schedule a briefing session so that more senators, who are interested in this question, may address their concerns? Ours is the only prestigious committee of the western world that has not seen fit to have at least a meeting on what is happening in the Middle East, where senators could ask all the questions that cannot be put in this chamber.

**Senator Carstairs:** I thank the honourable senator for his question. However, just as I am not responsible for each individual senator in this place, I am not responsible, nor do I wish to accept responsibility, for directing the activities of all of the committees. It is up to committees to determine what special studies they will engage in.

With respect to bills, I have a specific responsibility, but special studies are the purview of the particular committees.

## VIMY RIDGE DAY BILL

### REPORT OF COMMITTEE

Leave having been given to revert to Reports of Standing or Special Committees,

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

Wednesday, April 2, 2003

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

### SEVENTH REPORT

Your Committee, to which was referred Bill C-227, *An Act respecting a national day of remembrance of the Battle of Vimy Ridge*, has, in obedience to the Order of Reference of Wednesday, March 26, 2003, examined the said Bill and now reports the same without amendment. Your Committee appends to this report certain observations relating to the Bill.

Respectfully submitted,

COLIN KENNY  
*Chair*

## Observations of the Standing Committee on National Security and Defence on Bill C-227, *An Act respecting a national day of remembrance of the Battle of Vimy Ridge*

Your Committee suggests that the Department of Canadian Heritage develop criteria for the flying of flags at half-staff, and criteria for the addition and deletion of occasions that the flag may be flown at half-staff on the Peace Tower for future guidance. Your Committee may subsequently seek authority from the Senate to review these criteria.

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

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

## PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

**The Hon. the Speaker:** Honourable senators, we have with us a page visiting from the House of Commons, who I would like to introduce.

Miss Kali Prostebby is enrolled in the Faculty of Social Sciences at the University of Ottawa and is majoring in psychology. She is from Red Deer, Alberta.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

**Hon. Senators:** Hear, hear!

## ORDERS OF THE DAY

### SPECIFIC CLAIMS RESOLUTION BILL

#### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Austin, P.C., seconded by the Honourable Senator Bacon, for the second reading of Bill C-6, to establish the Canadian Centre for the Independent Resolution of First Nations Specific Claims to provide for the filing, negotiation and resolution of specific claims and to make related amendments to other Acts.

**Hon. Terry Stratton:** Honourable senators, I rise today to join in the debate at second reading of Bill C-6, the proposed specific claims resolution act.

I wish to thank the Honourable Senator Austin for leading off the second reading debate and for his historical review of the development of the specific claims process and his almost kind remarks about improvements brought to the system by the previous government. We were given credit for beefing up the human and financial resources committed to the claims process.

There is a significant history to this process and the role envisioned for the commission and tribunal in that process. Specific claims, as opposed to comprehensive claims, deal with grievances over Canada's alleged failure to discharge specific obligations to First Nations groups, usually in relation to treaty rights or undertakings given by the federal Crown.

• (1430)

In 1983, the problems with the process for dealing with specific claims were the subject of comments in the Penner Report on Indian Self-Government. There was a strong recommendation that a new claims policy be developed through negotiations between Canada and First Nations. The report considered it "imperative that the new process be shielded from political invention" and proposed that legislation provide for both a neutral party to facilitate negotiated settlements and a quasi-judicial process for instances of failed negotiations.

A 1990 report to the House of Commons Standing Committee on Aboriginal Affairs noted that the process should be managed or monitored by a body or bodies independent of the Department of Indian and Northern Affairs and the Department of Justice.

In 1996, the final report of the House of Commons Aboriginal Peoples Committee recommended the establishment, by statute, of an independent Aboriginal lands and treaties tribunal which, in the area of specific claims, would review federal funding to claimants, monitor negotiations, issue binding orders and adjudicate claims referred by claimants, providing remedies where appropriate.

In response to all of this, let us examine what has happened.

The Indian Specific Claims Commission was established virtually as an interim step on the way to a new independent process. This new process was to be designed by a joint Canada-AFN working group. After a number of years of work, this body set out, in 1998, a draft legislative proposal for a reformed specific claims process. Its key features were: the elimination of Canada's conflict of interest through an independent legislative mechanism to report directly to Parliament and First Nations; the establishment of both a commission to facilitate negotiations and a tribunal to resolve disputes in case of failed negotiations; a tribunal authority to make binding decisions on the validity of claims, compensation criteria and compensation awards, subject to a budgetary allocation of settlement funds over a five-year period; the definition of issues within the jurisdiction of the commission; the independent funding for First Nations research and negotiations; and a joint review, after five years, to include consideration of outstanding matters, such as lawful obligations arising from Aboriginal rights.

This was the model legislative initiative that Bill C-6 was to be built upon. The question is, what happened? Instead of this model, we have a bill before us wherein the following six conditions exist: The appointment process for the commission and the tribunal maintains the conflict of interest that Canada has, as the federal government is the sole appointing

authority; the tribunal's decisions may be appealed to the courts; there is a cap on the dollar amount of claims to be dealt with; the review of the entire process is only by the federal government; there is no incentive for the federal government to move this claims settlement process along in a timely fashion; and, lastly, the types of specific claims subjected to this process are severely restricted.

Honourable senators, I would like to elaborate on these issues. Under the present system, Canada is already the judge and jury. Bill C-6 retains this concept and adds elements to this conflict. The federal government retains sole authority over appointments to the commission and tribunal and retains authority over processing the claims, which undermines any concept of independence. Appointments are made on recommendation of the minister, the same minister responsible for defending these claims. Obviously, this system is ripe for political patronage considering that the commission appointees have no qualification requirements.

I have a concern, though I have not seen this expressed elsewhere, that the tribunal representative from Quebec should be required to sit on cases from Quebec. This is not set out anywhere. As well, I would like to think that the chief adjudicator and the vice-chief adjudicator roles should alternate between Quebec and the common law provinces.

The inherent delays in the process are exacerbated by the possibility of judicial review. Bill C-6 permits the minister to "consider" a claim indefinitely at an early stage in the process. There are no time limits that must be obeyed. No independent body has the authority to say, "Enough is enough." The claim goes on to the next stage, as it were.

A claim may have to go through an elaborate series of distinct stages and steps before compensation is ever paid. For example, a funding application is made by the Indian group. There are then initial preparatory meetings, followed by ministerial consideration and then mediation. There may be further delays while the minister considers an amendment that the claimant could make to the initial claim. Then there is an application and a hearing to convince the commission that mediation has been exhausted. Then there is a hearing in front of the tribunal to determine compensation. Then there is mediation to deal with compensation. Then there is an application and hearing to determine whether mediation has been exhausted. Finally, the proceedings are held in front of the tribunal but a five-year delay follows while the award is paid out. There is also the possibility of a judicial review of the award. That is quite a comprehensive list.

On top of that, the \$7-million cap makes little or no sense. The Indian Claims Commission has advised that, of the 120 specific-claim hearings they have overseen, only three were valued by the claimants at less than \$7 million. The projections provided by the government are based on settlements made some time ago. As well, the Indian group advancing the claim must waive the amount it believes it is entitled to over \$7 million, if the claim is to proceed.

The definition of the claims which may come under the proposed act is too limited. It does not include unilateral undertakings by the federal government to provide lands or assets. In fact, it could be argued that the system established under Bill C-6 is worse than the current system, even with the current system's inadequacies. The current system allows for all claimants to obtain a public investigation and report on their claim from the Indian Claims Commission. The commission can investigate and report even if the federal government does not agree.

Most claims will be above the \$7-million cap. Also, since there is no intention to increase the funding for this process, the process will still take a great deal of time. If the government were serious about resolving these problems, it would consider a significant increase in the financial resources dedicated to the resolution of specific claims.

Honourable senators, this is one of three bills presently in Parliament dealing with Aboriginal issues. I am concerned that by not dealing with them together, we may be doing a disservice to Canada's Aboriginal peoples. However, leaving that argument aside, we will have to look at Bill C-6 very carefully in committee. I hope the government will be more flexible concerning the acceptance of amendments here in the Senate than it was in the House of Commons.

We will have to seriously consider amendments that will change the appointment procedure to give First Nations involvement in this process. The cap will have to be lifted. Timelines for processes will have to be established. The review of the effectiveness of the bill must be carried out jointly by Canada and the people of our First Nations.

Everyone in this chamber recognizes the fiduciary duty owed by the government to First Nations. This bill must reflect the elements of that fiduciary duty. I look forward to further discussions on this bill in comprehensive committee hearings.

**Hon. Gerry St. Germain:** Would the Honourable Senator Stratton accept a question?

**Senator Stratton:** Yes.

**Senator St. Germain:** Yesterday, Senator Austin, the sponsor of the bill, asked a question about the timelines that I was discussing, following which I studied the matter a little further. It seems our native people are most concerned that in a situation with no time constraints, the legal profession may procrastinate and delay. The costs could become exorbitant.

I am sure Senator Austin fully understands that concern being that he is a member of the legal profession — not that he would ever do a thing like that. Does the honourable senator feel that is a legitimate concern in the eyes of our Aboriginal peoples?

**Senator Stratton:** I thank the Honourable Senator St. Germain for the question. Yes, indeed, I think that is a real concern. It is one of many concerns. The other particular concern is the cap. I described the process that we believe must be followed with this new bill. We can see how complicated the situation becomes. That, by itself, takes time and stretches out the process inordinately.

• (1440)

**Hon. Jack Austin:** Honourable senators, I have a question for Senator Stratton, although I am not sure he has the answer. The argument about the Aboriginal community participating with the Crown in the appointment of these administrative officers in the commission and the quasi-judicial officers in the tribunal was very much at large in 1991, when the Mulroney government considered the matter. Is my honourable friend aware of the position taken at that time?

**Senator Stratton:** Honourable senators, I can imagine what the answer is. No, I am not, and I imagine it would be the same here. The difference is that that was 1991, and it is now 2003. The act was imperfect back then, and the incorporation was imperfect, but at least it was a start. There does not appear to have been an improvement over the process back then. Aboriginals are really concerned about how complicated the process is to look after a claim. It is not a simple process, by appearances, unless the honourable senator can tell me now that it is a simple process. There are time constraints, and the cap will be lifted.

I will throw this back at my honourable friend: How can he give assurances to Aboriginal people?

**Senator Austin:** Let me ask the question in this way: Will the honourable senator give me an example where the Crown has been willing to share, with any group in society, its authority to appoint members of a government body? This is a prerogative of governance. This authority is not shared in the appointment of judges in Canada, and those judges make rulings at the expense of and against the Crown. I hope the honourable senator is open to further evidence in consideration of his arguments on the appointment process.

**Senator Stratton:** Honourable senators, if you examine the bill I have on the Order Paper, it goes to the selection of judges, senators and Supreme Court justices. We are in a new century. It is about time that the people of Canada became involved. Forget about precedents. This is a new generation, a new era, and it is appropriate for the Aboriginal people to have input as to who will look after their claims.

**Hon. Serge Joyal:** Honourable senators, I should like to share with you a number of reflections in relation to Bill C-6. I will try to be brief. I understand that, as sponsor of the bill, Senator Austin would like to see this bill referred to the appropriate committee for further study.

Bill C-6 is very important because it deals with one of the key sections of the Constitution, section 35 dealing with Aboriginal rights. It states:

(1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

(2) In this Act, "aboriginal peoples of Canada" includes the Indians, Inuit and Métis peoples of Canada.

We in this chamber, in my humble opinion, have a specific responsibility in relation to Aboriginal peoples. In fact, we are a privileged chamber on several accounts. We are the only legislature in Canada at the provincial and federal levels and in the other place across the hall whereby we benefit from

the presence of six Aboriginal senators. That means that in our daily dealings with legislation, debates and decisions, we have the capacity to maintain that the Aboriginal peoples of Canada are an essential element of the responsibility that we have to protect minority rights in Canada.

Another element of our unique position is that, by our very nature, we are the federal House of Parliament. That has a meaning and a bearing on our responsibility. It means that each of us is entrusted with the responsibility of testing legislation with the federal principle. What does that mean? It means that when legislation is brought forward, this one in particular, we are called upon to measure the role of the federal house in relation to the Aboriginal peoples of this country.

How do we protect the Aboriginal peoples in the Constitution of Canada? We did not have that specific responsibility in relation to the Aboriginal peoples in 1867. This responsibility is very recent. Why? Because 20 years ago we recognized for the first time that our Aboriginal peoples have rights.

My concern with this bill is that it deals only with status Indians. The definition in clause 2 of the bill indicates that a First Nation means "a band as defined in subsection 2(1) of the Indian Act." Even though it is a limited definition, as Senator Austin has said in his speech, there are more than 600 outstanding claims.

I bring to the attention of honourable senators that this bill does not deal with non-status Indians, nor does it deal with Metis people. This is important to remember, and I am here thinking of Senator Chalifoux and Senator St. Germain. Only 10 days ago, the Supreme Court of Canada heard a case from a Metis citizen from Ontario appealing for his historical Aboriginal right to hunt.

It may seem easy to determine the constitutional rights of a treaty Indian because, as my colleagues will remember, treaty Indians are protected by the Royal Proclamation of 1763. When the British Crown issued the Royal Proclamation, they clearly recognized the rights of the status Indian, Indians who had a treaty with the Crown. Those rights were protected and have been protected since 1763. We are dealing, in this bill, with those rights — the rights of the status Indians.

However, the claims and the rights of the Metis people, the largest number of Aboriginal people in Canada, according to the last census, are not covered by this bill. It is important to remember that because, as Senator Stratton has mentioned, the Crown has a fiduciary responsibility for the Indians. That means that we are in a very difficult position — almost a contradictory position.

• (1450)

On the one hand, the Crown has to protect Aboriginal people. On the other hand, the Crown rules in the interests of the majority of Canadians. Guess where the interests of the majority of Canadians lie? They lie in the way that the Indian Acts have been implemented in the last century. We all know the problems. Senator Austin alluded to them in his speech. The problem that

we have essentially, and as pointed out by Senator Stratton, is to ensure that when Aboriginal people try to establish their claim, they are assisted by the Crown in a very peculiar way.

The decision of the Supreme Court of Canada in *Sparrow* indicated that the onus to establish an Aboriginal right lies with the person claiming the right. It means that the Aboriginal peoples have the onus — the responsibility — to establish their rights, and we as the fiduciary of the Crown have a certain responsibility to help them argue for their rights.

The second difficulty, which is found in the same decision, is that each community's Aboriginal rights are history- and site-specific and must be determined on a case-by-case basis. I repeat: are history- and site-specific.

This is very important because it means that we have to establish the historical link of an Aboriginal community with the specific site that that community has been on for a certain number of years, because we are talking about historical roots. In exercising their rights, they have the onus to prove that. How does one prove one's rights in a cultural tradition that is essentially oral? We have seen Senator Milne trying to establish the importance of genealogy through Statistics Canada amendments. She was able to do so because we have records. It is easy to go to determine a genealogy because we have records. When one deals with Aboriginal people, there are no such records. If you buy a property, you go to the registry house and you register your deeds. However, the Aboriginal people never had such a system.

When we put upon Aboriginal people the onus to establish that they have occupied a site for 200 years, we can immediately imagine the responsibility and the difficulty of the task. That is why I think, as mentioned by Senator Austin, that in the bill proposed there be a centre to monitor the historical research. If we leave with the Aboriginal people the onus to establish solely their link with a site, we put upon them an almost impossible proof to establish. This is essentially a link to our own responsibility to facilitate for them the proof of their claim.

Therefore, we are in the contradictory position, as Senator Austin has said, of being judge and jury, of being prosecutor and defender, of playing the part of the appellant and the respondent at the same time. That is why this issue of claims is so difficult to resolve.

This bill, as mentioned by my two colleagues who took part in the debate, is very important for the future of the status of the Aboriginal people. As I mentioned, this bill does not settle at all the case of the Metis people. They have been fighting in the Ontario court as they are fighting now in the Supreme Court just to establish their Aboriginal rights to fish and hunt, and there is uncertainty about even that right. That is essentially what the Supreme Court will have to decide. I invite honourable senators who have an interest in the subject to read the factum of the two parties, the Department of Justice and the Metis people, and they will see how much the definition of concept needs to be broadened in order to address in a comprehensive manner the resolution of the claims of the Aboriginal peoples of Canada.

Honourable senators, 20 years ago, my colleagues, Senators Smith, Austin and Kinsella, were all arguing to put section 35 in the Constitution, and especially to add to the definition of Aboriginal people, non-status Indians and Metis people. We have a very limited idea of the interpretation of those concepts and those rights.

I would like to refer my colleagues to the *Sparrow* case of the Supreme Court and to other cases that have tried to define the rights of Aboriginal people. We are still in the process of labouring to understand the concept of Metis rights. As Senator Stratton has mentioned, we have other bills, such as Bill C-7, the governance of the Aboriginal people. That bill has not yet come to this house, but we know it deals with Aboriginal governance.

We know the problem of the definition of sovereignty of the Aboriginal people. This is a very difficult concept that is still being debated and studied by the highest court in the land.

Honourable senators, I hope that this bill is a step in the right direction to reconcile our fiduciary responsibility. As I mentioned, we have six Aboriginal senators in this chamber. It is difficult for me as a senator to accept that we leave to the Aboriginal people the onus to defend themselves when we know that the onus of the system tilts in the other direction. We as a federal chamber have a peculiar responsibility to try to understand and reconcile the situation in which they are the object of what we put in the Canadian Constitution 20 years ago with their right to have a place in Canadian society whereby they can live in the dignity and pride that we all claim in this free land.

Honourable senators, I hope that the committee and our colleagues who will labour over this bill will come back with a report that will convince us that we are doing the right thing at the right time for the Aboriginal people of Canada.

**Hon. Lorna Milne:** Honourable senators, I have a point of information for the Senate chamber. I wish to ask Senator Joyal if he is aware that, on Saturday, the National Library and Archives of Canada officially opened a new initiative that will highlight the Aboriginal records they hold. They hold a great deal more than most of us realize. They hold records that go back into the 1600s. They are now highlighting them and trying to educate the Aboriginal community itself as to what records they hold.

**Senator Joyal:** Honourable senators, I was not aware of that, but it fits within the proposal of Bill C-6 that there will be a centre of independent research whereby the Aboriginal people can feel confident that the information they get is real and not managed information. The National Archives of Canada has a reputation as an arm's-length and neutral source of information. It is a good step in the right direction. We must not leave Aboriginal people with the onus to prove their rights when they have no records. We all know the difficulty they have claiming their own artifacts from some museums. Some of us know of those problems. Records are almost nonexistent for many Aboriginal groups, including many of those involved in the 600 claims at stake in this bill.

• (1500)

The news that the Honourable Senator Milne brings to us is a step in the right direction.

**The Hon. the Speaker *pro tempore*:** I regret to inform the honourable senator that his time for speaking has expired. Does he wish to ask for leave to continue?

**Senator Joyal:** Yes.

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

**Hon. Senators:** Agreed.

**Senator St. Germain:** My question will be brief. I commend the honourable senator for his insight into this matter. It is a pleasure to have someone who brings the history of 1982 to the table because, if I recall correctly, Senator Joyal was at the signing of the Constitution, section 35 being part of our Constitution. He mentioned the fact that the Metis and non-status Indians are not part of this bill.

My question to the honourable senator relates to the judge, jury, defence and prosecutor aspect of the bill. I am sure that we will deal with this issue in committee. However, if there is something abhorrent to our native peoples, it is that they do not seem to be able to control their own destiny when it comes to managing issues of critical importance to them. They do not even come close to what we would call "genuine input."

Does the honourable senator foresee a method whereby the tribunal and the commission could reflect a fairer process, without getting into the rhetoric of judges and appointments? I say "rhetoric" because if we get into these other things, we take away from the issue. Does the honourable senator foresee a methodology that would be, in the eyes of the Aboriginal peoples, a fairer process of selecting these individuals?

**Senator Joyal:** I thank the honourable senator for his question. As I understand the bill, it is a two-level body of decision making: the commission and the tribunal. It is the philosophy of the bill to expect that many claims could be settled at the commission level. When I say at "the commission level," I understand it to mean at the mediation level. When we are in a tribunal, we are already in a more formal context. I think we understand those common words.

The important thing is to develop trust. If there is no trust, there is no mediation. Trust in the process touches certain elements. First, they have to trust that the process is fair, that the approach is fair, and that there is a capacity to fully canvass an issue and a capacity to determine what is agreed and what is still in the grey zone. The first step is to establish the historical link, as I mentioned earlier.

Next, there is the capacity to agree on a fair interpretation of what are the grey zones. Then there is the important decision to measure the financial implications. The bill proposes limits, as we know. There is the \$7 million that Honourable Senator Stratton has mentioned.

Fairness and trust in a process rest as much on the shoulders of those presiding over the approach as those involved on all sides. I believe that when there is good faith and a mutual respect and understanding of cultural differences, there is nothing we cannot achieve.

The problem traditionally has been that we have tried to apply non-Aboriginal concepts to the Aboriginal people. The Senate committee chaired by the Honourable Senator Furey is dealing with the animal cruelty bill. An animal, in non-Aboriginal culture, has a place in the order of the world. However, in the Aboriginal culture, it has a different place. What do I mean by that? When one studies the old documents — and I looked into the treaty of 1701 last weekend — there are 39 pictograms of signatures on the treaty. I will have the opportunity to circulate a copy of the treaty in committee. Most of the signatures are through animals: fox, bulls, bears, birds, fish and so on. There are 39 different pictograms. In the Aboriginal culture, there is no pyramid of order of importance in life. An Aboriginal could be an animal and vice versa. They respect the animal at its level, which is contrary to my background or the Judeo-Christian background, where there is God and then men and women, animals, fish, flowers and minerals. We live in a pyramidal system. The Aboriginal people do not live that way.

When we labour to find a solution, we must understand the concept of the world and the culture of the Aboriginal people. When the Aboriginal people have the conviction that the people with whom they are discussing, negotiating and trying to agree understand that the Aboriginal people are fairly appreciated and understood for what they are, there is a possibility of resolution.

However, if we approach that issue with only the concept of the non-Aboriginal system, we will labour a great deal before agreeing on anything. There will be many tensions, and we will have to re-write history the way we have lived it for the last 100 years. I do not think any of us at this point in time wants to rewrite history the way we have learned it. We want to improve history.

If I had the conviction that this bill is not an improvement in our approach to Aboriginal people, honourable senators, I would express to you my feelings and convictions. However, I have listened carefully to the Honourable Senator Austin and the Honourable Senator Stratton, and I think that the approach gives hope that we will make progress.

**The Hon. the Speaker pro tempore:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

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

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

[ Senator Joyal ]

On motion of Senator Austin, bill referred to the Standing Senate Committee on Aboriginal Peoples.

[Translation]

## BROADCASTING ACT

### BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Nolin, for the third reading of Bill S-8, to amend the Broadcasting Act.—(*Honourable Senator Ringuette*).

**Hon. Pierrette Ringuette:** Honourable senators, I believe this matter has been well discussed in committee, and I therefore move third reading of this bill.

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

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

Motion agreed to and bill read third time and passed, on division.

[English]

## STUDY ON MATTERS RELATING TO STRADDLING STOCKS AND TO FISH HABITAT

### REPORT OF FISHERIES AND OCEANS COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on Fisheries and Oceans (study on matters relating to straddling stocks and to fish habitat) presented in the Senate on March 27, 2003.—(*Honourable Senator Comeau*).

• (1510)

**Hon. Gerald J. Comeau** moved the adoption of the report.

He said: Honourable senators, at the outset of my remarks on the third report of the Standing Senate Committee on Fisheries and Oceans, I should like to provide some background. Last November, at a briefing by DFO officials at a Liberal caucus meeting of members of the House of Commons, it came to the attention of all that DFO was considering shutting down the northern cod 2J3KL and the gulf cod 3Pn4RS fisheries. That news sent a shock wave throughout Newfoundland and Labrador.

The following day, the province responded with an emergency debate in the legislature where a resolution was unanimously adopted to create a Newfoundland and Labrador all-party committee. Formally established on December 2, 2002, that committee was comprised of representatives of all political parties in the House of Assembly, members of the House of Commons and all six of the province's senators. Such a committee of parliamentarians, I am told, is unprecedented in the history of Confederation.



After three months of deliberation, the all-party committee reached a unanimous position on an action plan. On March 17, a position paper was presented to the Minister of Fisheries and Oceans. That day, members of both the Senate and the House Committees on Fisheries and Oceans were also briefed by a delegation of the all-party committee. The following week, on March 25, the Senate committee heard testimony from the Government of Newfoundland and Labrador.

As a result of these meetings, your Senate committee endorsed the general principles of the all-party position statement in a report presented in this chamber on March 27, 2003.

When moratoria on fishing were first announced in the early 1990s, people believed them to be temporary closures of possibly five to 10 years, after which they thought they would return to fishing, as had been the norm for the previous 500 years. The moratoria were announced a decade ago. In some areas, fisheries reopened at very low levels, but stocks did not rebuild and they remain at historic lows.

Of the two cod stocks in question — northern cod and northern gulf cod — about 420,000 tons were harvested in the late 1980s. Today, the debate is over whether the current harvest of 12,600 tons is sustainable. In this regard, there are two important considerations.

The first is that a closure of the fishing grounds in question would deliver a devastating blow to the fishing communities. Senator Cook spoke about this yesterday on her inquiry. To repeat a couple of the numbers, some 4,400 fishermen and fish plant workers would be impacted. At the macroeconomic level, it would cost the economy of Newfoundland and Labrador roughly \$35 million in exports and \$43 million in gross domestic product annually. Second, and more important, the closure would be tantamount to giving up without having even tried to rebuild this legendary renewable resource.

As the Deputy Minister of Fisheries of Newfoundland and Labrador said when he appeared before the Senate committee last week, the decision to shut down the northern gulf cod fisheries would be an admission that there is no chance of stock recovery in this generation.

Those who read the all-party report will invariably conclude that many issues were considered, such as the matter of by-catches and the relative merits of the various types of fishing gear on the resource. A large amount of time and effort was spent on such matters as seals and ecosystem relationships between seals, caplin and cod.

Simply put, the all-party committee concluded that shutting down the northern cod and gulf cod fisheries was not advisable. However, while fishing at reduced levels should continue, fishing should be accompanied by measures to begin the process of stock rebuilding. An action plan was therefore submitted to the Minister of Fisheries and Oceans, to be adopted in its entirety.

In fisheries, reaching a united position with people of various political stripes is no small achievement. As already mentioned, the Newfoundland and Labrador committee was able to arrive at a common position with members of the provincial legislature, members of the House of Commons and all six of the province's senators. The federal Minister of Fisheries and Oceans will not be able to dismiss this report out of hand, as was done with the recent Commons report.

Some honourable senators may be surprised to learn that the all-party committee action plan actually includes proposals that have been kicked around for years. Some are similar to the ones made by your Senate committee in reports stretching back to the late 1980s. Had they been adopted when stocks were in better shape, maybe — just maybe — the industry would not be in the position in which it finds itself today.

The Newfoundland and Labrador committee called for an ecosystem approach to fisheries management and more funding for scientific research. Most would agree that the DFO science effort, which has declined over the years, is now severely underfunded. Making matters worse, many fishermen and their organizations are challenging the findings of what science is being conducted. Many reportedly do not believe what scientists and fisheries managers are telling them about the state of the resource, claiming that they have no problem catching their quotas and saying that catch rates are very good. One inshore fisherman, George Feltham of Eastport, recently put it this way:

It makes you wonder why they're cutting [quotas]. Are they trying to get rid of fishermen, or are they trying to rebuild the stocks?

Honourable senators will recall that the fishermen were the ones who warned of an imminent crisis in the Atlantic fishery in the mid to late 1980s. In fact, groups and individuals repeatedly warned your Senate Fisheries Committee back then that an ecological crisis was in the making, that the fishery was at an important crossroads, and that unless fisheries management issues were addressed more intensively and comprehensively, the industry would soon be in serious difficulty. On the science of northern cod, your committee wrote in 1989:

Additional studies are urgently needed not only to increase the Department's knowledge of the dynamics of the individual species and stocks, but also their interaction and interdependencies in the ecosystem.

Three years later, the stock collapsed. This is almost the equivalent of spending no money on science today now to solve the problem of severe acute respiratory syndrome. This is what happened then. We were spending no money to find out what the problem was.

The all-party committee recommended closing the recreational cod fishery throughout the Atlantic region and Quebec, except where there is commercial fishing taking place.

• (1520)

The Senate committee was told not only that there is no room for recreational fishery, but also that there are many questions concerning the control and management of the recreational sector. Misreporting is said to be a significant problem.

Specifically in regard to northern cod, the Newfoundland and Labrador committee recommended the continuation of the so-called index and sentinel fisheries for the essential purposes of gathering scientific information. According to the committee, there is nothing to be gained by removing the valuable presence of those fishermen in the water. How else would DFO know how the stocks are doing?

On the subject of 3Pn4RS gulf cod, the all-party committee wants commercial fishing to continue, but on a limited basis. At issue in the gulf is the manner by which fisheries science is being conducted. This science was described to the Senate committee as being not very good. There are problems with the methodology and surveys as well as a disagreement with catch results. The all-party committee believes that limited commercial fishing can be sustained, but only if other things are done.

For example, gill net fisheries should be transformed into hook-and-line fisheries. This is no small proposal. As many senators from the East Coast undoubtedly already know, the debate over the suitability of various gear types in the Atlantic fishery stretches back over several decades. Your Senate committee examined this subject in detail in 1993 and 1995.

An important component of the Newfoundland committee's action plan is the reduction of high-graded or discarded fish. Let me explain. Honourable senators, a big fish is worth much more on the market than a small one. Faced with a limited amount of fishable quota, fishermen tend to keep the bigger ones or the high-grade to maximize their economic benefits. The smaller fish go over the side, dead. This is a wasteful and deplorable practice that must stop. High-grading and discarding are topics discussed at length in the Senate committee's 1998 report on privatization and quota licensing.

The all-party committee also wants to reduce by-catches of cod and other fisheries, and to protect spawning fish and juvenile aggregations at certain times of the year. While the shrimp fishery is an important economic activity in Newfoundland and Labrador, that committee nonetheless recommended an end to trawling for shrimp in areas where cod spawn and where juvenile fish aggregate. That sensible idea has been around for years. Good ideas tend to bounce back.

Almost 14 years ago your Senate committee recommended that fishing in areas where fish spawn should be severely curtailed. According to Cabot Martin of the Newfoundland Inshore Fisheries Association, NIFA, this proposal "marked the first time an authoritative political body recognized the importance of allowing fish stocks to spawn in peace." I am sure Senator Adams was on the fisheries committee at that time when that marvellous recommendation was made.

[ Senator Comeau ]

The all-party committee also called for the reduction in the size of the seal herd, because seals, whether they are harp, hooded or grey seals, are preventing the recovery of the cod stocks. That committee called for seal exclusion zones, areas where seals would be removed to keep them from eating cod.

To put the perennial seal issue in perspective, the debate over whether to shut down the northern cod and gulf cod fisheries involves something like 12,600 tons of fish. Your committee learned last week that DFO science estimates that harp seals alone consume a minimum of 37,000 tons of Atlantic cod. How is that for putting things in perspective about the amount of cod that is allotted to the seals versus the fishery? I repeat: 12,600 tons of fish is being considered for the commercial fishery versus 37,000 tons for the seals.

Seals consume 893,000 tonnes of capelin, which is a major source of food for cod, and they consume 185,000 tonnes of Arctic cod. Today, the population of harp seals off Newfoundland and Labrador is estimated to be between 5 million and 6 million.

In passing, the media reports that the federal government is weighing a proposal to sterilize seals either by chemical means or castration is an interesting concept. In 1989, your Senate committee recommended that DFO substantially increase the level of funding for research on new methods of fertility control of seals. The Senate committee urged that there be a substantial research effort to assist the growth rate of seal stocks and document precisely the losses incurred by the fishing industry due to seals so as to produce irrefutable evidence that a cull is necessary. That was back in 1989, three years before the official Atlantic cod collapse.

The committee did not venture into the subject of castration, but we will have to ponder that prospect more fully. A full-grown male seal is a formidable creature and the prospect of removing the private parts of such a creature would be no small endeavour. If such a program were implemented, I would like to suggest a name for that program, call it the seal neutering and intervention program, or SNIP. I pass that on to think-tank people on Kent Street as a new program proposal. I am sure the Minister of Fisheries and Oceans will say more about this in the coming weeks.

The Newfoundland and Labrador committee called for a prime minister's task force to be created to look into what happened to the Atlantic ground fish in 1992 and to provide a program and focus for stock rebuilding. Not that long ago, the commercial fishery annually harvested 300,000 to 400,000 tons of northern cod and northern gulf cod. What is at stake today is 12,600 tons.

On the subject of northern cod, it must be remembered that, in 1968, before Canada declared a 200-mile limit, some 900,000 tons of fish were strip mined from the ocean. Of those 900,000 tons, the foreign fleets caught about 810,000 tons. Today, the biomass of that stock is a mere 34,000 tons. That is the biomass — the estimated total weight of the stock, not the catch.

Obviously, something catastrophic happened. It is recognized the world over as one of the worst environmental disasters of the modern era.

**The Hon. the Speaker:** Senator Comeau, I regret to advise you that your time has expired.

**Senator Comeau:** Honourable senators, I would ask leave to continue. I have but three or four minutes left.

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

**Hon. Senators:** Agreed.

**Senator Comeau:** Thank you, honourable senators.

In 1993, the Senate Fisheries Committee called for a Royal Commission to advise on how the groundfish should be managed. Ten years later, in 2003, a special task force, as recommended by the all-party committee, is long overdue. It is incredible that after all this time we do not know the reasons why the Atlantic groundfish are not recovering. Nor has there ever been an official inquiry into the reasons why stocks collapsed in the first place.

Our committee members heard the presentation of Mark Butler last year. He said that, since the collapse, there has never been an honest, open review of what went wrong and how we can fix it without any retribution.

The all-party committee recommended that Canada move toward a Canadian-based fisheries management system for stocks that straddle the 200-mile limit. The House of Commons committee on fisheries and oceans has also been asking for the federal government to take custody of those fish stocks and to withdraw from the Northwest Atlantic Fisheries Organization, NAFO.

Today, an extension of Canada's fisheries jurisdiction into international waters in one form or another is widely supported in Newfoundland and Labrador as a means of resolving NAFO's problems.

In December of 1989, the Senate Fisheries Committee was the first parliamentary committee to recommend such an extension of Canadian fisheries jurisdiction beyond 200 miles. There have been many developments since then. The committee will have more to say on this question of straddling stocks in the coming weeks.

Suffice it to say that the frustration on the part of the Government of Newfoundland and Labrador, its fishing industry, its fishermen and the general public with the problems of non-compliance by foreign fishing vessels in the NAFO regulatory area is not only deep, it is long-standing.

The all-party committee recommended a more sizeable investment in fisheries managements and a moratorium on the commercial caplin fishery until DFO has a better understanding of the relationships between caplin and cod. The all-party committee called on governments to cooperate on designated marine protected areas, MPAs, to assist rebuilding cod.

According to the all-party committee, the feasibility of stock enhancement needs to be investigated. Norway and other Scandinavian countries are investing in cod aquaculture. Members of the Senate committee were recently told:

...people from these countries are in St. John's, Newfoundland, today hiring our expertise and buying our technology.

• (1530)

According to the Newfoundland and Labrador Deputy Minister of Fisheries and Oceans:

If we do not move quickly, we will be left behind in the cod aquaculture industry.

In closing, there are no major inconsistencies between the action plan of the all-party committee and the positions taken by the Senate committee over the past number of years.

The all-party committee rejected the wholesale closure option for the gulf and northern cod fisheries. It also believed that only in partnership with fishermen will stocks be rebuilt. However, as Earle McCurdy, of the Fish Food and Allied Workers' Union, put it recently:

There won't be anyone left to partner with if communities are driven out of existence.

Last night representatives from Atlantic Canada urged our committee members to be sensitive to the issue of inter-generational transfer of licences. It is very important that we have some kind of a fishery out there so that we can look at inter-generational transfers of fishing licences. We should not leave the industry solely to the big corporate interests.

The Senate committee asks the federal government to move immediately to rebuild stocks based on the all-party committee's action plan. Your committee further recommends that a Prime Minister's task force on Atlantic groundfish be struck to identify why stocks are not recovering and to present solutions to ensure stock recovery and conservation.

The Minister of Fisheries and Oceans is expected to hand down a decision on northern and gulf cod later this month. My hope is that the Minister of Fisheries will take into consideration the very sensible, worthwhile and reasoned comments and suggestions made by the Newfoundland and Labrador all-party committee's position statement.

On motion of Senator Cook, debate adjourned.

## AMERICA DAY IN CANADA

### MOTION—DEBATE CONTINUED

On the Order:

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

That the Senate urge the Government of Canada to establish September 11 of this and every year hereafter as a commemorative day throughout Canada, to be known as "America Day in Canada."—(*Honourable Senator Smith*).

**Hon. David P. Smith:** Honourable senators, this motion stands in the name of Senator Grafstein, seconded by Senator Kirby. The wording of the motion speaks for itself. I need not try to persuade anyone about the importance of the relationship between Canada and the United States.

This is a tense time for our neighbours. Last week I had the experience of being in the United States along with five other members of the Standing Senate Committee on National Security and Defence. We had three meetings with congressional committees. We met with 18 different Congressmen. We had three briefings in the Pentagon, one in the White House, one with the National Security Council, and several others with think-tanks and other groups.

As we headed down there, some of us perhaps expected the meetings to have a bit of a chilly atmosphere. It is fair to say that we were received politely and well. I see Senator Banks here; he was with me as well. The strain evaporated by the end of every meeting and each meeting ended on a positive note.

I mention this because we were required to distinguish Canada's position on the war on terrorism as different from its position on the war in Iraq. We went through the reasons.

Senator Grafstein is in Washington right now as part of the Canada-U.S. Parliamentary Group with other parliamentarians, holding a number of similar meetings. I know that he will want to speak to this on his return. As this item has reached its fifteenth day on the Order Paper, I wanted to ensure that the item remains on the agenda for Senator Grafstein's intervention.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Would the honourable senator take a couple of questions of clarification?

**Senator Smith:** Yes.

**Senator Kinsella:** The honourable senator said that, by and large, the committee was met with warmth rather than with frigidly. Was there any indication of hurt feelings there?

**Senator Smith:** I think there may be some Americans who instinctively think we should be in lockstep with them on every major issue. Perhaps that is understandable. When we went through the reasons why we had not become part of the coalition, by and large they understood quite well. Senator Banks is here and can speak for himself, but I believe all members felt the trip was a worthwhile exercise and that we must keep doing this with our neighbours.

**Senator Kinsella:** Would the honourable senator tell us whether any of the pre-planned meetings were cancelled by the Americans?

**Senator Smith:** There were a couple of meetings that could not be held, but that was more due to the scheduling of votes on Capitol Hill. I am told that we held more meetings and met more congressmen this year than did last year's delegation. There is always some element of juggling meetings, but we all came away feeling we had been received quite hospitably. That is not to say there was unanimity on everything we discussed.

**Senator Kinsella:** In listening to the honourable senator's speech, I was not sure whether he was enthusiastically supporting this motion. Could the honourable senator tell us whether he enthusiastically supports this motion?

**Senator Smith:** Honourable senators, I am waiting to hear Senator Grafstein's speech and to let him articulate the merits of it. I certainly have an open mind on it.

**Senator Graham:** Is it uncomfortable to sit on the fence?

**Hon. Marcel Prud'homme:** Honourable senators, I want this to be very clear. I think there is confusion surrounding the current difficulties with the U.S. I am a long-time and forever friend of the people of the United States of America. I want that to be clear. I make no concession on that. At times I do happen to disagree with their policies, such as Vietnam and others. That has nothing to do with the anti-American sentiment that sadly can be found throughout Canada these days.

People are confusing the issue. I am American, too; we live in the Americas.

I will participate in the debate, but this is my question: Is this not the best way to honour our friends in the United States of America — to give a more glorious celebration on July 4? That is the national day of the United States of America — not of the Americas. We have all gone through our rebellious student times. In the old days every U.S. embassy in the world had the words "American Embassy." They changed it eventually to "The Embassy of the United States of America," including in Ottawa, where they forgot to put it in French. One can see how badly it was done; they added it in after. That is second-thinking.

Do honourable senators not agree that one of the best ways to honour our friends, the citizens of the United States of America, is truly to have a more glorious day, a day of happiness, on their national day, July 4? Then we need not go through with speeches, as sad as they may be on this sad day.

• (1540)

**Senator Smith:** Honourable senators, I think the honourable senator makes a good point, but I do not think that these things are mutually exclusive. I happen to live in downtown Toronto, but I also have a place in Cobourg on Lake Ontario, one of these big old homes built over 100 years ago. The people from Rochester come over in boats every summer. They usually make sure they are there for both July 1 and July 4, and we celebrate both. It is not unusual to have 100 boats come over from Rochester, which is a great thing.

It is hard for us to understand how traumatic September 11 was for many Americans, and to an extent, they feel sympathetic vibes from us as to what occurred that day.

One of the most moving experiences of my life occurred perhaps 10 days after September 11, when I was in New York City to attend bank board meetings. At the end of our meetings, we went to Restaurant 21, where perhaps some senators have dined before. It is a great restaurant. A waiter, probably in his seventies, was bringing us drinks and appetizers. He stepped out of the room

and another waiter mentioned to me that Joe had lost his son. When he came back in, I went over and put my arm around him. I said, "Joe, I do not know you at all, but would you step outside and tell me what happened to your son?" Joe had made it through the war in Europe. I believe he was from Poland. He came over here and did not have much education. His goal in life was to give his children the things he never had himself. His son had a masters degree. He was working on Wall Street in a top position, making very good money, and he was the pride of this man's life. It was a very emotional conversation. At the end of it, I said, "Did he leave you any grandchildren?" His face just beamed, and he said, "Yes, he did. That is why I am working here tonight, and I will probably be working as long as I can to give them the education that my son had."

Honourable senators, the events of September 11 were so traumatic that I think this motion is certainly worth discussing, and I want to preserve Senator Grafstein's right to deal with it.

**Senator Prud'homme:** Honourable senators, I like this exchange. People may not know that Senator Smith and I go back to 1960 and the Young Liberals. We never found many things to disagree about, truly — maybe only on international affairs, but they are so irrelevant in human relationships.

Just out of curiosity, these citizens of the United States who cross over to Canada in their boats, do they have to go through customs? I do not have a boat, and I would like to know.

**Senator Smith:** There is a telephone in the harbour at the marina and a yacht club. There is a direct line to customs. One can phone, and if there is a problem and the authorities need to come over, they will come over. By and large, however, there really is not any scrutiny. I have actually heard that the odd case of wine has come over on one or two of those boats, but I could not speak from firsthand experience, of course.

**Senator Prud'homme:** Is this telephone on both sides? If Canadians go to the other side, is there the same arrangement, or do they have to go through the very new and severe border procedures?

**Senator Smith:** I think that depends on where one lands. For years, I had one of these boats and slipped a few people. I finally gave it up because no one would help me look after it. I certainly went over to Rochester and Alexandria Bay, New York, and the Thousand Islands, and they more or less have the same system where someone can phone.

[*Translation*]

**Hon. Jean Lapointe:** Honourable senators, in my opinion, an America Day in Canada is an overly sweet way to apologize for not being with the Americans in Iraq. That being said, honourable senators, do you not think it would be more subtle — and the Americans would understand it easily — if we declared September 11 World Anti-Terrorism Day? The message would go over much better. It would look a lot less like a blatant attempt to appease the Americans.

[*English*]

**Senator Smith:** Honourable senators, I am sure that Senator Grafstein, in whose name this motion stands, will read Hansard upon his return and take that into consideration. I do not rule that out. I thank the honourable senator for his question.

**Hon. Edward M. Lawson:** Honourable senators, continuing the debate, the news you were going to get tomorrow, you will get today.

Speaking about Ambassador Paul Cellucci and his speech in Toronto, there is no question that he came to speak directly for the U.S. government and for the people of the United States when he told us how disappointed he was that we were not there standing shoulder to shoulder with the Americans. When he made his speech, he made it with sincerity, with dignity and with professionalism. To the MPs who called for his resignation or that he be returned to America and recalled, all I want to say is that if you want to recall someone or send them home for speaking the truth, you should have an agonizing re-appraisal of your own values. Ambassador Paul Cellucci is a decent man, an honourable man, and a man of integrity.

As a result of these foolish, stupid criticisms that were made and the language that was used, we have damaged our relationship with the U.S. It is a sensitive time in America. There is a war going on and Americans and coalition members are dying. They are very sensitive about that, and so they should be. It is never too late to say you are sorry. It is not a sign of weakness to apologize, and it needs to be done now. That apology can only be meaningful if it comes from the prestige of the Prime Minister's Office over his signature. It should be a simple note to the George Bush reading, "George, I apologize for my staff and my MPs who made those ill-considered remarks. Our relationship is too important, so you have my apology for it." I am not asking very much. The relationship is so important that it needs to be done.

• (1550)

In the same letter he should write, "By the way, I want to thank you for sending an ambassador of the calibre and quality of Paul Cellucci. He has demonstrated that he respects Canada and its people by the very fact that he would come and tell us the simple truth about the feelings of his government and the American people."

I accept that the government has the exclusive authority to decide whether we join the war and the coalition. I accept that. That does not mean I cannot be disappointed. I am disappointed. Some of the military equipment that is being used over there was made in Canada. Could we not have taken a dozen of those and outfitted them as ambulances and sent them over?

In the home province of our Speaker, great buildings on wheels are manufactured. They are used as offices on construction sites and as meeting rooms and first aid rooms. What would it take to outfit 10 or 20 of those as mobile hospitals and send them over? It would not cost very much. It would not affect our reputation as being peacekeepers and as humanitarians. It would, at least, give the appearance that we are not turning our backs on them and that we really care. After the U.S. wins the war in Iraq, they could use these mobile hospitals in the rebuilding of that country.

It may be dramatic to say it, but we have a tendency to take our relationship with the United States for granted. We live alongside this unguarded border. No Canadian ever goes to bed at night worried that, when he or she wakes up the next morning, this giant military and economic superpower will have invaded us. Not only do we not worry, but we take for granted what Ambassador Cellucci said. There is no security threat in Canada that the United States would not be ready, willing and able to help with. There would be no hesitation. "We would be there for Canada; it is part of our family; and that is why so many Americans are disappointed and upset that Canada is not fully supporting us now."

We take it for granted. When cutbacks in the military required that we move the base at Chilliwack out of British Columbia and ship it to Edmonton, we knew then that we had no military presence in British Columbia. If we had a civil disaster in British Columbia, British Columbians were not too concerned; we knew we could count on the Americans. That happens virtually all across the country.

Think about it. This may be overdramatizing the situation, but suppose we had Saddam Hussein and the Iraqis as our neighbours. If Iraq were short of petroleum for its domestic needs, what would Saddam Hussein do? He would send elite troops over here, take whatever he needs and kill any Canadian who tried to stop him.

With regard to water, I have a home in California, which has had seven years of drought. California uses much of its water to grow fruits and vegetables, which it sends halfway around the world and to Canada. I cannot understand it. We allow trillions of gallons of water a day to go to the ocean. We will not share. We will not sell a gallon to the United States. We are neighbours. We are a family sharing the same continent. Could we not do that? Could we not do something differently?

A debate is raging now about whether we build the Alaska pipeline first or the one in the Mackenzie Valley. What would be wrong, in partnership with the U.S. with building both? It would improve the economy and create jobs. More important, I would like to send an emissary to see Premier Ralph Klein to say, "How about working with the U.S. on a joint venture to fast track the tar sands?"

**An Hon. Senator:** Or even the Atlantic.

**Senator Lawson:** Even that, when this is finished.

One benefit would be that the U.S. would be self-sufficient with petroleum here in North America and would no longer be captive to those OPECers in the Middle East. Why can we not do that? If we are really partners and family on the same continent, why can we not do that? Then we could start construction on a 48-inch freshwater pipeline from British Columbia to California.

It seems to me that that would be a better way of proceeding than what we are doing now, where every issue is a fight, a conflict and so on. It seems a better way of doing things for

people the Prime Minister said were our neighbours, our friends and our family.

I will finish this another time. At this point, if there is no objection, I would move the adjournment of the debate.

**The Hon. the Speaker:** Some senators are rising to put questions.

**Hon. Bill Rompkey:** Honourable senators, would Senator Lawson agree that we need to bring some balance to the debate on this issue? I recognize that Ambassador Cellucci is an honourable man and that he was carrying out the responsibilities that he has in what he said, but we need some balance in the debate.

Although one MP made an unfortunate comment, for which she apologized and no doubt regrets, and other people have said things that they regret, I also recall that, after September 11, there were 100,000 people on the lawn here, with no notice whatsoever. Their reaction was spontaneous. One hundred thousand people came on to the lawn of Parliament Hill, with less than 48 hours notice.

When the planes were diverted into Gander, Goose Bay, Halifax and many other places, the hospitality that was shown at that time and the bonds created between Canadians and Americans will last for a long time. They are very real and they have been manifested. I do not know how many schools received funds from the U.S. as a result of that.

I believe we need balance in the debate. I also recall that, when President Bush made some remarks after September 11, he did not recall that Gander had provided hospitality and he did not recall that there had been 100,000 people on the lawn at Parliament Hill. He remembered that the Mexicans had responded, but he did not remember the Canadians, who are good neighbours, who share the border, share confidences, share family, share business and share many experiences.

It seems to me that we cannot take issues in isolation. We must have a balanced perspective. That is my question.

**Senator Di Nino:** That is his speech.

**Senator Lawson:** Honourable senators, Senator Rompkey's question is a good one. When I spoke earlier in the day, I started by referring to the 100,000 who gathered here on Parliament Hill. I said I was never more proud of the Prime Minister than when he said, "At a time like this, we think of the Americans as neighbours, friends and family," and Paul Cellucci then responded. I never felt closer to the U.S.A. than when those two people stood and said those words.

When the Prime Minister first talked about having this little gathering, the security said, "Small building, tight building, keep tight security," and so on. The Prime Minister said, "I did not say a day of hiding. I said a day of mourning. I want it on the Hill for the world to see."

I have the advantage, spending as much time in the United States as I do, of reading many articles in the United States where people indicated how proud they were that the Canadians were there. They have pictures of the 100,000 on the Hill, and they tell stories about how many people turned out. I think it is regrettable and a slight that the President of the United States did not acknowledge that when he made that speech about various countries. That happens. However, better a slight than the kind of words we use.

I do not accept that the Member of Parliament regrets what she said. She went on Mike Bullard's comedy show and said she might do it again. That does not sound like regret to me. That, I find offensive. It is one thing to have the debate before the war started — do we go or not, should we go or not, and all those various reasons. However, the day that the war started was the day the minister made his ill-considered remarks, which were inappropriate. It reflects badly not only on the minister but on the Prime Minister.

• (1600)

We now have the U.S. representative responsible for joint negotiations on oil, who says, "No, that meeting is off." He does not care to meet with the minister who made those comments. We have a provincial minister in Alberta saying the minister is useless in negotiations. This involves \$50 billion worth of exports, and he has lost his ability to deal with that. The Prime Minister should take him out of the ministry or put him in another portfolio.

It is one thing to say things with courtesy and respect, but not the kind of things that have gone on here.

Then the ambassador comes and makes his presentation. We call our shots from the comfort of over here, across the border. The ambassador to Canada had the courage and the courtesy to make his statement before a Canadian audience in a dignified, respectful manner. Those things are important and, depending on what one is saying, can give less or more impact to what is really said.

I agree with all the things that happened throughout Canada and in British Columbia with the airports and so on, the response of the Canadian people and the thousands who took them into their homes. Every time I talk to Americans, they still remind me of how wonderful our response was on September 11.

**Senator Prud'homme:** Honourable senators, does the confusion not come from the fact that we always confuse the people of the United States of America with the administration of the United States of America? If a Canadian ambassador in Washington was to very courteously, in the same manner as Mr. Cellucci, say how profoundly disappointed Canada is that, on the question of the Middle East, the United States has used its veto power 36 times out of 72, most of the time. If our Canadian ambassador would have said that in Washington, I can imagine what would have

happened, not only to him but also to our relationship. The confusion is exactly what I say it is. People are confusing the people of the United States of America with the administration.

If a Canadian ambassador — and this is coming back to haunt us — in Washington would have said some years ago how much we profoundly disagree with the CIA overthrowing the government of Mr. Mosaddeq in Iran — what was he doing? He was only nationalizing a national resource called oil. We did that in Quebec with René Levesque and the Liberals. We nationalized electricity. Mr. Mossadeq in Iran nationalized oil in the interests of Iran, and what happened? The CIA overthrew him.

We may have a long list of disagreements with the administration, but that does not mean that we disagree with the people. I went to see some of these colleagues who were mentioned. I told them how difficult it was to agree with them.

**Some Hon. Senators:** Question!

**Senator Prud'homme:** Can we make a difference? Second, what would have happened if the Canadian ambassador to Washington had made the same kind of statement?

**The Hon. the Speaker:** I regret to advise that the time of the Honourable Senator Lawson has expired.

On motion of Senator Corbin, debate adjourned.

## ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

### COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

**Hon. Tommy Banks,** pursuant to notice of April 1, 2003, moved:

That the Standing Senate Committee on Energy, the Environment and Natural Resources have power to sit on Tuesday, April 8, 2003, at 5:00 p.m., even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

He said: Honourable senators should know the reason for the motion is the appearance before the committee of Minister Dhaliwal and senior officials from his department on a special study being conducted according to the reference of the Senate by the committee.

Motion agreed to.

The Senate adjourned until Thursday, April 3, 2003, at 1:30 p.m.

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