Debates of the Senate

1st SESSION • 37th PARLIAMENT • VOLUME 139 • NUMBER 50

OFFICIAL REPORT
(HANSARD)

Wednesday, September 19, 2001

THE HONOURABLE DAN HAYS
SPEAKER

CONTENTS

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

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

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

THE SENATE

Wednesday, September 19, 2001

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

Prayers.

[*Translation*]

THE LATE HONOURABLE JEAN-MAURICE SIMARD

TRIBUTES

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, of all the men and women who devote themselves heart and soul to public life, there are only a few whose names alone conjure up an immediate association with their accomplishments born of years of struggle and incredible tenacity.

One of that small group of admirable people, without any doubt, was our colleague Jean-Maurice Simard, who passed away suddenly this past June. Born in Quebec City, he became what he liked to call an Acadian by adoption. He devoted years of his life to service in the legislature at both Fredericton and Ottawa, where he was a staunch defender of francophone rights.

The 1993 constitutional amendment making New Brunswick the first officially bilingual province would never have become concrete without Jean-Maurice's dogged efforts to convince the numerous sceptics that the unity of their province required acceptance that the rights of the minority were equal to the rights of the majority. This was at a time when Quebec nationalism was gaining prominence and becoming more and more attractive to the more impatient elements of the Acadian population.

It is universally recognized that Bill 88 and the subsequent constitutional amendment are, in large part, a result of the unflagging efforts of Jean-Maurice Simard.

The last few years have been difficult for Jean-Maurice but did not curtail his participation and presence in the Senate or in caucus. He may have lost his voice, but he continued to vigorously defend the rights of francophones and to support their demands through his work, in particular his harsh assessment in his study, *Bridging the Gap,* of how the Official Languages Act is enforced.

Jean-Maurice understood that the survival of minority rights cannot be dissociated from the survival of the country. May his example serve as an inspiration to us all, and may he rest in peace, as he so richly deserves.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I rise today to pay tribute to our late colleague the Honourable Jean-Maurice Simard.

Jean-Maurice Simard was a chartered accountant by profession, but at the age of 37 was attracted to politics and devoted the remainder of his life to that sphere. He was determined to defend the rights of francophones in his province of origin, the Acadians in particular, and extended his efforts to the rest of the country once he arrived on the federal scene.

[*English*]

Senator Simard was an ardent promoter of French language rights and was often seen in the media promoting this cause wherever the topic of bilingualism was at issue. Throughout his life, Senator Simard was engaged in debates that we have come to see as uniquely Canadian in preserving the language legacy of our two founding nations. He was a passionate advocate for the Acadian community and the special place that Acadians hold in our country's history. He was a defender of many historic sites that are tangible links to the French-speaking New Brunswickers of previous generations.

[*Translation*]

Senator Simard was first elected to the New Brunswick Legislature in 1970, subsequently holding the posts of Minister of Finance, President of the Treasury Board and Minister for Public Service Reform in his province.

Senator Simard was proud to be a citizen and the political representative of New Brunswick, the only Canadian province that is officially bilingual. July 17 marked the 20th anniversary of Bill 88, which Senator Simard fathered. This legislation recognized the existence of two communities, anglophone and francophone, in New Brunswick and enshrined their rights in provincial statutes.

• (1340)

In 1988, Senator Simard became the editor of the French paper *Le Matin*, based in Moncton. The paper went bankrupt, but this upset and the senator's financial losses did not dampen his desire to expand services in French.

In 1985, after a career in provincial politics, Jean-Maurice Simard was appointed to the Senate where he was known as the "Senator from Edmundston." He played an important role on a number of Senate committees, including the Standing Joint Committee on Official Languages, of which he was the Deputy Chair.

He also sat on the Standing Committees on Internal Economy, Budgets and Administration; National Finance; Agriculture and Forestry; Fisheries; and Banking, Trade and Commerce.

In recent years, Senator Simard suffered serious health problems. His illness affected his ability to speak, among other things. This must have been difficult for the person known as the "voice of New Brunswick." He continued to be pleased to talk to people and he remained determined to serve his community through the Senate, despite his personal difficulties.

I should like to offer his family my sincere condolences and those of all parliamentarians. Regardless of our political allegiance, we will miss him.

[*English*]

Hon. Brenda M. Robertson: Honourable senators, "Mon pouvoir, j'y crois." "I believe in my power." This simple, strong, assertive declaration sums up the personal and the political philosophy of Jean-Maurice Simard. In over 30 years of public life, Jean-Maurice lived and acted by this one statement. It was his guiding principle long before it appeared on a button one weekend in Shippegan, on the Caraquet coast of New Brunswick, in August of 1982.

As President of the PC Party in 1968, as MLA for Edmundston from 1970 to 1985, as Minister of Finance, as President of the Treasury Board, as Minister of Public Service Reform, and as a senator, Jean-Maurice Simard exercised his personal and his political power to make New Brunswick a fairer, stronger and more equal society.

Honourable senators, he succeeded. He succeeded because he believed so strongly in his own vision for the province of New Brunswick, a province where francophones and anglophones were equal: equal in their rights within New Brunswick and equal in benefiting from those same rights as New Brunswickers.

Jean-Maurice's legacy and influence is profound: the Official Languages Act; Bill 88, an act respecting the two official linguistic communities in New Brunswick; duality in our educational system; better hospitals; services for his people; and a political party, the Progressive Conservative Party of New Brunswick, which has grown and matured into a truly representative party for all New Brunswickers.

Jean-Maurice knew that if he were to effect change, he had to change the very power structures of the government. To do that, he had to first change the face and the attitudes of the PC Party of our province.

We were lucky that he had his own champion in our late Senate colleague, Richard Hatfield. In many ways, as we look back, I think it is fair to say that one could not have existed without the other, even if that coexistence was sometimes as intense as the times in which we lived.

Jean-Maurice persevered. He persevered because he did believe in his own power and because he believed he made a difference. In making a difference, Jean-Maurice made waves. Those of us who have been in politics for a while know that change is often very difficult to accept and to achieve. That was certainly the case with Jean-Maurice. Those of us who knew Jean-Maurice well might be forgiven if we say that secretly he enjoyed on occasion the controversy that he engendered.

However, Jean-Maurice was a lightning rod. People often mistook his passionate commitment to the Acadian idea and the Acadian ideal for a kind of reverse intolerance, and nothing could be further from the truth.

I believe that equally secretly it pained him. He knew that for New Brunswick to succeed, both the English and the French communities had to respect each other equally. He knew that for Acadians to withdraw into themselves in response to linguistic stresses — "to retreat into a sterile silence," as he put it — would be wrong for Acadians as a whole, and all New Brunswick would suffer.

Some observers called him hot-headed. Those of us who worked closely with Jean-Maurice in cabinet, in caucus and here in the Senate know that, in fact, he was actually just hard-headed. He was hard-headed in his assessment of what needed to be done to advance the causes he so fervently believed in. We knew that his motivations were good. We knew that you could not divorce the man from his motivations. They were one and the same.

Honourable senators, Jean-Maurice was determined to achieve his goals. He was often in a hurry to do so. He loved politics — the game, the people, the stakes — and not surprisingly he played to win. In fact, he seemed to play everything to win.

Shortly after we were summoned to the Senate, Jean-Maurice and I found ourselves on a bus tour of Nova Scotia, promoting and explaining changes to the unemployment insurance program being sponsored by the federal Conservative government of the day. To pass the time, we decided to play cards. From Halifax to Cape Breton, we played 22 hands of rummy and Jean-Maurice won every single one of them. That was the nature of Jean-Maurice.

I will remember him in so very many ways. I will remember him as a fighter — a fighter for the causes he believed in; a fighter for the people he represented; a fighter for an open, inclusive New Brunswick, a society of equals and equality.

It is in this vein that I will remember Jean-Maurice as an optimist — an optimist who saw our New Brunswick whole.

Let the last word be his because he would want it that way.

> New Brunswick is a rallying point. New Brunswick belongs to all New Brunswickers. And our great challenge, anglophones and francophones, is to pool our know-how, our sense of initiative, our will to survive and expand so that we shall be able to benefit fully and collectively from the promises the future holds for us.

Honourable senators, we shall miss him. He was a friend of 35 years. He served his country and his province well.

[*Translation*]

Hon. Eymard G. Corbin: Honourable senators, some of you may know this, but most of you are not aware of the fact that Jean-Maurice Simard and Eymard G. Corbin went head to head against each other in the federal election of 1968, the election that resulted in the first Trudeau government. I won by only a few hundred votes in the riding of Madawaska—Victoria. In a way, we followed on each other's heels: myself at the federal level, and Senator Simard in the Hatfield government at the provincial level.

• (1350)

Senator Simard had few interests beyond politics, the instrument of power and development. Even when he managed a baseball team, he was thinking about politics. He accomplished many things for our area. His personal political slogan was "Edmundston first," demonstrating the importance of his riding. We even worked together on certain projects. He always "performed" with much fanfare, to the annoyance of some, but he generally managed to attain his goals for the betterment of our area and province. We crossed swords on one or two occasions here in the Senate, but later on we made peace. In one of his last speeches in this chamber, he expressed kind thoughts about me. I was deeply moved by those words and remain grateful. We are all aware of his devotion to his work, his sense of duty and his constant interest in certain issues that were dear to him, even when he became ill.

I would like to reiterate my condolences to his family, to Mrs. Simard, as well as to his son and two daughters, whom I saw at his funeral, on June 22, at Notre-Dame-des-Sept-Douleurs Church in Edmundston.

Hon. Lowell Murray: Honourable senators, the past provides us with many reference points, and these reference points are unforgettable. Back in 1960, the great Acadian saga reached a turning point.

New Brunswick's Premier Robichaud had introduced his Equal Opportunity program. The program involved reforming taxation, redistributing municipal boundaries, and centralizing education, health and social services at the provincial level. In order to accomplish this, it was also necessary to make major changes to the province's civil service. Finally, in 1969, the Robichaud government passed New Brunswick's Official Languages Act.

Louis Robichaud had courageously laid the foundation for his reforms, but it fell to the government of Richard Hatfield, which was elected for the first time in 1970, to put the principles into practice. It was Premier Hatfield who built the infrastructure needed to implement the reforms, which involved expanding the hospital sector, creating homogeneous school districts, and reforming the French-language university network.

Success for this vast undertaking is largely attributable to Jean-Maurice Simard, a Quebecer by birth, an adopted son of the Republic of Madawaska, and Premier Hatfield's French-speaking lieutenant. After the 1970 election, Simard was one of the only two French-speaking members of the Conservative cabinet. A tireless and vigilant defender of the French language and of Acadian rights, he was the embodiment in the cabinet of the French fact in New Brunswick. It was a weighty responsibility and he devoted himself to it body and soul. It was certainly not a restful task. The initiatives and policies of the Hatfield government met with opposition from some and even led to divisions within the French-speaking community, particularly on the issue of universities. However, the government persisted and never compromised the program's principles. Equal opportunity — he believed in it and stood by it.

Although the government managed to get only two francophones elected in 1970, he earned the trust of Acadians over the years. For his fourth and final term of office beginning in 1982, he won the majority support of voters in both linguistic communities and represented a majority of the riding in the legislature.

In 1982, New Brunswick agreed to take part in Mr. Trudeau's constitutional project, provided that the linguistic rights of the province's francophones and anglophones were enshrined. The following year, Jean-Maurice promoted the concept of two linguistic communities. Through his efforts, the Hatfield government passed the legislation recognizing the equality of both official language communities in New Brunswick.

Jean-Maurice Simard was a member of the Senate when, in 1993, we ratified and enshrined in the Canadian Constitution the provisions of this legislation, this time at the initiative of the New Brunswick government under Frank McKenna and the federal government under Brian Mulroney.

In May 2000, in a presentation given to the Joint Standing Committee on Official Languages, this man of action wrote and I quote:

Sometimes indifference smothers life bit by bit.

Indifference was totally foreign to Jean-Maurice's character. Without fail, throughout his political involvement as a Progressive Conservative, he retained the esteem of his anglophone colleagues, particularly during his time as minister. His contribution to my party was a huge one, since his active involvement dates way back to his teen years. He paved the way for the numerous francophones who have since been added to its ranks. He is one of the founding fathers of the modern-day renaissance of the Acadian people. His accomplishments have left their mark on the history of his country and his province. He leaves a very great void behind him, particularly in the Senate.

[*English*]

He was a redoubtable ally, a valued colleague and, in my case, a good friend for more than 25 years. I shall miss him greatly.

[*Translation*]

Hon. Rose-Marie Losier-Cool: Honourable senators, I, too, wish to pay tribute to Senator Simard. Acadians, and all francophones in minority situations across Canada, recognize the tenacity and determination demonstrated by Senator Simard throughout his entire political career.

In view of the convictions and vision of Jean-Maurice Simard, the government of Premier Richard Hatfield had no choice but to continue to promote the rights of francophone minorities. As my colleague Senator Robertson has said, there was a clear understanding of that vision of his at the legendary weekend in Shippagan. Determined and tenacious he was.

I came to know Jean-Maurice Simard when he was President of the New Brunswick Treasury Board and I the President of the New Brunswick francophone teachers' union. We were on opposite sides of the negotiating table. You will all understand that negotiating a collective agreement was not always an easy task.

Honourable senators, I was proud to meet the Simard family at his funeral, and I wish him the peace he well deserves.

Hon. Gerald J. Comeau: Honourable senators, I rise to pay tribute to a great friend and a great Canadian. For us Acadians and Maritimers, Senator Simard was a staunch defender, a visionary, a spokesman. He never gave up his fight to advance the interests of our community. His action went far beyond the borders of New Brunswick and he was just as interested in francophone minority communities in the Maritimes as in other provinces.

• (1400)

I knew Senator Simard for a very long time. When I first came to the Senate, I had the pleasure of working on a number of issues with him. He was so well known and respected by francophones throughout Canada that, initially, I had the feeling I was working with a legend. He gave me advice on a number of difficult issues and I could always count on him. I adopted his policy: Never back down.

He was not of Acadian origin but, because of his contribution and his devotion to the cause, Acadians considered him one of their own. He deserves a place of honour in the hearts of all Acadians. If there are spots reserved in heaven for great Acadians, I am sure that Senator Jean-Maurice Simard is very deserving of his. During his funeral in Edmundston, I saw the great esteem in which his fellow citizens held him.

Once again, I extend to his family and to his many friends my most heartfelt condolences, and assure them that we will remember him always.

Hon. Jean-Claude Rivest: Honourable senators, I join with you in honouring the memory of Senator Simard. I had the pleasure of working with him on the Official Languages Committee, of which I have been a member for almost nine years. I would like to tell you about his very great concern for the protection of linguistic rights in Canada, especially in Acadia.

I particularly want to mention the report on the status of the official languages in Canada, which he published before he left us. This very detailed and extremely relevant report represented not only his political legacy, but also a plan of action for the government. When Dyane Adam took up her duties as Official Languages Commissioner, she told me that Senator Simard's report would serve as her inspiration.

Honourable senators, yesterday afternoon, when the Joint Standing Committee on Official Languages met with the minister responsible for official languages, Stéphane Dion, a number of speakers referred to Senator Simard's report. This is an indication of how very topical his comments and concerns were, and how important his contribution to the protection of minority rights in Canada was.

I would remind you that Senator Simard made such a strong and convincing argument of the need for a minister responsible for the enforcement of the Official Languages Act that he persuaded the Prime Minister to appoint such a minister to his government. Minister Dion is fulfilling this function right now. This appointment is a sign that Senator Simard's work is continuing beyond the grave.

[*English*]

Hon. Joyce Fairbairn: Honourable senators, I, too, wish to remember with great fondness Senator Jean-Maurice Simard. I was tremendously sad when I heard of his death in June. Even in the short time that we have been back here, I miss him already. I keep looking for that face and listening for that voice. It may surprise honourable senators on both sides of this chamber when I say that Jean-Maurice Simard and I were good friends and, if he were here today, I think he would be nodding as well.

I first became conscious of Senator Simard and the zest he had for politics, as well as for living, during the days of the GST debate back in 1990. Some honourable senators may recall that I spoke quite a lot during those days. In fact, it seemed like endless days and nights. My most fervent tormentor and heckler was Senator Simard. He seemed to be there 24 hours a day — and he took absolute joy in going after me no matter what it was I was talking about. Even if it was the cause of literacy, he had a response.

Outside the chamber, though, in those dark nights — and I notice Senator Keon is smiling because he was called upon during those times to minister, in his capacity as a doctor, to some of the honourable senators — Senator Simard and I would talk. He was gracious and cheerful, and I came to know him as a man of tremendous convictions.

When I became Leader of the Government in the Senate, I could tell the minute I walked into the chamber if it would be one of those days when I would be required to endure the good senator from Edmundston, New Brunswick. I would look over at where he sat and I would see him there, slouched in his chair, his eyebrows knit together, his black eyes flashing, and he looked mean. Those eyes were looking at me. Then he would proceed relentlessly.

It did not matter what the Speaker said; it did not matter what the time limits were; Jean-Maurice Simard marched to his own drummer. He got his point across. I would listen with admiration, with interest, and I hoped that I could find the right section in the briefing book that might mitigate some of this rage. However, behind it all, I knew the moment we stepped outside the chamber that it would be a handshake, a smile or a pat on the back.

To say that Senator Simard was passionate in his beliefs is putting it mildly, and he certainly lived what he believed. This morning I picked up, out of curiosity, the maiden speech he made when he became a senator, just to see what was going through his mind then. He spoke on December 5, 1985, and it was the occasion of the fifteenth anniversary of the election of former Premier Richard Hatfield. Senator Simard devoted his speech in the Senate to talking about his friendship, his association, his administration, his brotherhood with that long-serving and hugely respected Premier of New Brunswick. As he did so, it became clear that, in a sense, everything he said with admiration about Richard Hatfield was something that he, himself, firmly associated in with the premier. It was hard to separate them from their resolve together.

• (1410)

What did he talk about? He talked about the patriation of the Constitution, the considerable role that Premier Hatfield had played in that momentous period of history and the importance that Senator Simard believed that event held for the future of Canada. He talked about the Charter of Rights and Freedoms, again as part of a tremendous accomplishment that had his full and heartfelt support as it had, obviously, that of his friend, the premier. He talked about what was in that Constitution, namely, equal opportunity for all parts of Canada, in particular, those parts that were having more difficulty than others at that point in time.

Senator Simard also talked about regional disparity. That theme was an obsession for him right to the very end because it, too, was a question of equality and fairness, something he had fought for throughout his political and public life.

Finally, of course, he talked about the equality of the two linguistic communities in the province of New Brunswick. He always spoke with enormous pride about New Brunswick becoming the first truly bilingual province in this country. He, as Senator Lynch-Staunton noted in his remarks, was born a Quebecer but he came here, of choice, as an Acadian. Never did the Acadian population of this country have a more dynamic spokesperson when aroused, as he constantly seemed to be on that subject, than Jean-Maurice Simard.

Honourable senators, when we lose our colleagues we reflect on their achievements and on their personalities. We also reflect on their candour. He made clear in his first speech before this Senate that he had the firmest of intentions of carrying on with his political activity that had motivated him for so many years, and so we should in this chamber. That is part of the reason that we are here. We are political activists; we are activists for causes. They should in no way be muted because we are in the Senate.

He concluded his remarks, however, by asking us to help him benefit from the experience of those in this chamber, particularly those who had been here for quite a long time. He then said:

> In return, I can assure you of my fullest co-operation, as non-partisan as possible, in keeping with the main objective of the Senate, which is to approve legislation, programs and budgets in the interests of all Canadians.

[Senator Fairbairn]

Honourable senators, Jean-Maurice Simard did that. He did it with style. He did it with verve and passion, humour and anger. He was a truly fine representative in this house. I extend to Madam Simard and the family not only my very best wishes and my sympathy but also my understanding that they have tremendous memories to live by of a very strong Canadian.

[*Translation*]

Hon. Jean-Robert Gauthier: Honourable senators, I met Jean-Maurice in a forum very different from the Senate. I have lost a friend, a colleague who knew the Francophonie, because he was a regular participant in the meetings. He was known in Europe, Africa and in Canada. He was known foremost as a person of conviction and he knew how to defend his positions. He was faithful, courteous and, at times, stubborn.

Although he was sick, he regularly attended sittings of the Standing Committee on Official Languages. We met on occasion after meetings to discuss strategy. He always had good advice.

In Edmundston, at a meeting of Francophonie parliamentarians, he said to me: "You know, I am sick, I am going to have an operation. It is tough." I was a bit emotional and tried to comfort him. Afterward, he had a liver transplant. Complications arose. We are all aware of the difficulties he had.

He was a real friend, a man who recognized the right moment to slip a word in the right place. We wanted nothing more, but nothing less. He was a French Canadian!

[*English*]

SENATORS' STATEMENTS

USHER OF THE BLACK ROD, MARY MCLAREN

TRIBUTE ON DEPARTURE

The Hon. the Speaker: Honourable senators, on your behalf, allow me to pay tribute to both a loyal and a dedicated officer of this chamber and of this institution. After four years of serving the Senate with great distinction as Lady Usher of the Black Rod, Mary McLaren, who is with us in the gallery today, is moving on to a new position as Director General with the National Research Council of Canada.

I have no doubt that all honourable senators will join me in saluting Mary McLaren, the first woman ever appointed as Usher of the Black Rod. Though she is leaving us, we will remember her fondly and thank her sincerely for the great competence, professionalism and dignity with which she served this place.

She broke a lot of new ground as the first woman appointed to this position, which testifies to her strength of character, courage and determination. Those qualities served her well when considering that, on accepting this position, she stepped into a world steeped in a 500-year-old tradition where the Usher of the Black Rod acts as the Queen's personal messenger or that of her representatives.

Not only did Mary McLaren distinguish herself in carrying out ceremonial duties that include the opening of Parliament and Royal Assent, she also did an exemplary job fulfilling her senior management responsibilities, overseeing the Page program, coordinating protocol and exchanges for the Senate, as well as ensuring the high quality of information technology and computer services. She leaves an indelible stamp, having set up systems that will serve our institution for years to come.

[*Translation*]

Before coming to the Senate, Mary McLaren was the Director of Strategic Analyses, Human Resources at the Department of National Defence. She made a name for herself through her considerable ability in management and restructuring and helping the Armed Forces set up new recruitment and training programs and policies.

On behalf of all of us, Ms McLaren, I thank you most sincerely for serving our institution with such devotion, ability and dignity. We wish you every success in your new duties.

[*English*]

THE LATE ERNIE COOMBS

TRIBUTE

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, if I thought humming was in order in this chamber, I would hum the tune that in the early and mid-1970s sent two little girls running to the television set, with their mother not very far behind, to watch Mr. Dressup. Mr. Dressup, Casey and Finnegan were daily friends. In our den was our version of the Tickle Trunk where dress-up clothes were stored for make-believe times.

Honourable senators, my daughters Catherine and Jennifer join me in thanking Ernie Coombs, Mr. Dressup, for his enrichment of our lives, and I express our condolences to his family.

THE LATE KIMBERLY ROGERS

TRIBUTE

Hon. Norman K. Atkins: Honourable senators, I rise today to draw your attention to a particularly tragic event that occurred this past summer — the death of Kimberly Rogers on August 9 in Sudbury, Ontario.

It is my belief that her death should not go unnoticed, despite the tragic events of the last week in the United States. As people who make the laws under which Canadians live, we should, when we pass judgment on proposed pieces of legislation, step back and consider the society we are creating.

For those honourable senators who are unaware of the details of this situation, the facts, though gravely disturbing, are few and simple.

Born in Sudbury in 1961, Kimberly Rogers was raised by her mother and, at the age of 19, moved to Toronto. What she encountered there were many low-paying, part-time jobs, an extremely abusive relationship and the onset of clinical depression. By 1996 she was back in Sudbury, living on welfare and having attempted suicide.

Later that year, through sheer determination, she decided to pull herself together and turn her life around. She enrolled in Cambrian College, in its social services department, from which she graduated near the top of her class. Unfortunately, while going to school, she continued to collect social assistance and also borrowed money through the student loan program. That is illegal; she was caught and she pled guilty to welfare fraud.

Fraud cases occur regularly and they are dealt with as a matter of course by our criminal justice system. What makes Ms Rogers' case stand out is the punishment dealt out by our criminal justice system, punishment which I believe led directly to her death. Her punishment was right out of a 19th-century Charles Dickens novel. She was removed from the welfare rolls, ordered to repay the money over 63 months and confined to a ramshackle dwelling for all but three hours a week. She was pregnant and alone, without money and without her medication to combat attacks of depression, all during a record-setting heat wave this summer. I believe she died a victim of our system.

Honourable senators, her tragic life and her untimely death should stand as a beacon for all of us. What we do here with public policy has a real impact on the lives of Canadians. In everything we do, we should ask ourselves whether we are creating a situation that will have unintended results, results which are so harsh that they cause untold pain and, in the case of Ms Rogers, her death and the death of the baby she was carrying.

Instead of excusing ourselves by saying that Ms Rogers just fell through the cracks in our civil and justice systems, we should work tirelessly to close and eventually eliminate those cracks.

ROUTINE PROCEEDINGS

PRIVILEGES, STANDING RULES AND ORDERS

FOURTH REPORT OF COMMITTEE PRESENTED

Hon. Terry Stratton, Deputy Chair of the Standing Committee on Privileges, Standing Rules and Orders, for Senator Austin, presented the following report:

Wednesday, September 19, 2001

The Standing Committee on Privileges, Standing Rules and Orders has the honour to present its

FOURTH REPORT

Your Committee recommends that 86(1)(*r*) of the *Rules of the Senate* be amended by replacing the words "Senate Committee on Defence and Security" with the words "Senate Committee on National Security and Defence."

Respectfully submitted,

JACK AUSTIN, P.C.
Chair

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

On motion of Senator Stratton, report placed on Orders of the Day for consideration on Tuesday next, September 25, 2001.

FIFTH REPORT OF COMMITTEE PRESENTED

Hon. Terry Stratton, Deputy Chair of the Standing Committee on Privileges, Standing Rules and Orders, for Senator Austin, presented the following report:

Wednesday, September 19, 2001

The Standing Committee on Privileges, Standing Rules and Orders has the honour to present its

FIFTH REPORT

Your Committee recommends that 86(1)(*f*) of the *Rules of the Senate* be amended by replacing the words "Committee on Privileges, Standing Rules and Orders" with the words "Committee on Rules, Procedures and the Rights of Parliament."

Respectfully submitted,

JACK AUSTIN, P.C.
Chair

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

On motion of Senator Stratton, report placed on the Orders of the Day for consideration on Tuesday next, September 25, 2001.

[*Translation*]

STUDY ON MATTERS RELATING TO FISHING INDUSTRY

REPORT OF FISHERIES COMMITTEE TABLED

Hon. Gerald J. Comeau: Honourable senators, I have the honour to inform you that the third report of the Standing Senate Committee on Fisheries, dealing with aquaculture in Canada's Atlantic and Pacific regions, was tabled with the Clerk on June 29, 2001.

On motion of Senator Comeau, pursuant to rule 97(3), report placed on the Orders of the Day for consideration at the next sitting of the Senate.

THE SENATE

COMMITTEE OF THE WHOLE—REPLACEMENT OF SEA KING HELICOPTERS—APPEARANCE OF OFFICIALS ON PROCUREMENT PROCESS—NOTICE OF MOTION

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

That at 3:00 p.m. on Thursday, October 4, 2001, the Senate resolve itself into a Committee of the Whole in order to receive officials from the Department of National Defence and the Department of Public Works and Government Services for a briefing on the procurement process for maritime helicopters.

ADJOURNMENT

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

That when the Senate adjourns today, it do stand adjourned until tomorrow, Thursday, September 20, 2001, at 1:30 p.m.

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

Hon Senators: Agreed.

Motion agreed to.

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 2001

FIRST READING

Hon. Fernand Robichaud (Deputy Leader of the Government) presented Bill S-31, to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

Bill read first time.

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

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

• (1430)

OFFICIAL LANGUAGES ACT

BILL TO AMEND—FIRST READING

Hon. Jean-Robert Gauthier: Honourable senators, I have the honour to present Bill S-32, to amend the Official Languages Act (fostering of English and French).

The bill amends the Official Languages Act by changing the scope of section 41, in such a manner as to achieve its objective.

Bill read first time.

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

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

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

STUDY OF DOCUMENT ENTITLED "SANTÉ EN FRANÇAIS—POUR UN MEILLEUR ACCÈS À DES SERVICES DE SANTÉ EN FRANÇAIS"—NOTICE OF MOTION

Hon. Jean-Robert Gauthier: Honourable senators, I give notice that on Thursday, September 20, 2001, I will move:

> That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report on the document entitled *Santé en français — Pour un meilleur accès à des services de santé en français* This document was commissioned by the Federal Department of Health and coordinated by the Fédération des communautés francophones et acadiennes.

TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

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

> That the Standing Senate Committee on Transport and Communications have power to sit at 5:30 p.m. today, Wednesday, September 19, 2001 for its study of Bill C-14, An Act respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts, even though the Senate may then be sitting and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

[*English*]

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Lorna Milne: Honourable senators, I move:

> That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit at 5:30 p.m. today, Wednesday, September 19, 2001, for the purposes of its examination of Proposals to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal an Act and certain provisions that have expired, lapsed or otherwise ceased to have effect, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

Motion agreed to.

BUSINESS OF THE SENATE

Hon. Lowell Murray: Honourable senators, I am taken aback by this motion. I take it that there is a possibility that the Senate will sit longer this afternoon than we would normally on a Wednesday afternoon.

[*Translation*]

Does the Deputy Leader of the Government have a general solution for all the committees which were to sit this afternoon?

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, given the special debate we held yesterday, it was agreed by the leaders that all parliamentary proceedings scheduled for Tuesday to Thursday would take place today and tomorrow and that this situation would result in a longer sitting today. It was thought that, if the Senate were still sitting at 5:30 p.m., we would grant leave to committees to sit after that hour, at the same time as the Senate.

Senator Murray: Honourable senators, I thank the deputy leader. This will not create a problem for the National Finance Committee, and we will be able to sit as planned at 5:45 p.m.

Hon. Marcel Prud'homme: Honourable senators, I would ask that all items on the Order Paper in my name stand until the next sitting of the Senate.

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

Hon. Senators: Agreed.

Motion agreed to.

ROLE OF CULTURE IN CANADA

NOTICE OF INQUIRY

Hon. Jean-Robert Gauthier: Honourable senators, I give notice that on Tuesday next, September 25, 2001, I will call the attention of the Senate to the important role of culture in Canada and the image that we project abroad.

• (1440)

[*English*]

QUESTION PERIOD

CANADA-UNITED STATES RELATIONS

MEETING BETWEEN PRIME MINISTER AND PRESIDENT—REQUEST FOR INFORMATION

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate.

I understand that the Prime Minister is travelling to Washington tomorrow, presumably to discuss with United States officials, including the President of the United States, matters of security arising out of the difficulties we find ourselves in. The Prime Minister has already told our nation that Canadians will stand shoulder to shoulder with our allies in the United States to fight this war on terror. We all welcome that. My question is this: What will Canada's contribution be? What will the Prime Minister offer the President of the United States tomorrow at this White House meeting that is so important?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question; it is nice to be back in the Senate hearing questions from Senator Forrestall.

Let me begin by telling the honourable senator that I do not think the meeting is scheduled for tomorrow. I understood that the meeting between the Prime Minister of Canada and the President of the United States is scheduled for next Monday. However, if I am mistaken, I will get back to the honourable senator immediately with the correct information.

The honourable senator is quite correct in his statement that Canadians will stand by our American friends, neighbours, and family. Certainly that is my case. The exact contribution to be made by Canada will be ultimately determined by Canada, but certainly we will want to know through this meeting with the President of the United States what it is that the Americans are asking of us.

Senator Forrestall: I hope that my information is correct. On the other hand, I garner it from the national press, not being privy to the Prime Minister's day-to-day itinerary, nor that of the President of the United States, I might add.

I am somewhat distressed because the three-day deadline for the production of Osama bin Laden is up at some time tomorrow morning, perhaps 8:30 according to my calculations. I could be wrong with respect to that. God knows, we may be at war by then. I just do not understand. Perhaps the President of the United States is too busy to see us, and that is understandable.

NATIONAL DEFENCE

UNITED STATES—TERRORIST ATTACKS OF SEPTEMBER 11, 2001—POSSIBLE RETALIATORY MEASURES—CONTRIBUTION BY ARMED FORCES

Hon. J. Michael Forrestall: My second question relates to possible contributions that we could make, one of them being our CF-18s. However, as all honourable senators know, Canada has no long-range tankers to provide transport to Pakistan or India, let alone Afghanistan. The navy is a two- to three-week cruise away, at the least. The army has put one infantry battalion on standby, but again we have no transport to get them to central Asia, and even then they are not trained special forces. What military assets does Canada have that the Prime Minister of Canada can offer to the President of the United States whenever this meeting will take place?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the decision to take action, whatever form that action will take, is not something on which either the President of the United States or the allies will act precipitously. Although there was a three-day deadline in having Osama bin Laden turned over, I do not think that that is a deadline for when military action may take place.

In answer to the honourable senator's question in regard to equipment, the clear, powerful image of our troops, dedicated as they have been in most recent years to peacekeeping and peacemaking efforts, is certainly the greatest asset that Canada has.

Senator Forrestall: Again, I am somewhat amazed, honourable senators, at that response. It leaves me with the understanding that an enormous presumption has been made. I do not want to associate myself with that kind of an assumption.

If the United States of America says three days, it is three days. If there is a rational reason to prolong it for one or two days, that is understandable. However, to say to this chamber that the United States of America will not react, and react with force, determination and will, is taking me somewhat out of my comfort zone, in any event.

Honourable senators, I understand that the Australians have determined that all Australian personnel on exchange serving with the United States are to follow their American units into battle. Has cabinet in Canada made a similar decision? If so, when was the decision made and when it will be announced?

Senator Carstairs: Let me make it clear to honourable senators that I do not speak for the President of the United States, nor I do make decisions for the President of the United States. When the President and the Congress of the United States decide to act, that will be ultimately their decision. However, the Government of Canada will make the decision of when Canada will act or react. The Government of Canada has been clear in its position, from the beginning, that we stand by our American neighbours, our friends, and that we will do what we can within the Canadian framework to help them in whatever way they ask help of us, as we have done up to this point, since that tragedy of last week.

Senator Forrestall: Honourable senators, I have asked whether or not cabinet or the Prime Minister, with the knowledge of cabinet, has taken a decision with respect to members of the Canadian Forces who may be serving with American forces. Has a decision been made as to whether those members will join in any action strategy laid down by the President of the United States, including the type of action that we normally understand to be war?

Senator Carstairs: The honourable senator is well aware of the fact that I cannot discuss what may have taken place at cabinet, or to announce any cabinet decisions before the head of that cabinet, the Prime Minister, should make such an announcement.

CANADA-UNITED STATES RELATIONS

TERRORIST ATTACKS OF SEPTEMBER 11, 2001—LIMITATION OF POSSIBLE RETALIATORY MEASURES

Hon. Douglas Roche: Honourable senators, I wish to repeat my support of Prime Minister Chrétien's reasoned response that he has so far given to this crisis. My question to the Leader of the Government is as follows: Bearing in mind Canada's responsibilities to both NATO and the United Nations, will the government caution the United States that restraint must be exercised in any forthcoming military strike in Afghanistan to ensure that innocent people are not killed in the search to capture the culprits of the attacks in New York and Washington?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question. I can only assume, knowing the nature of our Prime Minister, that his discussions with the President of the United States will be in his usual forthright fashion. Just as the Prime Minister has made statements to the Canadian people, I am sure that that is the exact language he will use with the President of the United States.

As to Senator Roche's specific comments in regard to innocent people, let me assure him that I will share those comments immediately with my colleagues, not only with the Prime Minister but also the Minister of Defence.

• (1450)

Senator Roche: I thank the minister for that response.

The Prime Minister further acknowledged in the other place that in the event of a military strike, "We cannot promise that not a single life will be lost."

I respect that statement as a fact. In the present circumstances, we will probably have to accept it. However, that acceptance does not carry with it permission to break the cardinal rules of conflict, namely, that the damage be limited and proportional.

Will the government press the concepts of limitation and proportionality on the United States at this critical moment?

Senator Carstairs: Honourable senators, there have already been 6,000 innocent lives lost, and I do not think it is the desire of anyone inside or outside of this chamber that further innocent lives be lost.

As the honourable senator has addressed most eloquently, we have international obligations, and I have absolutely no reason to believe that those international obligations will not be fulfilled.

TRANSPORT

AIRLINE INDUSTRY—EFFECT OF TERRORIST ATTACKS ON UNITED STATES—GOVERNMENT SUPPORT

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate. I wish to welcome her back and say that I hope we will not be too tough on her, at least not too often.

My question is with regard to the impact that last week's events have had on the airline industry of Canada. Transport Minister Collenette has met with Robert Milton, the CEO of Air Canada, who got a very friendly hearing without any conclusion. The minister has said that he will be monitoring the situation over time.

I know that the Leader of the Government cannot give me a direct response to my question today. It is important that everyone knows that we are under time constraints and that a lot is happening very quickly. Nevertheless, it is important for Canadians to get a better sense that the government is still in control. That is the concern every Canadian wishes to allay.

Does the Leader of the Government in the Senate have any idea how long it will take for the government to make a decision regarding the effects on Canadian air carriers and what kind of bailout package they will receive?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, let me begin by congratulating Senator Stratton on his new position as whip of the opposition. We will try not to give him too much of a hard time either.

In response to his question, I watched with interest the interview last evening with the President of Air Canada, who was most gracious in his comments about the Minister of Transport. He indicated that they had very thoughtful and good discussions and that the minister had been very supportive, particularly during those very difficult days when planes were landing at a variety of airports across Canada.

I can tell the honourable senator today that many questions still need answering. We need to know what will be the extent of the losses to the airline industry which, particularly in the case of Air Canada, was already in serious economic difficulty before the tragedy of last week. I understand that discussions are ongoing daily. However, while the airline industry has been severely hurt, it is not the only industry that has been hurt, and I do not think there will be a response to that industry until there is a response to economic conditions as a whole.

Senator Stratton: I thank the leader for those kind words. They are appreciated.

Honourable senators, as the minister indicated, in addition to the airline industry, other industries in Canada have been impacted. For example, the trucking industry has been impacted severely by huge delays at the border. That industry is losing a large amount of money as well.

I hope that the Leader of the Government in the Senate will not mind me asking questions about progress as the government studies this matter because it is important for Canadians, particularly those affected, such as those in the trucking industry, to know how long this process will take. When the government says it will look at a matter, that can take six weeks, six months or six years. The response to our airline industry must be compared to the response of the U.S. government to their airline industry, but the question in people's minds is how long it will take. It is recognized that the impact on American airlines is far greater than on ours, but it must be remembered that in addition to their airlines, their businesses along the border are impacted as well.

Senator Carstairs: I thank the honourable senator for recognizing that it is not only the airline industry that has been impacted. One of the things that we do not understand is how long this impact will last. Will it be short term or will it be long term? That is why it is important to collect the data before decisions are made, insomuch as it can be collected. We are not star gazers; we cannot forecast. However, over the next week or so, we should begin to understand what has returned to normal, what suffering there was during the abnormal period, and which industries will take a much longer time to return to normalcy.

As and when I have information to share with the honourable senator, I will do so. I welcome his updated questions.

CITIZENSHIP AND IMMIGRATION

TERRORIST ATTACKS ON UNITED STATES—EFFECT ON PROVISIONS OF IMMIGRATION AND REFUGEE PROTECTION BILL

Hon. Donald H. Oliver: Honourable senators, my question is directed to the Leader of the Government in the Senate. The United States government has long argued that the Canadian border is porous. The problem is that this creates the possibility for unfettered movement of criminal elements from Canada to the U.S. A previous U.S. ambassador to Canada, Gordon Giffen, called for a sharing of border security information between our two countries, a call that has so far been ignored by our government. More recently, in the aftermath of last Tuesday's attacks on the World Trade Center and the Pentagon, current Ambassador Paul Cellucci echoed the same sentiment.

In light of recent events affecting the Canada-U.S. border, immigration controls and the campaign to stamp out terrorist elements in North America, including Canada, is the government open to re-examining the immigration controls proposed by Bill C-11? That bill, the honourable minister will recall, deals with granting refugee protection to people who are displaced, persecuted or in danger.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank Senator Oliver for his question, but it is important to put on the record the complimentary comments made by United States Ambassador Paul Cellucci in which he talked about the great cooperation and the great relationship of the United States and Canada on military, security and intelligence matters. He stated very clearly the cooperation taking place on all three of those files.

As to the specific question, the immigration bill is presently before the Senate. It will begin its process of second reading this afternoon. I personally hope that we will pass that bill very quickly because I think it will send a strong signal to the Americans that we are prepared to tighten immigration controls. Whether that will be adequate remains to be seen. I know that there will be a great many discussions between Canadians and Americans about how we can mutually protect our borders.

• (1500)

Whether we need future legislation, and future legislation quite quickly, again, remains to be seen. However, everything is open for debate and discussion. Meanwhile, I personally would like to see us pass that bill because it is stronger than what we have at present and I believe it would be a good first step.

Senator Oliver: Honourable senators, the minister has said she would personally like to see this bill passed quickly, but if the committee, in its study and after hearing witnesses, finds that they would like to have amendments I should like to know whether the minister will be prepared to consider any amendments.

CUSTOMS AND REVENUE AGENCY

TERRORIST ATTACKS ON UNITED STATES—EFFECT ON BORDER PROCEDURES

Hon. Donald H. Oliver: As a further supplementary, can the Leader of the Government indicate, given Canada's support for diversity and equality as a matter of public policy, whether Canada Customs and Immigration officers have been formally instructed to direct additional security screening towards the transborder movement of peoples of Arabic descent or with Arabic sounding names?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the senator has asked a question with two parts, both of which are equally important.

It will be up to this Senate chamber to determine whether or not it wishes to amend Bill C-11. The committee will report and the committee will make recommendations to either accept the bill as is or introduce amendments. If we move into third reading stage, which we will, then of course amendments from the floor of this chamber are possible.

I have given my own particular preference, but I do not rule the committees. The committees make their own determinations and I know that in this case the committee will want to have a thorough study of this bill, and they should have a thorough study of this bill.

I would, however, remind honourable senators that if we make amendments to that bill, then we will slow down the process because the bill then must go to the other place and further discussions will take place. That is why my personal preference is to pass the bill as is and then accept other amendments as they may come down the pipe.

In terms of the honourable senator's other question, my understanding is that the border patrols have been asked to examine people sometimes on the basis of their occupation, their past activities, and other such issues, but I know of no information that would lead me to believe that people are being stopped at the border because of their colour or racial ethnicity or, indeed, their religion.

CITIZENSHIP AND IMMIGRATION

TERRORIST ATTACKS ON UNITED STATES—EFFECT ON PROVISIONS OF IMMIGRATION AND REFUGEE PROTECTION BILL

Hon. Marcel Prud'homme: Honourable senators, I have a supplementary question.

I personally will offer my cooperation, but I should like to inform the minister and the government that it is not my intention to fall into this easy paranoia that is descending on Canada. In saying that, I would add that I prefer to see the bill pass as is. If there is any correction, we will do it in due time.

Some honourable senators have so much experience in the political process. However, when they start saying, "Let us pass the bill now and come back later if it is bad," I am afraid that "later" will be a long time from now. At the moment, I am of the opinion that those in charge of security — be it CSIS, the RCMP, or the people at the border — have plenty of authority and judgment and, because of the events, are more alert to what is taking place.

Therefore, I would urge my colleagues to be extremely careful. If the decision were made to pass this bill today, I would certainly have objected. I hope now that honourable senators will keep in mind the recent circumstances in their study of Bill C-11 to see whether it all fits.

May I ask kindly that the leader appeal to the government, to the cabinet and to her colleagues in caucus, because I know there is division between those who say, "Let us get at it," and those who say, "Wait a minute." I am sensitive to what Senator Oliver has said, because I have already received complaints. I have 60-plus multicultural groups in my district. I have the largest number of Mosques, the largest number of temples, and I think we should be very careful. This is exactly what the Senate is all about. I would hope that in everything the government encourages us to do it will also encourage us to be extremely sensitive and very careful.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, Senator Prud'homme has covered a number of areas and I want to do justice to all of them. First, I did not say that I thought the present Bill C-11 was bad. To the contrary, I think the bill is good. What I do hope I said to the Honourable Senator Oliver is that perhaps it has not gone far enough. Perhaps there will be, in addition, new regulations that we will decide need to be put in place.

As to the timing of those, let me assure every honourable senator in this chamber that the government is very much on high alert as to security, defence issues and the whole issue of terrorism, both globally and within Canada. There will not be the normal process, I would suggest, whereby if we pass this bill any suggested further changes may never happen. If it is determined the other changes are necessary, I am led to believe things will happen quite rapidly.

With respect to taking a message to my colleagues, it is important that the message of the Prime Minister be reiterated by all of us. That is, as we look around our country, we should see Canadians as Canadians; we should not start putting labels on those Canadians. That should apply to our day-to-day activities and relations with each other, and to border crossings as well.

FOREIGN AFFAIRS

TERRORIST ATTACKS ON UNITED STATES—EFFECT ON PEOPLE OF AFGHANISTAN

Hon. Consiglio Di Nino: Honourable senators, the discussions we have had in the last few days should concern all of us. I hope that we all share the dread and fear that I feel about what may come. As a threat of an American military strike in Afghanistan looms ever closer, scores of Afghan civilians are fleeing their country. Some 1.5 million refugees are now amassing around the Afghan-Pakistani border. The living conditions in these camps are atrocious, without adequate water and without adequate food.

My question to the Leader of the Government in the Senate is this: Notwithstanding what happens in terms of military action in Afghanistan, a complex humanitarian crisis needs to be addressed. In light of this government's lobbying of the human security agenda, can the Leader of the Government in the Senate indicate to us what the government is doing to respond to this humanitarian crisis for the Afghan people at the Afghan-Pakistani border?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I am proud to announce that the government has already taken its initial step on this particular issue. Today, the Honourable Maria Minna, Minister for International Cooperation, announced a contribution of $1 million to the United Nations High Commissioner for Refugees. The contribution is to help respond to recent emerging needs of Afghan refugees in recognition that there has been 20 years of conflict in that country, and three years of devastating drought, and that Afghan population is extremely vulnerable.

Senator Di Nino: Honourable senators, I should like to congratulate the minister for that great response. It is one of the best ones she has given me to the few questions I have asked.

• (1510)

I should like to ask the minister if she could tell us what role, if any, Canadian NGOs would be playing in this area? Also, what support would these NGOs expect to receive from the federal government, over and above the commitment of which the minister has just informed us.

Senator Carstairs: I do not know what role the NGOs will be playing in this area, but I will raise with the minister the honourable senator's concern and express his view that NGOs should be participating in this and that they will require some help to do so.

Senator Di Nino: Will the leader of the government bring a response back to this chamber?

Senator Carstairs: I could certainly bring back a response to this chamber, if that is what the honourable senator desires.

[*Translation*]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have delayed responses to questions raised in the Senate on May 9 and 31, 2001, by Senator Forrestall regarding the plans to acquire maritime helicopters, and to the question raised by Senate Gustafson on May 30, 2001, regarding the downturn in the grain seed and oilseed sectors.

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—
PROCUREMENT PROCESS—LIST OF MAJORITY-OWNED
CANADIAN COMPANIES INVOLVED

(Response to question raised by Hon. J. Michael Forrestall on May 9, 2001)

The Government of Canada is committed to fostering competition consistent with our obligations under the Agreement on Internal Trade.

There are no known Canadian companies that produce a helicopter specific to the needs of the Maritime Helicopter Project; therefore, the basic helicopter will be provided by an offshore contractor. There are, however, Canadian companies capable of providing the mission systems we require. Through a competitive process a Canadian company could win that contract.

Canadian ownership is not a requirement for competing in the Maritime Helicopter Project and as such the Government has not requested nor does it possess detailed information on the ownership status of the potential prime contractors for this project. A list of companies that have expressed interest in participating in the Maritime Helicopter Project is available on the Maritime Helicopter Project Web site.

REPLACEMENT OF SEA KING HELICOPTERS—RISK ANALYSIS
PRIOR TO SPLITTING PROCUREMENT PROCESS—
DENIAL OF REQUEST FOR COPY

(Response to question raised by Hon. J. Michael Forrestall on May 31, 2001)

An article appearing in the May 30, 2001, edition of *The Ottawa Citizen* referred to a Department of National Defence document regarding the Maritime Helicopter Project and contingency costs. Based on the information contained in the article the Government has concluded that the article actually refers to two documents, one of which was prepared by Public Works and Government Services Canada (PWGSC) and one of which was prepared by the Department of National Defence (DND).

The DND document the article appears to be referring to was prepared as part of a Treasury Board submission in 2000 and is, therefore, a cabinet confidence and not subject to release under the Access to Information Act.

The PWGSC document the article appears to be referring to was prepared on May 9, 2001, and would thus have not been included in an Access to Information request made in the time period to which Senator Forrestall was referring.

AGRICULTURE AND AGRI-FOOD

DOWNTURN IN GRAIN SEED AND OILSEED SECTORS

(Response to question raised by Hon. Leonard J. Gustafson on May 30, 2001)

Overall the agriculture and agri-food sector is strong, and makes significant contribution to the Canadian economy, but it is well known that the past few years have not been an easy time for many producers. Canadian farmers face a number of challenges, whether they be trade, weather, environmental issues or growing consumer concerns about the food they eat. However, farm income, particularly in the grains and oilseeds sector, is a concern largely because of overproduction in some parts of the world, some of it stemming from massive trade distorting subsidies in other countries, world grain and oilseed prices are low and our producers are affected by those low prices.

The grains and oilseeds sector continues to be under financial stress in 2001 although some improvement is projected. Canada's grain and oilseed producers depend very heavily on export markets, and the prices they receive for their products are determined on world markets. Because of excellent production conditions in many parts of the world over the past few years, supplies are abundant and this has pushed prices down. The export subsidies extended by the European Union and the Loan Deficiency payments provided by the U.S. have had a further negative effect on world prices.

For this reason, the federal, provincial and territorial governments have an extensive safety net package in place to help producers deal with income variability. Following many months of discussion, the federal, provincial and territorial governments finalized last July a three-year framework agreement that will provide up to $5.5 billion in safety net funding to Canadian producers. The deal will see an investment of up to $3.3 billion in federal funding over the next three years, with up to an additional $2.2 billion provided by the provinces. These funds will constitute the basis of Canada's farm income safety net package, which includes fall cash advances, the Net Income Stabilization Account program, crop insurance, province-specific companion programs, and a new, ongoing disaster protection component, the Canadian Farm Income Program (CFIP).

The new framework is a balanced agreement that will respond well to the overall needs of the sector, as well as to province-specific concerns. Federal, provincial and territorial governments remain committed to providing long-term income security for Canada's producers.

Before the current framework agreement, the Agricultural Income Disaster Assistance (AIDA) program benefited thousands of farmers in the Prairie region and many others across the country. In its first year, AIDA provided close to $665 million in payouts to Canadian producers. For 1999, enhancements were made to the program in order to provide higher levels of assistance to those who needed it most. It is currently estimated that total payments for the 1999 AIDA program will be in the neighbourhood of $921 million. Through both AIDA and provincial disaster assistance programs, significant levels of government funding have been used to support Canada's agricultural sector, a majority of which went to grain and oilseeds producers. We are confident that CFIP, which is the new national disaster assistance program, will continue to provide needed financial aid to producers.

On March 1, 2001, the federal government announced an immediate cash injection of $500 million in new federal funding to address the challenges facing Canada's farming community. In combination with the traditional provincial contribution of 40%, the total new funding for the sector will amount to $830 million. Together with existing safety net funding, there is now a federal investment in farm income safety nets of $1.6 billion, more than in any year since 1995.

The federal government is working with the provinces to find the most effective ways to use this new funding to help farmers, and the solutions found will vary from province to province. Any new programming that may be developed by the provinces will be implemented in such a way that Canada will continue to meet its trade obligations.

In addition, the Government of Canada has increased the borrowing limit for the Spring Credit Advance Program (SCAP). For 2001, producers will be able to borrow up to $50,000 interest-free from the SCAP, more than double the previous limit of $20,000. This could mean that up to $700 million in interest-free loan money would be available to producers in order to help provide them with the cash they need to begin spring seeding for the 2001 crop year.

With respect to rural Canada, technological progress in agriculture and in other industries has been the basis of the continued economic growth and prosperity that Canadians have experienced over the past decades. To help ensure that rural communities share in these benefits, the federal government supports the expansion of value-added agricultural production and the expansion of other industries with related employment opportunities in rural areas. For instance, the Canadian Adaptation and Rural Development (CARD) fund provides $60 million a year to national and regional initiatives that assist in moving the agri-food industry toward greater self-reliance. A major portion of CARD funding is targeted at providing rural communities with the economic opportunities they need to remain strong and prosperous.

In conjunction with existing safety net funding, the additional combined grant and loan assistance will go a long way toward alleviating the stresses faced by many farmers today. Together with the agriculture sector, the federal government will continue to focus on how we can move beyond crisis management, and prepare ourselves to face the challenges of being competitive over the long haul.

[*English*]

ORDERS OF THE DAY

IMMIGRATION AND REFUGEE PROTECTION BILL

SECOND READING—DEBATE ADJOURNED

Hon. Jane Cordy moved the second reading of Bill C-11, respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger.

She said: Honourable senators, it is my pleasure to rise today to speak on second reading of Bill C-11, the proposed Immigration and Refugee Protection Act. This modernization of Canada's immigration system, the first major overhaul since 1978, strikes the balance that Canada needs in the 21st century.

On the one hand, this bill gives us the tools we need to close Canada's back door to those who abuse the system and to those who would threaten the safety and security of Canadians and of our neighbours. There is no question that the measures contained in this bill are now more significant, in light of the tragic events in the United States last week.

As we consider our response to these events, we must ensure that we act responsibly and in accordance with our fundamental values. This bill will also allow Canada to open its front door wider, both to those genuinely in need of Canada's protection and to the immigrants that Canada will need in order to grow and prosper in the future.

It is with Canadian traditions and values and with new global challenges and threats in mind that the government has sought to introduce a balanced package of immigration reforms. These reforms would maximize opportunities for social integration and economic growth on the one hand while it would ensure public confidence in the system on the other.

I should like briefly to touch on some of the many important reforms contained in this bill and its accompanying proposed regulations.

Honourable senators, Bill C-11 is the result of extensive consultations with Canadians, stakeholders and representatives over the last five years. The bill includes significant amendments completed last spring by the House of Commons Standing Committee on Citizenship and Immigration completed last spring.

Bill C-11 is framework legislation. It contains the important core principles that govern Canada's immigration and refugee protection programs. Provisions affecting fundamental rights remain in the proposed act, while the procedures and practices left to regulation will allow the government to quickly and proactively respond to uncertainties, threats and opportunities in a fast-paced and increasingly globalized world.

I am pleased to see that included within the bill is an innovative approach to consultation on these regulations. The minister will be required to table before each House of Parliament, for referral to the appropriate committees, any proposed regulations respecting a large number of key issues.

There are many provisions in this bill that will give the government the tools it needs to protect the safety and security of Canadians. With the growing international problem of trafficking in humans and people-smuggling, it is incumbent upon us to ensure that our immigration system contains effective enforcement provisions. International and unpredictable threats to public health and safety are, and will continue to be, taken very seriously.

For this reason, the proposed bill strengthens the existing regime for preventing persons associated with organized crime, war criminals and persons who pose a security threat from entering, passing through or remaining in Canada. This includes front-end security screening for refugee claimants that will enable the government to identify inadmissible indications as early as possible so that enforcement action can be taken.

A provision is included that allows a refugee claim to be suspended or terminated in cases where an individual is found inadmissible on grounds of security, organized crime or human rights violations. There is a streamlining of the process for removing serious criminals who are not Canadian citizens from Canada as quickly as possible, while maintaining the discretion for immigration officers to take individual circumstances into account.

This new legislation is tough on criminal abuse, but it is not tough on the great majority of people, both immigrants and refugees. It creates a series of new offences for abuse of Canada's generosity, including a penalty for assisting someone in gaining immigration status in violation of the law.

Penalties for trafficking in humans of up to life in prison bring this penalty into line with the offence of trafficking in drugs. As well, the proposed act creates a new inadmissibility class for those who commit fraud or misrepresentation on immigration applications.

Honourable senators, I am also pleased to see that the bill proposes a streamlining of Canada's refugee determination process through greater use of single-member panels. The new legislation takes into account our obligations to extend protection to those in need, both in Canada and abroad.

These obligations are found in the 1951 Geneva Convention relating to the status of refugees and in our Charter of Rights and Freedoms. They embody the humanitarian values that Canadians hold dear.

More important, this legislation provides the government with the tools to make these determinations quickly through a streamlined process by consolidating decision making at the immigration and refugee board, which has become a model to countries around the world. It will allow the government to exclude serious criminals and security risks from the refugee determination process.

Bill C-11 also provides access to a pre-removal risk assessment that will ensure that Canada does not send failed refugee claimants back to a country where they may be at risk upon return. In addition, for the first time, it will give unsuccessful claimants recourse to an appeal on the merits of their claim.

Honourable senators, the Minister of Citizenship and Immigration commented over the weekend that we must be cautious not to bow to a knee-jerk reaction sparked by the trauma and fear of last week's terrible events. She is quite right. I think that this bill is measured and balanced and takes into account that Canada has objectives that exist alongside the need to combat international terrorism.

Primary among those objectives is the need to build a prosperous, multicultural Canada. In this regard, immigration is a great source of strength for our country.

• (1520)

By 2011, all labour force growth will come from immigration. By 2031, all population growth will come from immigration, and a global competition is on to attract the best and the brightest. Bill C-11 provides the government with the tools to position Canada to take advantage of the global movement of people.

Bill C-11 allows certain temporary foreign workers, including recent foreign graduates from Canadian schools, to apply for permanent residence without leaving Canada. The proposed regulations to accompany this bill will also allow most spouses of temporary workers to work while in Canada.

New regulations for the selection of skilled workers as permanent residents will allow Canada to choose those who have transferable skill sets rather than using an unwieldy occupation-based model. New regulations will also permit faster processing and greater incentive for potential business immigrants to seek admission to Canada.

These policies will be very effective in attracting and retaining the skilled workers and business people Canada needs to compete in a knowledge economy.

I am also pleased to point out to honourable senators that Bill C-11 continues to emphasize family reunification as a cornerstone of Canada's immigration policy. Bill C-11 accomplishes this goal by simplifying the application process for spouses, common law and same-sex partners and for children.

It also introduces a moderate expansion of the family class by raising the age of dependent children from under 19 to under 21 and by eliminating the bar on immigration for those spouses and children who are inadmissible on the basis of excessive demand on our health care system. For the first time, Bill C-11 will include parents as members of the family class.

Honourable senators, we have all been profoundly affected by the terrorist attacks on New York and Washington. The Government of Canada recognizes that terrorism is an international problem requiring international solutions. Canada is a leader in this regard. The most effective strategy against terrorism is to stop terrorists before they reach our borders. However, if they should reach our borders, Bill C-11 gives the government the tools it needs to respond quickly and firmly to threats to Canada and to North America. While it closes the back door to threats to national security, this bill also allows Canadians to open the front door and their hearts to legitimate immigrants and refugees who have so much to offer to us.

Now, more than ever, Canadians need the reassurances, efficiencies and protections afforded in this proposed new legislation.

Hon. Consiglio Di Nino: I believe that Bill C-11 includes a proposed quota of immigrants and refugees that Canada would like to attract in the years to come. Does the honourable senator have that number?

Senator Cordy: The number I have is that Canada strives to have 1 per cent of its population coming into the country annually. That is the only number I have.

Senator Di Nino: If memory serves me correctly, and I am not sure of my numbers, a majority of immigrants that now come to this country come either through the family reunification sponsorship program, with which this side totally agrees — and I believe you will find the record has been consistent there — or as refugees. Enlarging the definition of family and, in effect, potentially attracting larger numbers of sponsored or self-selected immigrants, may take up a great deal more of that quota that is now available.

Does that quota have flexibility in order to deal with the other components of the immigration system, such as the business components and the skilled persons that we require, et cetera, or is the government going to be inflexible in that 1 per cent of the quota?

Senator Cordy: I do not have the numbers by which it would rise in terms of people coming into our country. I do know, however, that by allowing family reunification adjustment to our country is that much easier for immigrants and refugees coming into Canada.

I do not have the numbers. I shall try to get them for the honourable senator tomorrow.

Senator Di Nino: We can deal with it during the hearings at committee. I would like to take a closer look at the comments made by my colleague and respond to it at an appropriate time. Therefore, I move adjournment of the debate.

On motion of Senator Di Nino, debate adjourned.

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Wilfred P. Moore moved the second reading of Bill C-24, to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts.

He said: Honourable senators, I am pleased today to begin debate at second reading of Bill C-24. This bill is an extremely important piece of legislation, one that is being put forward to provide vital new tools to help law enforcement and criminal justice officials in the fight against organized crime and to provide law enforcement generally.

We are all aware of the significant problem of organized crime in this country and, indeed, worldwide. Criminal groups have become involved in a wide range of illegal activities that include illegal trafficking in drugs and control of organized prostitution. Other activities of criminal groups include smuggling of people, illegal traffic in firearms, cross-border smuggling of contraband such as tobacco and alcohol, serious economic crime such as credit card fraud, insurance fraud, stock market fraud, and even environmental crimes such as the illegal dumping of toxic wastes.

Canadians and persons around the world are paying a serious price for these crimes. We pay in health costs linked to drug abuse and related illnesses such as HIV and hepatitis. The smuggling of people, often under dangerous conditions, threatens human lives and often leads to slavery-like conditions for those persons paying the criminal gangs that transport them. Financial and telemarketing fraud schemes cost victims thousands, sometimes tens of thousands of dollars. Frequently, the victims are people who can least afford it, such as elderly persons on fixed incomes.

Finally, for many crimes, the whole country pays in terms of insurance rates, interest rates and lost tax revenues.

Honourable senators, we must not forget the cost in terms of public safety and public security. In some areas, the open activity of organized criminal groups has led to an atmosphere of lawlessness and fear. There has been a significant number of murders of gang members by other gang members. Innocent third parties have also been killed. In addition to killings, local officials and ordinary citizens have been threatened and intimidated.

• (1530)

All of this is unacceptable, honourable senators. We have laws in place that help to deal with these problems, but these must be strengthened. Bill C-24 addresses this need with respect to organized crime, as well as making general improvements in our law enforcement capability.

The proposals of the bill fall into four categories. The first is measures to improve the protection of people who play a role in the justice system from intimidation. Second is the creation of an accountable process to protect law enforcement officers from criminal liability for certain otherwise illegal acts committed in the course of an investigation. Third is legislation to broaden the powers of law enforcement to forfeit the proceeds of crime, in particular the profits of criminal organizations, and to seize property that was used in crime. Fourth is the creation of a number of new offences targeting involvement with criminal organizations.

The first aspect of Bill C-24 involves a range of steps to deal with the intimidation of persons involved in the criminal justice system. The criminal justice system depends for its proper functioning upon the participation of various members of our community. These are the professionals responsible for the investigation and prosecution of crime, the judges and those who deal with convicted offenders, and members of the public who participate as witnesses and jurors.

For criminal justice stakeholders to be able to participate effectively, they and those with whom they are associated must be free to act without being subjected to threats, prejudice or physical injury. In recent times, prosecutors, judges, witnesses, police and prison guards, as well as their families, have been subjected to such intimidation. As we are also aware, journalists who provide the important service of reporting on crime have also come under threat. Bill C-24 includes a number of provisions to deal with this intimidation.

Honourable senators, new provisions of the Criminal Code will provide greater protection of jurors by limiting access to names, addresses and occupations of potential jurors. Jurors should not have to question whether their involvement in a case may lead to physical or emotional harm to them or their loved ones. By protecting the privacy of jurors, we can take the necessary steps to address this problem.

Also, Bill C-24 makes important changes to the Criminal Code's treatment of the offence of intimidation itself. First, the bill increases the penalty associated with the existing offence of intimidation to five years imprisonment. Furthermore, a new intimidation offence has been added to the Criminal Code, with a maximum penalty of 14 years. This new offence deals specifically with acts of intimidation that target justice system participants and journalists. The new section makes it an offence to harass, stalk or threaten these people with the intention of provoking a state of fear so as to impede the administration of justice or impede such persons in the performance of their duties.

I turn my attention now to the aspect of Bill C-24 that seeks to protect law enforcement officers from criminal liability when, for legitimate law enforcement purposes, they commit acts that would otherwise be illegal.

The Supreme Court of Canada, in its 1999 judgment in *Regina v. Campbell and Shirose*, stated that the police were not immune from criminal liability for criminal activities committed in the course of a bona fide criminal investigation. However, while observing that "everybody is subject to the ordinary law of the land," the Supreme Court explicitly recognized that:

> ...if some form of public interest immunity is to be extended to the police..., it should be left to Parliament to delineate the nature and scope of the immunity and the circumstances in which it is available.

Honourable senators, law enforcement officers do need a limited justification for acts or omissions that would otherwise be illegal when they undertake these acts and omissions for the purpose of good-faith investigations. In the absence of sufficient protections in the current law of Canada, the Supreme Court's judgment has had a significant negative impact on law enforcement in Canada. The impact has been especially great on undercover operations targeting organized crime.

As noted in the white paper entitled "Law Enforcement and Criminal Liability," tabled in the Senate in June 2000, long-accepted and valuable law enforcement techniques have been called into question by that ruling. For example, the judgment has called into question the legality of routine purchases by law enforcement officers of contraband to gather evidence for prosecutions. Similarly, the judgment has affected the ability of law enforcement officers to pose as criminals by participating, temporarily and in a controlled manner, in the activities of their targets. In a wide range of areas, the vital public interest of ensuring that law enforcement can effectively gather evidence and infiltrate criminal groups has been affected. Particular affected areas include investigations into the smuggling of people, illegal traffic in firearms, hate crimes, cross-border smuggling of contraband such as tobacco and alcohol, international counterterrorism investigations, the use of counterfeit payment cards, and offences related to fisheries and environmental protection. While the impact is perhaps most critical in regard to organized crime, it covers a wide range of criminal activity, including terrorism.

Bill C-24 responds to this situation. Under the bill, a public officer engaged in the enforcement of an act of the Parliament of Canada would be able to engage in conduct that would otherwise constitute an offence, provided certain important limiting conditions are satisfied.

First, before the officer can act, he or she must be designated by a competent authority. Further, as a fundamental condition and limitation of the scheme, the officer must also believe on reasonable grounds that committing the act or omission is reasonable and proportional in the circumstances. Under law, this determination of reasonableness and proportionality will be made with regard to such matters as the nature of the actual act or omission, the nature of the investigation, and the reasonable availability of other enforcement techniques.

Nothing in the proposed scheme would provide immunity for the intentional or criminally negligent causing of death or bodily harm, the wilful attempt to obstruct, pervert or defeat the course of justice, or the conduct that would violate the sexual integrity of an individual.

The scheme includes ministerial accountability through the designating role of responsible ministers as competent authorities. The designations may be subject to specific conditions. Further, if designations are misused, they can be taken away.

The scheme also requires the special authorization of certain acts and omissions by senior officials responsible for law enforcement. Except in exigent circumstances, such authorization is required for acts or omissions that would likely lead to the serious loss or damage to property and for the direction, by officers, of all acts or omissions by agents.

Furthermore, there is a provision for public annual reports by all competent authorities, as well as for a full parliamentary review of the limited justification scheme within three years.

Honourable senators, the provisions applying to the limited justification scheme do not propose the granting of blanket immunity to law enforcement officers. Rather, there are numerous safeguards. For many years, law enforcement authorities were working on the basis that they had common-law immunity. What the Supreme Court did was make it plain that there was not common-law immunity and called upon Parliament to put in place a legislative scheme if it saw fit. This is what the law enforcement justification scheme will do, through a balanced and effective scheme with strict limitations and conditions.

Another major set of provisions in the legislation before us today is a new approach to criminal organization offences. The bill contains a new definition of "criminal organization" and three new criminal organization offences.

In 1997, in Bill C-95, Parliament directly targeted criminal organizations by providing a definition of "criminal organization," increased investigative powers and increased penalties for those committing crimes in conjunction with criminal organizations. While these provisions have been of benefit, our experience with them has shown that they can be improved.

• (1540)

Law enforcement officials and provincial Attorneys General have called for a new definition of "criminal organization" and for offences that respond to the full range of involvement in criminal organizations. This bill responds to these priorities.

The new definition of "criminal organization" will target criminal groups of three or more individuals, one of whose main purposes or activities is either committing serious crimes or making it easier for others to commit serious crimes. This is an improvement on the current definition, which refers to five or more individuals, which required proof of the commission of a series of offences over five years and did not adequately include the concept of facilitation of offences. This new definition also more closely follows internationally accepted definitions of organized criminal groups.

The new definition also clarifies that the definition of "criminal organization" does not apply to a group of persons that forms randomly for the immediate commission of a single offence. This helps to appropriately limit the scope of the definition.

I now move to Bill C-24's improvements to the law on proceeds of crime. Currently, the proceeds-of-crime provisions are directly related to the designated drug offences and a list of other offences referred to as "enterprise crimes." Over the years, as organized crime evolved and moved into new areas of criminal activity, new offences were added to the list of enterprise crimes. Today, the list of such crimes stands at over 40, with no indication that we will stop adding new offences to the list.

Bill C-24 eliminates the list approach and expands the application of the proceeds of crime to all federal indictable offences. This should be subject to the exception of indictable offences that are excluded by regulation. In this manner, the profits from the commission of most serious crimes would be subject to forfeiture. This will simplify and expand our approach with respect to proceeds of crime. However, existing protections to ensure that seizures are appropriate and subject to defined procedural requirements will remain in place.

Other provisions of Bill C-24 will give criminal justice officials new powers with respect to foreign confiscation orders. The ease with which financial resources can be transferred around the world presents a challenge for all countries in the attempt to fight crime by seizing its proceeds. Canada must be in a position to play its part in addressing this challenge and offering necessary assistance to countries that have successfully investigated organized crime within their jurisdiction and ordered their assets to be confiscated.

Accordingly, the bill proposes a number of amendments to the Mutual Legal Assistance in Criminal Matters Act that would allow Canada to enforce foreign confiscation orders.

An additional element of Bill C-24 that I will highlight for consideration of the Senate deals with offence-related property. The bill contains amendments to make the offence-related property forfeiture regime in the Criminal Code apply to all indictable offences under the code and expands the application of the regime to all real property, subject to a proportionality test.

As I stated, three new criminal organizational offences have also been created. These replace and substantially improve upon the criminal organization offence that was created at section 467.1 of the Criminal Code by Bill C-95.

The first offence targets participation in or contribution to the activities of criminal organizations. Taking part in the activities of a criminal organization, even if such participation does not itself constitute an offence, will now be a crime where such actions are done for the purpose of enhancing the ability of the criminal organization to facilitate or commit indictable offences. This is an important recognition in law that those who knowingly help criminal organizations in this way are criminals themselves.

The second new offence targets those who aid, abet, counsel or commit any indictable offence in conjunction with a criminal organization. The emphasis in this provision is the commission or other direct involvement in indictable offences when this is done for the benefit of criminal organizations.

The third new offence deals specifically with leaders in criminal organizations. Leaders of criminal organizations pose a unique threat to society. Operationally, they threaten us through their enhanced experience and skills. Motivationally, they threaten us through their constant encouragement of potential and existing criminal organization members. By effectively targeting the leaders of criminal organizations, we go after those who ultimately are the most responsible for the wide range of harm caused by organized crime and should bear the heaviest responsibility. This section makes it an offence for an individual as a member of a criminal organization to knowingly instruct, directly or indirectly, the commission of an offence for the benefit of, at the direction of, or in association with a criminal organization.

Honourable senators, we must ensure that the leaders of criminal organizations are not able to hide behind the screen of activities engaged in by their subordinates or agents when in fact these leaders are ultimately responsible for these activities.

These three new offences should mark a major step forward in the fight against organized crime. Nevertheless, some questions have arisen as to why Bill C-24 does not simply make it an offence to be a member of a criminal organization.

Honourable senators, quite aside from the Charter of Rights and Freedoms considerations that would be raised by a membership offence, the three new offences that I have just mentioned will be more effective tools than a provision that criminalizes membership. Membership can be extremely difficult to prove because organizations often operate underground or covertly. Further, the criminal groups may decide to continually change the indicators of membership in order to stay one step ahead of the law. Also, simply targeting membership would fail to recognize that individuals who are not formal members of organized gangs often play a role in facilitating crimes and benefiting criminal organizations. The approach that Bill C-24 takes with respect to criminal organization offences will therefore be preferable to criminalizing membership.

I should also emphasize that the penalty provisions for the three new criminal organization offences will proceed on an increasing scale of seriousness. The participation offence is punishable by a maximum five years of imprisonment, the party liability offence by a maximum of 14 years of imprisonment, and the leadership-related offence by a maximum of life imprisonment. Enhanced sentencing provisions are also added, including mandatory imposition of consecutive sentences for the offences and a presumptive parole ineligibility period of one half the imposed sentence. Given the serious harm caused by organized crime in Canada, we must ensure that the punishments we impose adequately reflect the nature of the illegal activity.

Honourable senators, as I have indicated, the threat posed by organized crime is very real and very grave. While we have tools in place to help deal with this, these tools must be improved. At the same time, we must ensure that the tools that we put in place are appropriate tools. The provisions of the criminal law must not be allowed to overshoot their appropriate scope. We must ensure, while fighting organized crime and making improvements generally to the effectiveness of law enforcement, that we do not have unwanted negative impacts on the lives of ordinary Canadians.

In this last regard, I am heartened by the knowledge that the Department of Justice engaged in extensive consultations on the provisions of this bill before it was introduced. These consultations included but were not limited to the consultative process on the law enforcement justification provisions that occurred with respect to the white paper tabled in the Senate in June 2000. In addition to that public paper, stakeholders representing a wide range of interests were brought in for a number of extensive meetings on all provisions of this legislative project. Numerous suggestions were made and acted upon. This has helped ensure that Bill C-24 will be a balanced, responsible and effective piece of legislation.

After most serious reflection and work, honourable senators, the appropriate balance has been maintained. I believe that Bill C-24 reflects the law enforcement needs of this country and does so in a reasonable and fully accountable manner. I urge all honourable senators to lend their support to this bill.

• (1550)

Hon. A. Raynell Andreychuk: Honourable senators, I have a question for the Honourable Senator Moore. We have before us today an immigration bill that touches upon some of the international activity involving the movement of people. Thankfully, most people move for valid reasons. However, we are aware that we must monitor both some immigration and some refugee issues. The honourable senator has now introduced legislation that is aimed at some of the criminal activity occurring internationally.

We have been graphically reminded of terrorism. With these pieces of legislation, how does the government propose to attack what are now interrelated issues? Whenever we talk about terrorism, we get into the criminal activity that is prevalent both offshore and onshore and the migration of people, legally and illegally. What we are missing is some national strategy to attack it all rather than what appears more and more to be a piecemeal activity. Would the honourable senator care to comment on that?

Senator Moore: I thank the honourable senator for her question. I am not sure what will come out of the deliberations in the House of Commons as a result of what happened last week. This legislation was drafted and prepared before those events took place. I appreciate your comment with respect to the obvious overlap of the responses that may be required and the authorities that will be needed. Perhaps legislation that will address your concerns will be forthcoming. In reply to an earlier question today concerning the immigration bill, our leader said that other changes may be forthcoming with respect to that statute and, perhaps, with respect to this one.

Senator Andreychuk: Honourable senators, we must look at trafficking in migrants and an international convention, as well as some national enabling legislation. We should then look at drug strategies and gangs and criminal activity strategies and money laundering. More and more, the international community is saying that these activities are all interrelated. Perhaps we have not been so successful because we have been looking at the nature of the activities in a segmented way. Surely it is time to see how we can draw them all together in a more coherent way so that we might be more successful.

Perhaps I should not have used the September 11 incident. However, it has been of some concern that trafficking in migrants is an activity that is very much like trafficking in drugs. It moves one step ahead of those who wish to enforce the laws because we have only one convention over here for certain purposes and we have not interrelated the administration, the services, the conventions and the laws.

Senator Moore: I do not know whether that was a question or an observation of merit. I hope this legislation will answer some of those questions. To repeat what I said earlier, as we move forward, perhaps we will see other legislation come forward that will tighten up the overlapping issues that you raise.

Hon. Pierre Claude Nolin: Honourable senators, I also have a few questions for the honourable senator. A few years ago, we studied a bill in response to a decision from the Supreme Court in the *Feeney* case. The Supreme Court decided that it was unconstitutional for a policeman to gain access to a private dwelling without a warrant, regardless of the fact that in the *Feeney* case the accused had signed a statement to the effect that he had committed the crime for which he was accused. Those of us involved in the Legal Committee remember that case. We helped to craft an amendment to the Criminal Code. That was an important piece of legislation because the court said that the Criminal Code was not respectful of the Charter.

If I look at the second group of remarks that the honourable senator alluded to in his speech, he talked about commission of infractions by law enforcement officers. What kind of control is built into the bill to ensure that the court will not tell us, in one or two years hence, "Gentlemen, we understand what you tried to do. We agree with the principles stated in section 25.1(2), but you breached the Charter because of paragraphs (1), (2), (3) and (4). Go back and do your work and correct the code"?

What is in this bill to ensure that we will not have to redo it in two years?

Senator Moore: Honourable senators, I should like to have an opportunity to go through the bill and respond in complete detail. It is certainly the thrust of the bill to put in place provisions that will enable officers to do their job without abusing their office. They will be limited to the scope of their activities proportionate to the nature of the offence they are investigating and not beyond that. Perhaps we can go into that in more detail at committee, but that is how I understand the nature of it.

Senator Nolin: We will look at that thoroughly in committee, but if you look at the way the bill is written, it covers two types of situations. In the first situation, there is no urgency. There is a set of rules for when an officer is asking a superior for a warrant and the superior is then asking the responsible person in charge — basically, federal and provincial ministers — to grant the request. That is for normal, non-urgent business.

There is another set of sections that deal with urgency. If you recall the *Feeney* case, it would have been labelled "urgent." Even then, we crafted a set of techniques where, even in an urgent situation, the police officer needed a warrant. That is why I asked the question. If it is not urgent, they go to the minister to get permission to commit an illegal act. If it is not urgent and they can go to the minister, they can go in front of another authority that is much more or less influenced by the internal matter of the organization — that is, the department or the police organization.

Does the honourable senator understand my concern? I think we all share this concern. We are all in favour of giving the police all the tools they require, and even more, to help them in the proper performance of their job, but there are some limits. It is our responsibility to ensure that those limits are not crossed but, if they must be crossed, that they are crossed properly. That is my concern.

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

YOUTH CRIMINAL JUSTICE BILL

SECOND READING—DEBATE CONTINUED

On the Order:

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

Hon. A. Raynell Andreychuk: Honourable senators, I rise to speak to Bill C-7.

Many years ago — and it certainly does seem to be many years ago — I sat as a family court judge with jurisdiction in juvenile matters and then later with responsibilities under the Young Offenders Act. At that time, my experience as a judge taught me that, after a family fails in curbing the criminal behaviour of a child, after a school fails and after a community fails, there is an overinflated expectation that the courts somehow have the power and the capability to change the behaviour of these young people for the better.

It was my experience that the courts could sometimes assist the very resources that failed in the first place, the family, the school and the community, but the courts' ultimate weapon — and in many cases it was a weapon — was to put the child in custody. Very little happened to children in the custody of the court because the kinds of assistance needed by such children are best given in the community, not separate from it.

Trying to speak to Bill C-7 is a bit like trying to read the bill; one is tempted to cover everything to do with children. Where to start and where to finish? That quandary is evident in the bill and it is also true of my ability to speak to it. I sympathize with those on the ground who must implement this bill, if passed, in Toronto; in Estevan, Saskatchewan; in Yellowknife, Northwest Territories; or in Rankin Inlet.

I want to dispel a notion that seems to come through in Bill C-7, the notion that somehow the Young Offenders Act failed because of those who were charged with its implementation. Bill C-7 tends to take away discretion from those who are entrusted to implement the act. Numerous guidelines and justifications are requested. Does this show a mistrust of the system, implying that somehow the system under the Young Offenders Act failed both society and young offenders? For every policeman who stated he could not do anything for children under 12 years old who were beginning to get involved in criminal activity, there were scores who did in fact help those under 12. In many cases, community policing depends upon the goodwill and professionalism of those in the system.

When the Young Offenders Act was first put in place, many working within the system had high expectations for more freedom and latitude to use the tools provided by the act to address individual cases and to ensure that each and every child received the kind of attention necessary for rehabilitation, for curbing bad behaviour, and for instilling accountability and respect for the system.

There was no lack of goodwill or professionalism from those within the system, from the judges to the prosecutors to the defence counsel to the policemen to the caseworkers and those within our institutions. Rather there was a lack of resources. The expectations of young offenders were not met. Resources were constantly requested to allow the tools found in the act to be used as intended.

While the term may be trite, "unsung heroes" best describes the caseworkers who laboured under huge caseloads in Canadian youth courts. If you knew the countless hours these workers spent with each young offender, you would understand that the Young Offenders Act had possibilities. However, the tools proposed in the Young Offenders Act were never delivered in reality.

Honourable senators, Bill C-7 seems to be heading down the same proverbial road paved with good intentions. Where will it lead for the young person who is caught in criminal activity; for the society that seeks protection, safety and security; for the victim seeking justice and accountability; for parents, in some cases seeking assistance and in others needing to be made more responsible? Where will it lead for the deliverers of the justice system who need support, respect and infinite resources to accomplish their tasks or for the provinces whose responsibility it is to administer the highly complex youth justice system contemplated by Bill C-7?

One of our society's best tools for assisting young people is our school system, and yet it seems to be a mere footnote to this act.

I urge all senators to read Bill C-7 in its entirety and then to reflect on two questions: First, do you understand the meaning of the bill and the consequences of its passage? We have many fine lawyers amongst us here in this Senate, but this highly intricate bill is difficult to follow and often contradictory in its objectives. Even our lawyer colleagues will find it difficult to understand this bill. How then can the youth who are targeted by this act receive a clear message about its meaning and the future consequences of their criminal behaviour?

Second, I would ask senators to reflect on whether you honestly believe that this act helps you to discharge your responsibility as legislators to society and in particular to children? So often we as parliamentarians claim that our children are our future, and that our actions are taken in the best interests of our children, and that we want to put the needs of children ahead of other concerns.

We have watched two earlier unsuccessful attempts to change the Young Offenders Act. Bill C-7 seems to be another commendable attempt by the Minister of Justice to satisfy the many competing demands made by various political parties. Yet, sadly, she has achieved only a patchwork of appeasements, something for everyone, long on words and but lacking a clear message to our young people and to society. What is the public policy statement or direction that we should glean from Bill C-7?

Let me step back and put Bill C-7 in its historical context.

• (1610)

Canada started with the Juvenile Delinquents Act in the early 1900s. Criminal court was for all citizens. There was no specialized court for young children, juveniles and young offenders. When the Juvenile Delinquents Act was proclaimed, it was a piece of criminal legislation within the federal government's mandate to legislate under its criminal authority as set out in the Constitution.

Children were testing limits as part of the maturation process, but they needed to be accountable if the limits they were testing were violations of criminal activity. If one delves into the speeches at the presentation of the Juvenile Delinquents Act, one can see that the reason a youth justice system was set up at that time — called the Juvenile Delinquents Act — was that bringing young people into adult court would be unfair, improper, unjust and of little consequence to young people. There was a belief that young people in their maturation did not have the capability to understand what it is to violate a criminal law and to suffer the full consequences.

The Juvenile Delinquents Act was an attempt to place criminal responsibility on young persons, but the key element was that a lack of maturation demanded that they could not face the full effect of the criminal justice system and they could not understand it. Therefore, it would be unfair to make them fully accountable in a criminal sense.

Parents were the cornerstone of the Juvenile Delinquents Act. They were responsible for bringing the young person to court and for assisting that young person in understanding the court. In fact, the Juvenile Delinquents Act, after many decades, tended to carry a social services perspective rather than a criminal perspective. Those people working under the act spent much time attempting to change the direction of the lives of the young people before them.

Early on in the development of the Juvenile Delinquents Act there was an understanding that because there was a maturation process, one could not deal with criminality alone. Therefore, all of the aspects of moulding children, setting limits on children, giving clear messages to children and making children accountable constituted something larger than criminal activity.

As the decades went by, particularly in the 1950s, a new awareness emerged that perhaps we had moved too much into the social services field in our criminal justice system and that we had ignored the difference. In many jurisdictions, including mine in Saskatchewan, a young person would be sentenced for criminal activity, but their sentence under custody would be extended for social services reasons that, in my opinion, were exclusively under provincial jurisdiction.

We found also that young people were not given their rights. A new awareness was developing in the world that while children were different and needed to be treated differently, the social services model had gone too far and that there needed to be a redress in the balance. This growing awareness of children as independent of their parents and independent of other adults deserved to be taken into account in the criminal law process. Thus, the need to change the Juvenile Delinquents Act took on new urgency.

The due process model was not being followed. Parents were the focus — not the children. If one looked at the average court for juvenile delinquents, it was very informal and there was no test of guilt or innocence. The questions were this: Was the child in difficult circumstances? Was there improper behaviour, sometimes tantamount to criminal behaviour and sometimes borderline? The will and the wish was to correct the problems and to set the young person on the appropriate course.

However, in doing so, we restricted the child's rights and often found that their sentences were longer than those handed down in adult court. We found that they were perhaps admitting to acts that were not criminal in nature and therefore the court should not have jurisdiction over them.

Consequently, there was a mood to strengthen the due process in the Juvenile Delinquents Act, which received great attention in the 1970s. In respect of the new Young Offenders Act, there was great debate: Did we need a new Juvenile Delinquents Act or did we need substantial amendments to the existing act, although the direction of the act was favourable? There was a feeling that a new face on juvenile justice was necessary, that a complete wiping of the slate would be appropriate and that a new act would be put in place.

The discussions and debates that took place leading to the Young Offenders Act included all segments of society. They included the practitioners within the system of juvenile justice, non-governmental organizations, several federal departments and many provincial departments. There were frequent federal-provincial discussions. Many of the terms and regulations that followed, as well as the Young Offenders Act, were the result of negotiations and compromises because the Juvenile Delinquents Act was subject to differences from province to province.

A notable difference was the age of maturation. Some provinces set the maturation age at 16 years, while others set the age at 18 years. This was viewed as inconsistent, if federal jurisdiction were to be the hallmark of any criminal justice system for young people.

There was a question of public safety versus the needs and rights of the child. When those two elements conflicted, there were great debates about whether our emphasis should be on the needs, rights, accountabilities and responsibilities of the child. However, public safety, if conflict could not be resolved, would overtake the needs of the child and, where necessary, the freedom of the child would be taken away — the child would be placed in custody. As well, other measures would be taken against the child so that there could be, as all criminal law legislation looks to provide, a measure of public safety.

The rights to due process versus the rights of the child and that child's ability to handle the conduct of a case were looked at. Support mechanisms to assist the child were put in place. There were great debates at that time to determine whether a child could advise counsel. If we say that a person in maturation does not understand the full concepts of a criminal court, would that young person be able to properly and fully advise counsel? Would, therefore, the lawyer be substituting his or her own opinions as to what is right and wrong and not listening to the child's wishes? There was some talk about child advocacy advisers as opposed to legal counsel. In the end, several measures were put in the Young Offenders Act to continue the due process model, but also to ensure that the young person would still receive the guidance that they needed.

• (1620)

There was strong recognition at that time that the courts were no magic answer. What society really needed, the real key to changing children, would be not rehabilitation by a process that begins in the courts but a true rehabilitation process that started from day one with children. Were they in the proper parental environment? Were they receiving the preschool support systems that they require? Was the school system providing the kinds of learning environments that various children needed, whether it was an issue of dyslexia, lack of parental control or what have you?

The key was not alternate measures; the key was that there be an underpinning now so that when we separate the social services system from the criminal system it would take hold and work. Therefore, all of the resources would be provided as early as possible. "Early intervention" was the wording in the Young Offenders Act — dialogue before implementation.

Even with the act, we looked to alternate measures to ensure that there would not be criminalization of young people and only where all our resources failed would they enter the court process. Custody was to be a last resort.

There were some sceptics at the time of the Young Offenders Act. The Young Offenders Act, section by section, demanded great financial resources to implement it and to work properly. I believe that, at that time, the Young Offenders Act was oversold. It was sold as a rehabilitation model. We have found, after its implementation, that the degree of incarceration in Canada is one of the highest in the world.

Why did that happen? The resources were not put into rehabilitation and alternate measures. I stand before you as a judge who worked in the young offenders courts for 12 years. In those 12 years, all of those fine resources that the Young Offenders Act contemplated were scarce. The federal-provincial negotiations were not very successful. There was not much transfer of new resources to the provinces, and those resources that were transferred to the provinces were quickly eaten up in developing new custodial facilities.

I spent 18 months in the province of Saskatchewan attempting to find closed — and open — custody facilities for young people because we had to have them up and running quickly. Therefore, the first dollars were used on custodial facilities and what was left was used for alternate measures. Saskatchewan was no different than others.

Many years after the implementation of the Young Offenders Act, federal-provincial negotiations were continuing with respect to the Young Offenders Act. However, by that time, there were escalating numbers of young people being shifted and diverted into the Young Offenders Act programs. This was the commencement of the cutback of resources in provinces and to provinces with respect to young people and social services needs for young people.

Consequently, the Young Offenders Act has taken the hit for many other problems and the lack of resources to deal with children. Many police officers and caseworkers have said that the court is the last hope, that there are no resources for these children and that, if we get them before the court, the court can mandate them. Many judges and many courts were ingenious in pressuring governments to provide alternate sources.

What does one do when a child comes before the court over and over again and when there are only one or perhaps two alternate measures and they do not fit that particular child? You attempt to put them in custody because their behaviour is escalating. You attempt to appeal to social services to provide the in-house counselling. Yes, some children received it; others did not.

Where does that get us? Federal and provincial governments, rather than sitting down and rethinking how to make the Young Offenders Act work better, began to say that the legislation was unworkable. However, when we started to look at changes to the Young Offenders Act, in the 1995 position — and that was my first involvement with the discussion in the Senate — we found that the amendments to the Young Offenders Act were based on some false premises.

One premise that I wish to put forward was that there was an escalating criminal activity with young offenders at all levels, violent and non-violent. Many of us working in the system questioned those statistics and assumptions. The federal government's response was that they were working on collating statistics, that they were not quite ready, but that they would prove this escalation.

It is interesting to note that when the Standing Senate Committee on Legal and Constitutional Affairs finished its deliberations on the amendments, in 1995, the day after we passed the amendments we found underneath our doors the final statistics that in fact proved that there was a non-escalation in 1995 and that the movement of escalation in the mid-1980s to 1990 had reversed.

We were also told at the time that the amendments to the Young Offenders Act as well as the Young Offenders Act complied with the new Convention on the Rights of the Child and that the government had done its deliberations and was satisfied, clause by clause, that the Young Offenders Act complied with the rights of the child. That was despite questions at the time as to whether our act properly separated adults and young offenders.

That brings us of course to the present Bill C-7. What is my difficulty with Bill C-7? It is highly intricate and complex. Many of the clauses in Bill C-7 are exactly the same as the Young Offenders Act. Therefore, the question is raised whether we need a complete omnibus act. Are we misleading the public?

In the declaration of principles clause of Bill C-7, while there are elaborations that will be helpful to young people, public safety is no longer included and public protection is no longer a hallmark and in fact a priority. That section has been removed from the principles outlined in the Young Offenders Act.

Many of the amendments within Bill C-7 — and they are too numerous to document at this point — are somewhat minor changes in wording. The question is: Is there more to the interpretation of the new words? We do not know. The committee will have a long and horrendous task going clause by clause to look at the legal implications of the new words and to marry them with the case law and the Young Offenders Act, to determine whether they are legitimate and substantive changes or whether they are minor and of little consequence.

What will happen is that everyone must be retrained in the proposed new act, nuances and all. We will not be able to rely automatically on the case law that has been built up over 20 years. We will be forced to resubmit to the courts many of the fundamental questions that we had hoped had already received interpretation in the Young Offenders Act. We will have to deal with whether this is a superficial, feel-good change or a substantive change.

• (1630)

It is very difficult, therefore, to know whether the public and young offenders will be better served by the new act because so many of the changes are less than substantive. As I have said, the protection of society is no longer part of the principles, and that is worrying. It has been asserted at various points in the bill that the long-term protection of the public will be enhanced by this bill. However, what about immediacy? Many of the long-term measures contemplated here will be of limited benefit if they are implemented only when children come to court. They should be implemented long before a child gets to the court. If a child has mental disabilities, behavioural difficulties, is having problems in school or has already been deemed to be violent or tending to violence, those issues should be dealt with, for the protection of both the child and society, long before the child reaches the age of 12. We must question whether this bill will be a panacea for these problems or a smokescreen in order that we will not have to deal with them at an earlier age.

The alternative measures have been elaborated upon and have been deemed extrajudicial. Are they more substantive or are we simply embellishing the measures in the Young Offenders Act and using the term "extrajudicial measures" as a response to the fact that Canada has been faulted for not complying with Article 40(3)(*b*) of the United Nations Convention on the Rights of the Child? Canada has been underutilizing these alternative measures and incarcerating more than the United Kingdom, Australia, New Zealand and even the United States. Are we legitimately responding to the concerns about our lack of compliance with the UN Convention on the Rights of the Child, or are we simply continuing what we have done by putting a reserve on the sections that state that adults should not be held in the same place as children, with "children" defined as those people being under 18 years of age?

There is a section which deals with alternate measures. Two other sections of the bill deal with the UN Convention on the Rights of the Child. Clause 30(3) adds to section 7(2) of the existing act, with regard to pretrial detention, that the courts have regard for the best interests of the young person if they are going to put them in facilities with adults.

It is deemed that this is more in line with Article 37(*c*) of the Convention on the Rights of the Child. However, the Convention on the Rights of the Child states that there should be a separation of adults and young people, in the best interests of children. Canada put a reservation on the covenant, indicating that they did not agree that this separation was always necessary.

Many of the clauses of Bill C-7 have adults and young people together for practical purposes. Some of our outlying areas simply do not have the facilities or the manpower necessary to separate them. When the Young Offenders Act was first introduced, I recall being part of a judges' committee that said, "That is fine, but you must put them in separate facilities." If you are in some of the outlying communities, such as Île-à-la-Crosse in Saskatchewan, there are hardly the necessary facilities for adults. If that is the case, then where would we hold young people who need detention? Consequently, compromises were reached in the Young Offenders Act.

We were faulted by the international community for not complying with the provisions of the international covenant. The amendments contained in Bill C-7 need to be scrutinized to see whether they give full compliance to the covenant or whether, as one practitioner put it, we are continuing "to fudge our responsibilities."

If we scrap the Young Offenders Act, Bill C-7 will have many of the same provisions. However, case law will not be built into it. If we institute the new provisions of Bill C-7, and there are many, we will require more time from the courts in terms of hearings. This raises another concern around our compliance with the international covenant; that is, judges will be sitting not only as judges under juvenile justice provisions, but they will also be sitting as judges in adult court. While Bill C-7 removes the transfer provisions from the Young Offenders Act, it replaces them by sentencing hearings in adult court. This gives rise to some of the same problems that are now in the predisposition stage, while before they were at the pretrial stage.

Again, I think we have some of the same dilemmas. One wonders if we have eliminated the question mark concerning our compliance with the international instrument or whether we have added to it by having this combination of elections; that is, superior court judges sitting with provincial court judge responsibilities and, at times, with superior court responsibilities.

I believe that this measure blurs the line between adult court and juvenile court even more than is done in the Young Offenders Act. One needs to see whether this is the case or whether it can be explained by the officials and the minister so that it is in the best interests of both society and children.

The Young Offenders Act did not succeed because the resources needed to succeed were not put in place. Many of the provisions of the Young Offenders Act are similar to the provisions of Bill C-7. There are also many additional provisions added to the bill. As we all know, the administration of justice lies in the hands of the provinces. The money that the government has indicated it will allocate to this act falls short of the expectations to make Bill C-7 work better than the Young Offenders Act. We need to know if the government costed these new measures. We need to know from the provinces what they contemplate providing as resources; will they be realistic or on paper only? We need to marry up, then, the needs and the expectations of the act with the reality and the capability of the justice system.

[Senator Andreychuk]

• (1640)

Many people have attacked this bill, including provinces. The criticism is that it will require massive dollars to retrain those within the justice system to handle this proposed new act. Perhaps these dollars would be better put into alternate measures and programs for youth, both in and out of custody.

We do not know what the real cost will be. Whatever we thought of the merits of the gun registry process, whether we were for it or against it, at least we were given a cost factor to implement this new scheme. We need to know whether the implementation of Bill C-7 has more realistic numbers attached to these new procedures.

We also need some attention to in-school behaviour in this proposed legislation. It is dreadful shortcoming here, as it was in the Young Offenders Act. There should be an aspect that takes into account that many young people spend many hours in our school systems. This proposed legislation contains very little that speaks to the behaviour and the needs of children within the schools and the needs of the teachers to equip themselves to deal with young people who are in conflict with the law.

Clause 125(6) of Bill C-7 indicates that teachers may have access to the disposition records of young people. However, the Canadian Teachers' Federation has indicated that they wish this access to be mandatory because the Young Offenders Act is too permissive. It is not the responsibility of the teachers to know when young offenders are before the courts if the teachers are not specifically contacted. We know that caseworkers are overburdened and, during pre-sentencing, do not always reach the schools. If young people have some violent, disruptive, counterproductive or negative tendencies that impact on the school system, teachers need to be equipped with the appropriate information if they are to accept these young people into the classrooms.

The Canadian Teachers' Federation is not advocating zero tolerance and removal of any young person from the youth justice system. The federation is advocating that teachers must be part of the process, that they must have the tools to do their jobs properly. One wonders why, despite the representations made by the Canadian Teachers' Federation, the government did not see fit to respond to this.

Many of the people in the Quebec judicial system indicate that Bill C-7 will disrupt a positive system into which they have put resources and time. They believe that the system works for the benefit of their society of young people and their communities. I will not go into detail, as I understand that some of my colleagues will be addressing this. However, it is a matter that needs to be underscored.

We also must point out that the House of Commons had the benefit of dealing with two other bills that died in the House of Commons. However, they had time to make an assessment. They were able to determine whether Bill C-7 improved on those previous bills or whether there are now more loopholes.

In speaking to many members of all parties, including members from the majority party, one gets the impression that the amendments came so late, both from members individually and from the minister herself, that they were not properly analyzed. Therefore, the Bill C-7 before us includes amendments that have not been properly studied.

At the time the amendments of 1995 were proposed and passed by this Senate chamber, the Standing Senate Committee on Legal and Constitutional Affairs asked that there be a joint committee to study the overall needs and assessments of young people in society, not just the criminal aspects. Unfortunately, the government saw fit not to take our advice. In fact, there was a House of Commons committee that looked at criminal activity of young people specifically.

The Hon. the Speaker *pro tempore***:** Honourable Senator Andreychuk, I must advise you that your 45 minutes have expired.

Honourable senators, is leave granted for Senator Andreychuk to continue?

Hon. Senators: Agreed.

Senator Andreychuk: I apologize for the length of my speech.

The Young Offenders Act and the previous Juvenile Delinquents Act were the acts I dealt with on a daily basis, not on an academic basis. There are many things that I want to say. I tried today to not discuss the legalities, which I believe the Standing Senate Committee on Legal and Constitutional Affairs will be noting clause by clause. I will reserve my comments to them.

We asked for a look at the Young Offenders Act and the consequences of a youth justice system in the context of the overall needs of young people. We felt that we were inordinately zeroing in on criminal activity when we should have been in a preventive mode. We should be looking at what children need long before they come before the criminal justice system. The criminal justice system should not be used as the back door to provide resources for children who badly needed them earlier. We should not be talking about adding only a few clauses for victims in Bill C-7. We should have done the job that the Standing Senate Committee on Legal and Constitutional Affairs wanted to do in 1995.

Bill C-7 seems to have lost in the list of justifications and principles the notion that children are in a maturation process. The creators of the first Juvenile Delinquents Act were not wrong. We have now blended into Bill C-7 so much of the adult system that it is difficult to tell the systems apart.

Surely, the basis of having a separate system was to say that the adult system did not fit young people. It did not fit because of the maturation process. Young people are still malleable and more open to rehabilitation.

Nowhere in this proposed legislation do I see the emphasis on those capabilities. There seems to be the same kind of rush to determine that we will not put people into custody but will look to alternate measures. The adult system is grappling today with how not to incarcerate but to use alternate methods. We do not see in Bill C-7 the recognition that we are dealing with young people whose hopes for rehabilitation should be better than those of adults.

May I conclude by saying that the Senate was on the right track in 1995 when it gave the government a chance to look at the whole area of criminal justice and the needs of young people. I see an attempt by a minister to appease some of the most vocal people in the community about the ills that they see in the present system.

The answers that the minister has chosen to those ills are those imbedded only in a criminal justice system and not outside the system, where I believe they should have been placed. The answers to the needs of society do not lie within the criminal system; they lie with parents, communities, schools and all of us to ensure that the young people begin their upbringing with the maximizing of resources. We should be assuring that poverty is attacked and that families are given the proper supports long before they reach the courts.

• (1650)

I believe that we have an opportunity today to give this legislation proper scrutiny from a legal and judicial context, as well as to comment on the needs of young people and to perhaps suggest that the government now sit down in a federal-provincial forum to look at the issue of children's needs not in a segmented way, but in a global way. I know there have been conferences with respect to poverty only, but the needs of young people go way beyond that. I believe that we can make progress within the context of this study if we are given the proper ability to study the issues.

I hope that the committee will be afforded the points of view of all who have asked to be heard. I hope that we will make certain that provincial government representation is brought to the table so that we understand whether the load of responsibility that will be transferred in the administration of justice is one that the provinces are geared toward and capable of handling financially and otherwise. I trust that we will hear, if possible, from many of those within the system who work day by day and know the real problems and not just those who the press highlight for us. It is very difficult for judges, case workers and probation officers to come before committees. They often speak at a level that says something more than their political masters may want them to say. However, in this case, I hope that those in the administration of justice provincially and federally and those on the front lines working under the Young Offenders Act and those who will have to work with the new act will be given a chance to be heard. They were not fully heard when the Young Offenders Act was put forward and the message of needing resources was not heard.

I hope that we will in fact do justice both to the community and the young people whose needs we claim to put above all others. I trust that the Senate will not be a place that will take just the words of the act at face value but will see whether we can put actions to those words within the act.

Honourable senators, I will reserve my other comments for the committee. I thank the Senate for its patience in hearing me.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, our colleague Senator Andreychuk has raised a number of questions that go to the very principle of the bill. Although I do not see the sponsor of the bill in the chamber, I would hope that someone on the government side would address these questions and these concerns that speak to the principle of the bill. It would be very difficult for us in this house to seriously address the principle of the bill at second reading without dealing with these issues that have been raised. It will not be acceptable to have simply silence on the other side on some vague assumption that, "Oh, well, the committee can look at it." Questions of the principle of the bill have been raised. The government has an obligation to respond to those questions before we even get to the point of deciding whether we will adopt the bill in principle at second reading and send it to committee.

I underscore that point because a number of years ago, when the thesis of normalization was very much in vogue, it was applied to the mental hospital setting. When governments bought into this new idea of normalization so that we would close down all psychiatric institutions and similar types of institutions and people would receive therapy in the community, there was no follow-up at the community level. There were no psychiatric social workers engaged throughout the communities across all the provinces. Where did those released patients end up? They are, to a large extent, those persons who are either expanding the numbers of street people or are in our jails.

Honourable senators, a fundamental change is made based on an assumption. Sometimes the assumption can be good, such that rehabilitation will be better achieved and better facilitated in the normalized community milieu where there are community workers, social workers, psychiatric social workers and, in this instance, corrections workers, people who have an understanding of criminology and who specialize in that field in their social work training.

The bill, in many clauses, as I read it, makes explicit reference to what the provinces can do, and that means dollars being required from provincial budgets. It is clear to any observer that the provincial governments in the whole area of social justice and social services are severely strapped to find resources. It seems to me that we must hear a concrete budgetary proposition advanced by the federal government as they are making this change, one that will rely in terms of implementation on the provinces making available a whole network of corrections counsellors to work with young people in the community.

This, honourable senators, is what the International Convention on the Rights of the Child speaks to, as is alluded to by this bill in one of the preambular paragraphs and alluded to in the speech given when the bill was introduced in this house. My own view is that the bill does not comply with the provisions of our international commitments made in 1990 when Canada ratified the International Convention on the Rights of the Child. What we have been hearing from the government side are motherhood statements. This is serious business requiring dollars. Unless there is some indication that real dollars will be made available, this approach will not work.

Therefore, honourable senators, I think it is incumbent on the government to answer some of these questions and speak to the principle of the bill before we proceed any further.

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I would like to point out that the sponsor of Bill C-7 was here in the Senate to listen to the better part of the speech given by Senator Andreychuk. I wanted people to know that she was here, because Senator Kinsella indicated she was not.

Honourable senators, many of us listened carefully to Senator Andreychuk's speech. It was interesting, comprehensive and provided a lot of information.

[*English*]

Senator Kinsella: Honourable senators, my distinguished colleague is right that Senator Andreychuk has raised a number of issues and that all honourable senators present have noted them. However, we are requesting that either a representative of the minister in the house or her deputy respond to these questions, or at least the sponsor of the bill in the Senate. We are pleading for someone please to answer these questions. If the sponsor of the bill is not even here to answer the questions, at least the deputy leader should adjourn the debate until he finds the answers to the questions.

On motion of Senator Beaudoin, debate adjourned.

[*Translation*]

• (1700)

TRANSPORT AND COMMUNICATIONS

MOTION TO AUTHORIZE COMMITTEE TO STUDY MEASURES TO ENCOURAGE FRENCH-LANGUAGE BROADCASTING—DEBATE ADJOURNED

Hon. Jean-Robert Gauthier, pursuant to notice given June 6, 2001, moved:

> That the Standing Senate Committee on Transport and Communications be authorized to examine and report upon the measures that should be taken to encourage and facilitate provision of and access to the widest possible range of French-language broadcasting services in francophone minority communities across Canada.

He said: Honourable senators, the purpose of this motion is to examine the feasibility of a national francophone community television network, the Canadian francophone community network.

This network would target the francophone communities in each province and territory. It would contribute to achieving two objectives of the government: first, to allow communities to see themselves, to talk to each other and to communicate in French throughout Canada; second, to create a climate that would give everyone, especially young people, the opportunity to develop and reaffirm ties with other francophone communities in Canada and to seize the opportunities that growing globalization and galloping technology have to offer. The network would also ease regional disputes over access to educational television in French serving certain regions.

I know that certain provinces are reluctant to agree to an educational television network. Education is a provincial jurisdiction. Many Canadian provinces do not have the critical mass of young viewers to justify funding a provincial network. Only three provinces have educational television, TVO/TFO in Ontario, Télé-Québec in Quebec, and Access Network in Alberta. The only province offering programming in both of the country's official languages is Ontario, through TVO-TFO.

For two years now, I have been trying to open up provincial borders to French-language television. TFO, the French network in Ontario, applied to the CRTC for permission to broadcast its signal in Quebec. It asked the CRTC to require Quebec's cable companies to offer the TFO signal on a optional basis. The CRTC refused, claiming that it was not in the national interest to approve this application. Yet TFO is available in New Brunswick and Télé-Québec is available in several locations in Ontario.

In short, I was very disappointed in the CRTC's ruling and the reasons given. Senators should know that the CRTC is a federal institution governed by the Official Languages Act. I believe that section 41 of this act is executory and not declaratory, as some claim, and that the CRTC must abide by it. Section 41 reads as follows:

> 41. The Government of Canada is committed to
>
> (*a*) enhancing the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development; and
>
> (*b*) fostering the full recognition and use of both English and French in Canadian society.

It is clear that section 41 is executory. All federal institutions must comply with the legislation. Unfortunately, since the legislation was passed in 1988, the interpretation of section 41 by various ministers of justice has differed from mine and that of several experts in the field of legislative interpretation.

There is confusion, bureaucratic inertia and a failure to act on the part of ministers. I am not the one saying this. The Commissioner of Official Languages points this out in her annual report.

All justice ministers since 1988 have followed the advice of their senior officials and adopted this minimalist interpretation of section 41 of the Official Languages Act. They are merely paying lip service, making meaningless statements.

I do not understand why the CRTC held in its ruling (CRTC 2000-22) that it was not in the public interest to grant TFO's request. After all, 1551 of the 1563 stakeholders, or 99.3 per cent, were in favour of the application.

The majority of the opponents, 12 in all, or 0.7 per cent, were — with the exception of one individual, who had misunderstood — organizations that had particular interests to protect, mainly cable distribution companies in Quebec.

It needs to be pointed out that TFO has had considerable difficulties and has so far been unable to persuade the major cable companies in Quebec to carry it under acceptable conditions. The sad reality is that they prefer to carry American programming. Apparently, that is more worthwhile financially.

After the negative decision by the CRTC, the federal cabinet issued Order in Council P.C.2000-511. This dealt with French-language broadcasting services in minority francophone communities and called upon the CRTC to produce a report taking regional concerns and requirements into account. The CRTC'S report, "Achieving a Better Balance," was released on February 12, 2001. This is a good report, one which should be looked at carefully.

To my knowledge, no parliamentary committee has studied it or shown any concern about it. I raise this question because it is important to us.

At its Web site, the CRTC says, and I quote:

If the Senate had its own official languages committee, I am sure that report would have been carefully examined, but we do not.

The motion before you today is an important one. The Senate has a role to play or to assume in fostering the development of the official language communities. This motion reads:

> That the Standing Senate Committee on Transport and Communications be authorized to examine and report upon the measures that should be taken to encourage and facilitate provision of and access to the widest possible range of French-language broadcasting services in francophone minority communities across Canada.

At its Web site, the CRTC says, and I quote:

> Our mandate is to ensure that programming ... reflects ... our linguistic duality.

The word "duality" is the most important one, because Canada has two official languages and its policies on language treat them equally.

The fact that approximately one quarter of the people of Canada speak French and that it is present in every region of the country should encourage us to provide quality programming accessible to all. The Canadian broadcasting system should reflect the diversity of the francophone communities across the country. There is cultural and linguistic wealth to share among Canada's regions. The language and culture of a francophone in Ontario or the West differs from that of a francophone in Quebec or the Maritime provinces, an Acadian, for example. We all speak French, but with accents peculiar to our own region.

It must include as well the transition from analog to digital. It will change and improve. It will make more channels accessible and extend the broadcast area. This new technology offers promise for the future to francophones living in a minority situation. This is a unique opportunity to correct the gaps in analog distribution that limited access to more French-language television services in Canada.

I hope that the committee will make a positive recommendation and that the CRTC document in question will be given serious consideration.

On motion of Senator Robichaud, on behalf of Senator LaPierre, debate adjourned.

The Senate adjourned until Thursday, September 20, 2001, at 1:30 p.m.

CONTENTS

Wednesday, September 19, 2001