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Wednesday, September 26, 2001

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**THE HONOURABLE DAN HAYS
SPEAKER**

CONTENTS

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THE SENATE

Wednesday, September 26, 2001

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

[Translation]

Prayers.

SENATORS' STATEMENTS

THE LATE HONOURABLE GILDAS L. MOLGAT

COMMANDER OF ORDER OF LEOPOLD AWARDED POSTHUMOUSLY

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I am very pleased to rise today to draw your attention to a distinguished award bestowed posthumously upon our former colleague and friend the Honourable Gil Molgat.

[Translation]

Former senator and Speaker of the Senate, the late Honourable Gildas Molgat, was appointed Commander of the Order of Leopold, a civilian distinction, by his Majesty King Albert II, in recognition of services rendered.

[English]

I regret that I was unable to attend yesterday's ceremony at the Belgian embassy, but I know that many of my esteemed colleagues, including officers of the Senate and former employees of the senator, were present, together with Gil's wife, Allison.

I know that Senator Molgat would have been very proud to receive this decoration from the Kingdom of Belgium. Although he received many awards for his service to our Canadian veterans and cadets, and was awarded for his interest in the international community, each and every distinction was special to him and was evidence of his commitment to his fellow human beings.

As a Canadian who had a great deal of respect and admiration for the people of Belgium and for those in other French-speaking communities, Senator Molgat was eminently deserving of this special distinction bestowed by His Majesty King Albert II.

I should like to thank His Majesty and the people of Belgium for recognizing our former colleague with this very great honour.

Hon. Senators: Hear, hear!

TRANSPORT

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

Hon. Céline Hervieux-Payette: Honourable senators, I should like to bring to your attention a Canadian problem that affects us all.

Whereas the U.S. government, which is generally disinclined to provide government assistance to the private sector, has provided substantial support to its airline industry; whereas Canadian airlines have been substantially affected by the tragic events in New York and Washington; whereas air transportation in Canada is essential to the population — in remote regions in particular — and to our businesses; and whereas the over 50 per cent reduction in the activities of Canada's airlines is jeopardizing financial stability throughout our economy; therefore, I invite my colleagues in the Senate and in the government to provide assistance similar to the assistance provided by the U.S. government to its industry, both to preserve a Canadian infrastructure and to reassure the public in general and the workers in this industry in particular.

[English]

POLITICAL REPONSES TO ACTIONS OF PRIME MINISTER REGARDING TERRORIST ATTACKS ON UNITED STATES

Hon. Laurier L. LaPierre: Honourable senators, my heart is full of anger, sadness and pain. I intend to be very impertinent and combative, and perhaps even partisan.

My country, Canada, is being pilloried by verbal terrorists who vent their spleens in the pages of our newspapers and on the airways of our country. A regiment of quasi-experts, unknown to anyone, are bent on eradicating the people's confidence in our country.

The institutions or the instruments that guard our national safety and security are being dismissed as insignificant and incapable of doing their task. We lack overseas intelligence and have lamentable military capacity. We are diplomatic lightweights and have no coherent policy to defend ourselves against terrorism. This is a goddamn pack of lies.

The Prime Minister is being assaulted by petty politicians who are determined to make political gains by the plight of our country in the face of our pain, anxiety and stress.

• (1340)

Honourable senators, the Prime Minister is on the right path. He has shown great leadership, which I wish would be followed by the other political leaders in our country. Our people are being

made to feel guilty, or so we are told, for having let our neighbours down on September 11, 2001.

Furthermore, yesterday, in the Senate of the United States, an insignificant functionary of the Government of the United States accused Canada of protecting terrorists and of allowing them to enter the United States to perform their bad deeds. That gentleman is obviously a petty politician who is willing to transfer the inadequacies of the security system of the United States on to the backs of Canadians.

Honourable senators, I shall not allow it. Canadians did not allow the 19 or so terrorists to hijack planes and to fly them to New York. Canadian airports were not used to board those planes. Those terrorists did not live in Canada for months and years undetected, nor did they learn to fly 747s from any of our aviation schools. They were not detected doing so. I do not need to tell senators that a 747 is not a Cessna.

Honourable senators, those acts took place in the United States without any help from Canadians in any way, shape or form. Those who say otherwise are lying to the Canadian people. Our country and our government and our people are not guilty of anything. Our country and our government and our people do not need to tear themselves apart to reassure the Americans. It is up to the Americans, due to the inadequacies of their security system, to reassure us.

Honourable senators, let us put an end to this verbal terrorism, a verbal terrorism accentuated by a colonial frame of mind and a sadomasochistic perversion; let us do what we have to do in good conscience and in accordance with our values; let us do it in the Canadian way; let us remain dedicated to human rights and peace; let us have a clear conscience; and let us be Canadians et Canadiens.

Long live Canada!

WOMEN'S CONFERENCE ON REUNIFICATION OF KOREAN PENINSULA AND ISSUES IN ASIA-PACIFIC REGION

Hon. Lois M. Wilson: Honourable senators, on Monday of this week, just outside Toronto, I attended the opening day of a week-long conference that brings together women from the Democratic People's Republic of Korea, or the DPRK, China, the Philippines, the U.S.A., Canada and the Christian Conference of Asia. Sponsored by the mainline churches of Canada and the U.S.A., its focus is on the reunification of the Korean Peninsula and matters affecting the peace, security and stability of the Asia-Pacific region.

None of the four women from established organizations in the DPRK had ever been outside the borders of their country before. This initiative, taken by the non-governmental sector of Canadian society, plans to establish a framework for successive exchanges, following Canada's recognition of the DPRK last February. I am confident that their deliberations and the forging of new relationships between these women will contribute significantly to peace and stability in our troubled world.

[Senator LaPierre]

ROUTINE PROCEEDINGS

STUDY ON STATE OF HEALTH CARE SYSTEM

INTERIM REPORT OF SOCIAL AFFAIRS, SCIENCE AND
TECHNOLOGY COMMITTEE TABLED

Hon. Michael Kirby: Honourable senators, pursuant to the order adopted by the Senate on March 1, 2001, I have the pleasure to inform the Senate that on September 17, 2001, I deposited with the Clerk of the Senate the eighth interim report of the Standing Senate Committee on Social Affairs, Science and Technology entitled "The Health of Canadians — The Federal Role, Volume Four: Issues and Options."

Honourable senators, pursuant to rule 97(3), I move that the report be placed on the Orders of the Day for consideration next Tuesday, October 2, 2001.

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

Hon. Senators: Agreed.

Motion agreed to and report placed on the Orders of the Day for consideration on Tuesday, October 2, 2001.

[Translation]

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 27, 2001 at 1:30 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

[English]

ABORIGINAL PEOPLES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY
ISSUES AFFECTING URBAN ABORIGINAL YOUTH

Hon. Thelma J. Chalifoux: Honourable senators, I give notice that on Thursday next, September 27, 2001, I will move:

That the Standing Senate Committee on Aboriginal Peoples, pursuant to the input it has received from urban Aboriginal people and organizations, be authorized to examine and report upon issues affecting urban Aboriginal youth in Canada. In particular, the Committee shall be authorized to examine access, provision and delivery of services; policy and jurisdictional issues; employment and

education; access to economic opportunities; youth participation and empowerment; and other related matters;

That the Committee report to the Senate no later than June 28, 2002; and

That the Committee be authorized, notwithstanding customary practice, to table its report to the Clerk of the Senate if the Senate is not sitting, and that a report so tabled be deemed to have been tabled in the Senate.

QUESTION PERIOD

NATIONAL DEFENCE

PRESENT LOCATION AND ASSIGNMENT OF HMCS CHARLOTTETOWN

Hon. J. Michael Forrestall: Honourable senators, I have a question based on an intervention I made during Senators' Statements yesterday.

Did the HMCS *Charlottetown* or any of its sister vessels put to sea last week from the Port of Halifax? Did this particular warship or any other Canadian warship put to sea as part of an American-led coalition of war on terrorism?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for that question. I regret that I did not have the opportunity to read his statement of yesterday because I was travelling most of that time. However, I made an inquiry in respect of the information that was contained in the statement because I was informed that the senator had made such a statement. I am led to believe that it was not part of the war against terrorism effort, as he describes it.

Senator Forrestall: Honourable senators, given the position of the United States President and subsequent statements by our own Prime Minister, I am pleased to hear that information.

Is that warship travelling with the USS *Theodore Roosevelt* carrier battle group, and, if so, for what purposes? Does it intend to join up with that particular battle carrier group on whatever mission that may be tasked to that group?

• (1350)

Senator Carstairs: Honourable senators, I do not have any more information than that which I provided to you a few minutes ago. I will make additional inquiries and report back that information through a delayed answer.

Senator Forrestall: The honourable senator will understand my concern in that this is the last chance I will have to ask questions for a while. If the *Charlottetown* or any other Canadian vessel is at sea, for what purpose is it at sea at this time? Is it taking part in joint exercises? Where is it? When is it expected

back in port? Are the families aware of the location and return date of the members of crews on board any Canadian war ship that may be out of port on duty?

Senator Carstairs: Honourable senators, I would not have nearly as much fun in Question Period if Senator Forrestall were not on the other side asking questions. Inevitably they send me rapidly to the briefing books since I am not as current as the honourable senator at all times, particularly with respect to the Armed Forces of this country.

I do not know why the HMCS *Charlottetown* is on the waters at this time, and I cannot give the Honourable Senator Forrestall any information with respect to the knowledge that family members have. However, I assume that if they were in a state of naval exercise to do with the events of September 11, the families would have been informed.

CITIZENSHIP AND IMMIGRATION

COMMENTS BY MINISTER REGARDING IMMIGRATION AND REFUGEE PROTECTION BILL

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, my question is based on a troubling statement made yesterday by the Minister of Citizenship and Immigration, to the effect that parts of Bill C-11, which is before us now, are being implemented. We all appreciate that since September 11, to put it in simple terms, we are living in a different world. However, the rule of law must still have some place in that new world.

The minister, to quote from an interview yesterday, said, "We have operationalized the policy which was approved by cabinet, Bill C-11." This bill is before us. It has yet to receive Royal Assent, and I can think of no precedent whereby a bill, yet to be given Royal Assent, has had clauses implemented in advance for whatever reason. Even in a state of war, the government followed the proper procedure. Even during the October Crisis of 1970, proper procedures were followed.

Now Parliament and the Crown are being told: A bill before you, whether or not you pass it or amend it, is being implemented, in part or in total, in the way the government wishes.

Senator Di Nino: The media told us.

Senator Lynch-Staunton: We are told through the media.

Under normal circumstances I would raise this as a question of privilege, and I reserve the right to do so. Due to the circumstances, I would like an explanation from the government as to this most irregular, if not illegal procedure, that the Minister of Citizenship and Immigration is sanctioning.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank Senator Lynch-Staunton for his question because it is of importance, particularly to this chamber when we have that very bill before us at this time.

Honourable senators, I have made inquiries. I was informed that the minister is implementing two operational measures. They are independent of Bill C-11. She has presently, as the Minister of Citizenship and Immigration, the statutory authority to implement them.

The first of those two measures allows for front-end screening of refugee claimants. This does not require new legislation.

The second measure is to speed up the process for the introduction of the new permanent resident card. This format is not prescribed in the bill.

FOREIGN AFFAIRS

TERRORIST ATTACKS ON UNITED STATES—EFFECT ON PEOPLE OF AFGHANISTAN—AID BY NON-GOVERNMENTAL ORGANIZATIONS

Hon. Consiglio Di Nino: Honourable senators, last week I asked the government to what extent they would support non-governmental organizations and agencies attempting to deliver humanitarian assistance to the Afghan people. To her credit, the government leader expressed great concern and compassion for the victims of the Taliban government but was not sure what our government would do to help NGOs such as Care Canada, Médecins Sans Frontières, and the Red Cross.

Her exact words were:

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.

I thank her for that.

Honourable senators, my question is in three parts. First, has the minister raised this issue with the appropriate ministers? If so, what were those ministers' responses? Has the government made a decision on this matter?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I can assure Senator Di Nino that the questions that he raised last week were in fact brought to the attention of the responsible minister. I find it interesting that a similar question was put in the other place yesterday. It came from a very different perspective from that which the honourable senator has taken today. It reflects his understanding of true humanitarian issues. I mean that very seriously, Senator Di Nino.

The \$1 million that has been put on the table for the purposes of funding refugees that are presently at the Afghan-Pakistani border will be given out primarily through NGOs. Those monies will go directly to the people and not to the Taliban government.

Senator Di Nino: Honourable senators, I have a supplementary question. As I said last time, I was very pleased to hear that our colleague was prepared with a good answer. The \$1 million is a great help, but I hope that the Government of

[Senator Carstairs]

Canada will consider raising that contribution. In this entire tragedy, that will not be a great deal of money.

STATE OF SANCTIONS AGAINST INDIA AND PAKISTAN

Hon. Consiglio Di Nino: I have a supplementary question dealing with the same general area. After India and Pakistan detonated nuclear bombs in 1998, sanctions were imposed by our government on both countries. A recent report noted that those sanctions had been lifted.

Could the Leader of the Government in the Senate confirm whether those sanctions have been lifted? If they have been lifted, were the sanctions lifted for both countries or one?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the position of the government is that it is open to further recognition of the need of the refugees at the border. The \$1 million was the first step. It may well need to be followed by additional steps.

In terms of the sanctions, as the honourable senator may remember, the Government of Canada raised those sanctions against India sometime last spring. To my knowledge, they are still in place for Pakistan.

The Americans have reduced their sanctions toward Pakistan in light of some commitments the Pakistani government has now given to the United States. To my understanding, they are still in force and effect in Canada.

Senator Di Nino: If there is a different answer, I appreciate that the leader may not have it at this moment. Would she inform us if the sanctions have been lifted or will be lifted?

Senator Carstairs: If they will be lifted, I will so inform the Senate.

CITIZENSHIP AND IMMIGRATION

COMMENTS BY MINISTER REGARDING IMMIGRATION AND REFUGEE PROTECTION BILL

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I have a supplementary to my original question.

• (1400)

I should like to read to the minister and the chamber the exchange that took place between the Minister of Citizenship and Immigration and reporters. There is an admission in this exchange of violating parliamentary privilege by imposing certain rules that have yet to be approved.

REPORTER: Canada's new immigration law....recently received Cabinet approval but it's still before the Senate. Caplan says the measures outlined in that bill need to be implemented now.

CAPLAN: We have operationalized the policy, which was approved by Cabinet, Bill C-11.

UNIDENTIFIED (Reporter): Even though you do not have a law in place?

CAPLAN: That's correct.

UNIDENTIFIED: So isn't that..., I mean if there's..., isn't there a legal...,

CAPLAN: You think that's a bad idea?

UNIDENTIFIED: No, I'm asking you, isn't there a legal...,

CAPLAN: I'm doing it.

The Minister of the Crown has admitted that she is implementing certain procedures that have yet to be approved by Parliament. No matter how trivial they may be, it is a violation of the privilege of Parliament and of the Crown, which is part of Parliament. It is not just the Senate. The House of Commons, the Senate and the Crown have been completely dismissed. It makes one wonder why we even bother to debate Bill C-11 if the government has decided unilaterally to invoke parts of it. For whatever reason, whatever the emergency, when the rule of law is violated, the whole democratic system is severely challenged.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, in my response to the honourable senator a few minutes ago, I indicated that the two measures being implemented are within the present statutory authority of the minister. She is not going beyond the statutory authority. She does not need Bill C-11 to do the things that she is implementing at the present time.

However, the Leader of the Opposition raises a very critical question, and I will continue to seek answers from the government.

FINANCE

EFFECT OF DEVALUATION OF DOLLAR

Hon. Gerry St. Germain: Honourable senators, my question is directed to the Leader of the Government in the Senate. The leader will recall that I asked her a similar question before we adjourned the house, a question relating to the devaluation of the Canadian dollar and the acquisition of the energy industry by foreign investors. I am sure the minister is aware of the huge acquisition made in Calgary not that long ago.

In the last few days, Westcoast Energy, the last prominent head office left in Vancouver, was sold to foreign investors predicated on the fact that our dollar is basically worth about half of that of the foreign group that purchased the company. Future predictions are that the Canadian dollar will devalue further. The Liberal government has taken a position that a devalued dollar, in the words of the Prime Minister, is basically a good dollar. Does the government continue with this policy?

I can assure honourable senators that a horrific situation is taking place in our energy sector. Others in the energy sector are very concerned about the foreign acquisition of this sector. Can

the minister give us any indication as to how the government will deal with this matter or if the government will deal with it at all?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the honourable senator knows, there are essentially two views on the value of the Canadian dollar. There are those who like the Canadian dollar at its present position. There are some who would like it slightly higher than it is. There are others who wish to go back to the 1950s and 1960s when the Canadian dollar was worth more than the American dollar.

The government and the previous government and the previous government to that have always maintained that it is economically wise to let the dollar float. The dollar floats at what the international markets will bear. In view of other world currencies, the Canadian currency has done very well, although there is no question that the American currency has been the dominant world currency.

The sale of Westcoast Energy disturbs many Canadians, but I would also suggest that when we owned a Canadian company for the purpose of oil and gas production in this country, that ownership was not met with much favour by the honourable gentleman on the other side.

Senator St. Germain: Honourable senators, there is no question that the National Energy Policy is not something we would want re-enacted in the West. Believe me. Having said that, I do not believe we should compare ourselves with the rest; we should compare ourselves with the best. It is a question of productivity and competitiveness, and the honourable minister knows this. I am not telling her something she does not know. The time has come to compare ourselves with the best. If the best is the United States of America, that is who we should compare ourselves to — not the rest of the world — to find justification in our lack of productivity and competitiveness.

Future predictions are for a further devaluation of our dollar. I am asking the minister if the government is taking a position different from the past position. She talked about the previous administration, the Mulroney administration, which set interest rates at a level that kept the dollar at least at a reasonable level. Given the predictions as a result of the horrific disaster of September 11, is any action being considered in regard to the Canadian dollar?

Senator Carstairs: Honourable senators, interest rates in Canada are the lowest that they have been in a very long time. Those interest rates have very much matched the setting of interest rates in the United States. If the honourable senator wants to talk about separating us from the rest and the best, I think Canada is the best and has been for a very long time.

THE ECONOMY

EFFECT OF TERRORIST ATTACKS ON UNITED STATES

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate. I want to go back to the questions raised last week with respect to the effects of the events of September 11 on our economy.

In talking to businessmen late last week and early this week and asking their opinions as to where they feel the economy is headed, the picture they paint is not very rosy. As a matter of fact, the conclusion they come to is that the economy has virtually dropped off the table. That is the best description I can give it.

As if a light switch were thrown, people have gone into a bunker mentality. In other words, individual Canadians have decided that they will hunker down. As an example, air travel is down 60 per cent. People are putting off purchases they had planned to make.

Honourable senators, this issue is of concern because nothing seems to be happening, other than a state-of-the-nation address by the Prime Minister to a Liberal fundraising dinner that should have been made to Parliament.

On September 21, in the *Report on Business* that appears in *The Globe and Mail*, a photograph shows the Chairman of the Federal Reserve of the United States appearing before the U.S. Senate Committee on Banking on September 20. That has not occurred here. When will our chair report to our Parliament?

• (1410)

Honourable senators, the other issue is that, on Friday, the Dow recorded its worst week since 1933. There has been a recovery since then, but the outlook is not good. According to businessmen, there are enough orders in the pipeline to sustain us through the last quarter on a falling rate. Their private forecast for 2002 is that we are off the table. That is a rather dramatic forecast coming from businessmen.

Honourable senators, we need to hear from the Governor of the Bank of Canada, we need to hear from the Minister of Finance, and do you not think we should start to hear from leading Canadian businessmen as well? Do you not think that the Prime Minister should be out there talking to those leading Canadian businessmen to instill a certain level of confidence in this economy?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, there were many parts to the honourable senator's question. In response to his doom-and-gloom scenario — and I think that is all we can call it — I would suggest that consumer confidence is frequently based on what members of governments and members of the business community have to say. This is a cyclical matter — one must consider whether consumer confidence goes down first, or whether the gloom-and-doom scenario of the politicians and the country's business people goes down first, which will then lead to a down surge in the expectations of consumers. We must be careful.

The Minister of Finance is doing what he always does, which is to go out and consult with members of the business community. His economic update, which is forecast for soon after we come back from our Thanksgiving weekend, will in fact give us an economic update; it will inform us as to the best advice that the Minister of Finance is receiving. However, we should also look to members of our business community because some of them are also making some statements. They are

indicating that their forecasts are down from the economic growth they thought would happen to the economic growth — and I underline “growth” — that they now think will happen. There is still growth in the Canadian economy, a fact that we must bear in mind.

I would suggest to the honourable senator that as a result of the events of September 11, there is a fear factor about air travel that has not been there before. One can only hope that as conditions normalize fear will dissipate and people will be willing to travel, not only for business but, more important, that families of this nation will be willing to put their young children on aircraft.

Senator Stratton: Honourable senators, my concern is that, by the time the government reacts to a situation like this, a mindset will have developed among Canadians to hunker down, that Canadians will have developed a bunker mentality, that they will have stopped making purchases, will have shut off doing anything to keep this economy going. That is, I am afraid, what has already happened, and nothing has taken place to slow that down and to reassure Canadians that it is okay to go out and buy that car or get that mortgage. Canadians have stopped doing so, and that is a concern. By the time the Finance Minister comes forward to reassure Canadians, I am afraid the mindset will already be entrenched. That is a concern that I believe should be taken to the leadership.

Senator Carstairs: Honourable senators, the honourable senator must understand that his evidence is almost entirely anecdotal. The studies we have and the forecasts that have been made do not indicate that the economy is in the kind of trouble that the honourable senator indicates. No one is stating that there has not been a downturn in the Canadian economy. Yes, there has been. There has been an even greater downturn in the American economy. Mayor Giuliani, in an eloquent statement the other day, told people, “Please come back to the city. Stay in our hotel rooms, and spend your money in this great city of New York.”

Honourable senators, that is tough for people to do under the present circumstances. I think everyone's confidence has been shattered. That is perfectly reasonable after what we watched happen in the United States on September 11. That will be part of the economic update, the confidence rebuilding process that we will hear from the Finance Minister. I would suggest, however, as we are doing with every other aspect of government policy, that we should move forward carefully and confidently but that we should also move forward with calm.

FOREIGN AFFAIRS

CHANGES TO REGULATIONS ON RELATIONS WITH AFGHANISTAN

Hon. David Tkachuk: Honourable senators, last February 22, the cabinet approved changes to what is known as the United Nations-Afghanistan Regulations. These regulations made it illegal for Canadians to have any financial dealings with Osama bin Laden and his associates, or any entity controlled by him or his associates. This includes financial services. The ban was specific in identifying Osama bin Laden by name. The regulations were gazetted on March 14 and retroactive to February 22.

Could the government leader advise the Senate why the Government of Canada waited until last week to ask Canada's financial institutions to look for accounts belonging to Mr. bin Laden and his associates, given that the regulation was passed in February?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is my understanding that they did not wait until then, that the information was requested as soon as the proper gazetting period had been fulfilled but that, in light of the events of September 11, an extra plea was raised last Friday to look even more carefully than they had been looking.

Senator Tkachuk: Honourable senators, could the Leader of the Government in the Senate advise the Senate exactly what steps were taken by the government, not now but last spring, to ensure that Canada's financial institutions were aware of the regulations banning dealings with Mr. bin Laden, and that they were not only in a position to comply with them but were in fact doing so?

Senator Carstairs: Honourable senators, I clearly do not have that information at my fingertips today, but I will send the information requested by the honourable senator through the proper channels and hope to get it back to him as soon as possible.

Senator Tkachuk: What steps were taken to inform the business community of these same regulations?

Senator Carstairs: Honourable senators, I think that is all part of the original question. I will combine it with the original question and get the answer back in one delayed answer.

The Hon. the Speaker: Honourable senators, I regret to advise that the time allocated to Question Period has expired.

Senator Prud'homme: The minister was not here yesterday.

[Translation]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw to your attention the presence in the gallery of a delegation of members of the legal and constitutional committee of the Senate of the Czech Republic.

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

[English]

Honourable senators, I wish to draw attention as well to the presence in the gallery of participants from the United Kingdom, Wales and Northern Ireland to the Canadian Parliamentary Cooperation Seminar.

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

Hon. Senators: Hear, hear!

INTRODUCTION OF PAGES

The Hon. the Speaker: Before proceeding to Orders of the Day, honourable senators, I should like to take this opportunity to introduce to you the pages who will be working in the Senate this year. I will do it over the course of the next few sittings.

I introduce Melanie Bratkoski, from Regina, Saskatchewan. This is her second year as a Senate page and she now assumes the role of Chief Page. Melanie is studying Canadian studies.

Hon. Senators: Hear, hear!

• (1420)

The Hon. the Speaker: Next, in the gallery, is Melanie Ching. Melanie is from Darlingford, a small farming village in southern Manitoba. She is studying political science, with a concentration on Canadian studies, at the University of Ottawa.

Hon. Senators: Hear, hear!

[Translation]

The Hon. the Speaker: Patricia Lapointe comes from Sainte-Anne-des-Plaines in the Quebec Laurentians. She is a student at the University of Ottawa specializing in communications with a major in geography. Patricia is in her second year of the Senate page program.

Hon. Senators: Hear, hear!

[English]

The Hon. the Speaker: Alexa Reynolds is from North Vancouver, B.C. Alexa is currently studying history and global studies at the University of Ottawa. This is her first year in the Senate page program.

Hon. Senators: Hear, hear!

The Hon. the Speaker: Jonathan Shanks was born in Fredericton, New Brunswick. He is an honours history student in his third year. This is his first year as a page in the Senate.

Hon. Senators: Hear, hear!

[Translation]

The Hon. the Speaker: Abdullah Afzal was born in Kabul, Afghanistan. He is studying political science at the University of Ottawa. This is his first year as a page in the Senate.

Hon. Senators: Hear, hear!

[English]

The Hon. the Speaker: Also in the gallery is Alicia Tumchewics. Alicia was born and raised in Yellowknife, Northwest Territories. She is currently pursuing a degree in a second language at the University of Ottawa. This is her first year as a Senate page.

Hon. Senators: Hear, hear!

The Hon. the Speaker: Next I wish to introduce Emma Orawiec. Emma is from Aylmer, Quebec. She is working on a

minor in international development studies at Carleton University. This is her first year as a page in the Senate.

Hon. Senators: Hear, hear!

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table in this house the delayed answers to two questions; the question raised by Senator Tkachuk on May 31, 2001, on the acquisition of maritime helicopters and the question raised by Senator Stratton on June 13, 2001, concerning the Access to Information Review Task Force.

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—CHANGES TO BASIC VEHICLE REQUIREMENTS

(Response to question raised by Hon. David Tkachuk on May 31, 2001)

The Maritime Helicopter will have a more extensive and advanced suite of mission equipment than the current Sea King.

The current Sea King, with the full mission system on board, can carry a crew of four people and three passengers (for a total of seven people). With the removal of some of the mission equipment, the current Sea King can be adapted to carry a crew of four people and seven passengers (for a total of 11 people).

The Maritime Helicopter requirement calls for a helicopter that can carry the full suite of mission equipment, a crew of four people and a stretcher with two attendant personnel (for a total of six or seven people). With the removal of some of the mission equipment, the Maritime Helicopter will be required to be able to carry a crew of four and six passengers (for a total of 10 people).

TREASURY BOARD AND JUSTICE

MEMBERSHIP OF ACCESS TO INFORMATION REVIEW TASK FORCE

(Response to question raised by Hon. Terry Stratton on June 13, 2001)

Members of the Access to Information Review Task Force are all public servants who have been drawn from several federal departments and agencies. They were selected because of their expertise in the area of access to information and/or for their legal, policy and research backgrounds.

The current members of the Task Force are: Andrée Delagrave, Chair; Mary Anne Stevens, Director; Louis

Alberti, Legal Counsel; David Dunbar, Senior Legal Counsel; Shauneen Furlong, Senior Policy Officer; Marta Khan, Senior Policy Officer; Valerie Lasher, Senior Policy Officer; John McCarthy, Special Advisor; Eric Miller, Senior Policy Officer; Sherry Moran, Special Advisor; Bruce Walton, Senior Policy Officer, and Stephen Bindman, Special Advisor (part-time). Biographies are available on the Task Force web site at <http://www.atirtf-geai.gc.ca/> in the "About Us" section.

[English]

POINT OF ORDER

Hon. Terry Stratton: Honourable senators, I rise on a point of order. I do not normally do this, but an event occurred at the beginning of today's session where offensive language was used. As honourable senators know, that kind of language cannot be used in this chamber. While the individual who expressed his concerns did so as a new senator, perhaps he should take note that that language is simply not used in this chamber.

The Hon. the Speaker: Do any other senators wish to comment on the honourable senator's point of order?

Hon. Anne C. Cools: Honourable senators, Senator Stratton spoke so briefly that perhaps the majority of us were unable to grasp the totality or complexity of the situation. I wonder if we could prevail upon the honourable senator to expand on the matter.

Senator Stratton: Honourable senators, I have made my point to the individual. I have repeated the content of what I said to him. Honourable senators who may not have been in the chamber may read what was said in the *Debates of the Senate*. I believe that is sufficient at this stage.

The Hon. the Speaker: Honourable senators, this is a serious matter. I should like to have an opportunity to review the record. I will rule on the point of order at the next sitting, if at all possible.

[Translation]

ORDERS OF THE DAY

IMMIGRATION AND REFUGEE PROTECTION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cordy, seconded by the Honourable Senator Morin, for 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.

Hon. Gérald-A. Beaudoin: Honourable senators, I wish to say a few words on Bill C-11.

[English]

Bill C-11 replaces the existing Immigration Act, providing clearer modern legislation to ensure that Canada's immigration

and refugee protection system is able to respond to new challenges and opportunities. Bill C-11 contains inadmissibility provisions for criminals, persons who constitute security threats, violators of human rights and persons who should not be allowed into Canada because of fraud, misrepresentation, financial reasons or health concerns.

Bill C-11 deals with the right to enter and remain in Canada, the rights and obligations of permanent and temporary residents, detention and release, right of appeal, judicial review and refugee protection.

Immigration is a subject of great importance.

[Translation]

As regards the sharing of responsibilities, immigration is a shared jurisdiction, although primarily a federal one under section 95 of the Constitution Act, 1867. Clauses 7 to 10 of Bill C-11 deal precisely with intergovernmental agreements and they stress the importance and the need to consult with the provinces on immigration matters.

A brief look at the jurisprudence of the Supreme Court shows that immigration matters raise constitutional issues.

[English]

This is why it would be logical, in my opinion, to refer Bill C-11 to the Standing Senate Committee on Legal and Constitutional Affairs.

[Translation]

In *Chiarelli*, the court dealt with the compatibility of the legislation providing for the deportation of a permanent resident and section 7 of the Charter.

Chiarelli was found guilty of a crime for which the sentence is imprisonment for a period in excess of five years. In such a case, section 27(1)(d)(iii) of the Immigration Act, 1976, provides for the deportation of a permanent resident, in compliance with certain procedures. Chiarelli challenged both the legislation as such and the procedures.

• (1430)

Mr. Justice Sopinka, who wrote the unanimous decision of the court, pointed out that immigration law provides that permanent residents do not have an absolute right to enter or to remain in Canada, unlike Canadian citizens. This distinction is in fact recognized under section 6 of the Canadian Charter of Rights and Freedoms.

[English]

The Parliament of Canada has the power to establish a legislative regime related to permanent residents. This one is legitimate and not arbitrary, according to Mr. Justice Sopinka.

Justice Sopinka is also of the opinion that a mandatory order of deportation, when a permanent resident has voluntarily

omitted to comply with an essential condition for staying in Canada, does not violate the principles of fundamental justice.

[Translation]

In *Dehghani*, the Supreme Court ruled that the requirements of fundamental justice do not include the right to counsel during a routine customs examination.

Dehghani claimed refugee status. He claimed, first, that his right to counsel had been violated and, second, that his residual protection under section 7 entitled him to such a right in the absence of “detention” or “arrest.”

Mr. Justice Iacobucci wrote that the residual protection conferred by section 7 of the Charter includes the right to counsel in circumstances not covered by paragraph 10(b) of the Charter. In effect, it is possible that the right to counsel could be claimed outside the context of an arrest or detention, for example, during an investigation or a hearing.

In both these cases, *Chiarelli* and *Dehghani*, the Government of Canada was successful. I refer to them merely to illustrate the fact that the Immigration Act has repercussions for Canadian constitutional law.

In light of the events that took place in New York and Washington on September 11 of this year, I have no trouble agreeing that the security of our borders has become an urgent matter which we must address without delay.

Honourable senators, in light of the foregoing, I suggest that Bill C-11, a very important bill, be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

On motion of Senator Andreychuk, debate adjourned.

MOTION TO ALLOT TIME ADOPTED

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, following discussions with the leader of the opposition and the independent senators, I move:

That, pursuant to rule 38, in relation to Bill C-11, An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger, no later than 3:30 p.m. Thursday, September 27, 2001, any proceedings before the Senate shall be interrupted and all questions necessary to dispose of second reading of the bill shall be put forthwith without further debate or amendment, and that any votes on any of those questions be not further deferred;

That, if a standing vote is requested, the bells to call in the senators be sounded for 30 minutes, so that the vote takes place at 4:00 p.m.; and

That the committee to which Bill C-11 is referred have power to sit for the purpose of the study of the said bill, at any time when the Senate may be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Léger, for 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.

Hon. Serge Joyal: Honourable senators, I will try to be brief in my comments regarding Bill C-24.

[English]

This bill is entitled, in part: “An Act to amend the Criminal Code (organized crime and law enforcement)...”

As honourable senators will certainly remember, this bill has a particular significance in many large cities of Canada, in particular in Montreal.

[Translation]

Honourable senators, you may recall that the events of the past few years, in particular the bloody conflict involving two rival biker gangs, have cost several lives and caused considerable damage to private property.

In view of the representations made by police forces, which were ill-equipped to deal with this crisis, the Minister of Justice decided to strengthen certain provisions of the Criminal Code. This relatively important bill sets out all of the additional powers that would be given to police forces to fight organized crime in an effective manner.

[English]

I have absolutely no quarrel with that objective. I do not think we can live in a civilized and democratic society if law and order does not prevail. My major concern is related to proposed section 25, which deals with the capacity given to police forces to commit crimes in the course of their investigations. This is very serious.

It is one of the first times a statute of Canada would allow police forces to commit a crime in the course of an investigation, that is, either to go beyond the prescription of the Criminal Code or against the prescription of a federal statute.

• (1440)

One of the only times that has been accepted is with wiretapping. Many of us might remember the discussion in Parliament when we amended and tried to strengthen the judicial control over wiretapping because wiretapping is seen as an intrusion against section 8 of the Charter of Rights and Freedoms. Section 8 states:

Everyone has the right to be secure against unreasonable search or seizure.

In addition, section 9 of the Charter reads:

Everyone has the right not to be arbitrarily detained or imprisoned.

The legal rights are contained in the Charter. In other words, living in a democratic society, we must be sure that when there is an intrusion of privacy by police who want to wiretap a conversation, the police must first obtain authorization, and that authorization is not easy to get. That authorization must be in the form of writing, signed by the Attorney General or the Solicitor General, depending on the province. It must be accompanied by an affidavit, and it must be given by a judge. It must be given for specific conditions, for a specific inquiry and for a specific period of time. In other words, there is a legal control over the decision of a policeman to wiretap a conversation because each and every one of us has a right to privacy.

This issue of allowing police to commit crimes in the course of an investigation is a very serious issue. There are those of us who remember the investigation of the RCMP — and I see our colleague Senator Bacon, who was at the time a member of the Quebec cabinet — by the McDonald commission. The McDonald commission investigated the conduct of the RCMP during the investigation that preceded the fight against FLQ terrorist groups. The report of the McDonald commission, the Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police, in 1981, contained a list of the crimes that the RCMP was accused of having performed in the course of its investigation of the terrorist groups. What were those crimes? They were the following:

[Translation]

Electronic surveillance, surreptitious entry for the purpose of installing a listening device, mail check operations, the use of confidential information held by federal organizations and departments, publishing false news releases, the burning of a barn in Sainte-Anne-de-la-Rochelle, the removal of dynamite.

[English]

Honourable senators, this bill, through proposed section 25, would make those crimes, in certain circumstances, crimes no longer. In other words, if I am wiretapped, the police will have to seek written authorization with an affidavit, see a judge and get the authorization of the judge for a limited period of time.

However, if the police decide to burn down my shed in the country because, without my knowledge, it is used by a group for secret meetings to plan a bank robbery — nothing to do with organized crime, as such, or the kind of crime that we are concerned with primarily in this bill — what would be the procedure? I would look to proposed section 25 of the bill because that shed is mine and I have a right to property. We know that the right to property is not protected by the Charter. Of course, our colleague Senator Beaudoin always comments on that. We all know — and I see Senator Murray across the floor — that we wanted to put property rights in the Charter in 1980. One of the main reasons was that property rights were the jurisdiction of the provinces under section 92 of the Constitution Act, 1867. We did not want to enter the area of trying to limit the right to property. However, in the very example I just gave to honourable senators, I have a right to property.

I looked to proposed section 25 of the bill to see the kind of system that would protect my rights and protect the fundamental principle of the rule of law. Senator Lynch-Staunton, in his first question today, alluded to the rule of law. What is the rule of law? The rule of law is essentially the absence of arbitrary power in the hands of the authorities, be it the police, the government or the judicial authorities. What is the common understanding of the rule of law? Everyone is entitled to the benefit of the law, and the law should be applied equally to everyone.

Honourable senators, that is the fundamental principle of our democratic society, which has been repeated in many instances by the Supreme Court of Canada. It was stated very clearly in the 1974 *Lavell* case. It was repeated by the Supreme Court in a very famous case that we have all read and debated in this chamber, the *Reference re Secession of Quebec* in 1998. Paragraph 70 of that decision states:

The principles of constitutionalism and the rule of law lie at the root of our system of government. The rule of law as observed in *Roncarelli v. Duplessis*...is “a fundamental postulate of our constitutional structure.”

It continues:

It provides a shield for individuals from arbitrary state action.

Subsection (2) of proposed section 25 in Bill C-24 states the importance of the rule of law. It says:

[Translation]

It is in the public interest to ensure that public officers may effectively carry out their law enforcement duties in accordance with the rule of law and, to that end, to expressly recognize in law a justification for public officers and other persons acting at their direction to commit acts or omissions that would otherwise constitute offences.

[English]

In other words, the bill states that the rule of law is fundamental, but the bill continues to allow a breach of the rule

of law. What system, included in the bill to protect the individual, is the object of the breach of the rule of law?

I read the following subsection of proposed section 25 and came to the conclusion that the bill, as presently written, does not contain a protection parallel to the one that we have with respect to wiretapping. The wiretapping protection is easy to understand. It is in the hands of a judge. On the basis of an affidavit, an outside authority has the capacity to review whether the wiretapping is abusive or whether it is the easiest route in an investigation. Before we allow an intrusion into someone's privacy, we want to ensure that it is not done as a fishing expedition.

With regard to proposed section 25, I tried to understand who was the external authority controlling the authorization given to a person. The proposed section goes as far as referring to a person committing a crime, not a police officer, but a person who may act under a police officer's instruction. It goes very far. It means that a person who is asked by the police to do something illegal should know reasonably that whatever that might be is needed in the course of the investigation. This is the authority given to that person to commit the crime or offence.

• (1450)

Proposed section 25 does not provide for an external control vis-à-vis police forces. Yesterday, Senator Kelleher stated that there should be a similar or an analogue system to our wiretapping system. I am told that judges do not want to be told that there will be a crime committed that they will bless, because, of course, it is important to maintain and protect the credibility of the law and order system.

I tried to understand, from the viewpoint of the mother of Parliament, our counterpart in Britain, what system is followed there. They are governed by the Police Act 1997. The system in Britain is pretty clear. Chapter 50, section 91, of that act allows for a chief commissioner to be appointed outside the police system to review authorizations given to police to commit offences or initiatives that in other instances would be seen as criminal. That chief commissioner has the responsibility to implement a code of practice. No one can decide to do whatever he or she wants in the course of an investigation and just come with the result. The chief commissioner can hear appeals and may order compensation. Again, if my shed is burned down by the police, who will compensate me? Will my insurance pay if the police deliberately burn down my shed? The Police Act 1997 allows for such compensation.

The bill before us has no such compensation. There is simply an obligation to inform the person, in the year after, that the police have done something that was not legitimate.

In section 105 of Britain's Police Act 1997, the chief commissioner must report to the Prime Minister and the Prime Minister must report to Parliament in a succinct and appropriate way. Those investigations cannot reveal all the elements of an investigation, for very valid reasons, but there is still a whole system of controls over the initiatives taken by police. Parliament has a capacity and, singularly, our chamber, through our security committee, to review that report. That is, among other reasons, why we have a Defence and Security Committee — to protect, in the proper way, the secrecy of investigations.

Honourable senators, Bill C-24 is even more important today in light of the events of past weeks because it gives the police special powers to fight organized crime. Also, it gives those powers to the police to fight any kind of crime. I am not opposed to the police having some special capacity to fight at par with the forces of crime, but the rule of law applies to the police as it applies to everyone. That is the essential principle of the credibility of our system.

[Translation]

The Hon. the Speaker *pro tempore*: Honourable senators, I regret to have to interrupt Senator Joyal, but his speaking time is up.

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, how much longer does Senator Joyal require to finish his remarks?

Senator Joyal: Two minutes.

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

Hon. Senators: Agreed.

[English]

Senator Joyal: Honourable senators, the Supreme Court of Canada, in many judgments, has recognized and stated that the rule of law applies to public officers. No public officer is above the law. No public officer can claim that, by his or her very status, he or she is in a different class than average citizens before the law.

This has been restated in many cases, for example, *Lavell* and, in 1999, *Campbell*, which was referenced by the Honourable Senator Kelleher. That is a known principle of the Criminal Code for many of us.

These days, as we discuss the reliability of our legal and police systems in Canada, it helps us to remember this quote from Benjamin Franklin. Of course, you know the importance of Benjamin Franklin in defining the American system. He wrote, in 1759, "They that give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety."

The Hon. the Speaker *pro tempore*: If no other senator wishes to speak, I will put the question.

It was moved by the Honourable Senator Moore, seconded by the Honourable Senator Léger, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Moore, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

[Senator Joyal]

[Translation]

BROADCASTING ACT

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Jean-Robert Gauthier moved the second reading of Bill S-29, to amend the Broadcasting Act (review of decisions).

He said: Honourable senators, this bill is a close relative of Bill S-7, introduced by Senator Finestone and passed last spring. The two are similar, but they differ somewhat in that Senator Finestone's bill, which was passed by the Senate and is now with the House of Commons, amended sections 9 and 10 of the Broadcasting Act, while Bill S-29 addresses section 31. They are not the same thing, although of course they involve the same overall question, that is, the powers of the CRTC. The similarity stops there, however. Bill S-7 concerns the powers of the CRTC to award costs when there are proceedings, whereas Bill S-29 deals with its internal review process. These are two distinct entities.

The CRTC administers two pieces of legislation, the Broadcasting Act and the Telecommunications Act.

• (1500)

Under the terms of both acts, the commission makes decisions, and I underscore "decisions." However, under the terms of both laws, the commission has very different powers to revise its own decisions. The difference, apparently, between the legislative regimes lies in the fact that, in the past, the various means of communication — radio, television, newspapers, telecommunications — each had their own distinct characteristics. They required different equipment and separate businesses to provide service to consumers. Accordingly, the government treated them differently.

All that changed with the development of the Internet, the information highway. All these various forms of media are now converging, as it is commonly called. Consumers can now surf the Internet, listen to the radio, watch television and answer the phone all by means of a single machine they probably have in their home, their personal computer. This is possible today.

Although the Canadians enjoying these services fully are in the minority, convergence is clearly becoming a reality and will be a matter of course for everyone.

Today, we must recognize that all the media are or will soon become different forms of the same medium, namely, electronic communication. This is why we must begin to harmonize and streamline our legislative approach to electronic communications and eliminate the obstacles separating them at the moment. These obstacles no longer serve any real purpose, except to create undue advantages for some. Let me explain. The major players have money to protect their interests. The small players, with fewer means, sometimes have difficulty. The CRTC relies on interveners to award a license to an organization. It also has to make decisions on broadcasting that are different from those in telecommunications.

As the distinctions between the various forms of communications media disappear, the threat of a monopoly or an oligopoly increases.

By establishing a unified, harmonized and rational approach to electronic communications, we will enable the small players to penetrate the communications market. At some point, this will put an end to domination by the major broadcasting interests.

Up to now, the major broadcasters have been able to use their enormous resources to control the direction of broadcasting policy in this country. One of the groups that has suffered from this state of affairs is francophones outside Quebec. This is only one of the groups — there are of course many others, which time precludes me enumerating. I will list them in committee. They have a message to give.

A new set of rules, based on the reality and on the inescapable nature of technological convergence, will allow all these groups to have a public presence and a strong voice in their communities and well beyond their communities.

Bill S-7, which was sponsored by Senator Finestone, was passed by the Senate on June 7, 2001. It was read for the first time in the House of Commons on September 19, 2001. It would allow the CRTC to award costs incurred in broadcasting decisions, in the same way that the CRTC currently has the power to award costs incurred in telecommunications decisions. You can see the difference. The awarding of costs will enable consumers, public interest groups and individuals to conduct in-depth research and collect substantive evidence to clearly represent the public interest in broadcasting and cable television issues.

Why am I taking an interest in this issue? I will be forthright. It has cost me time and money to learn. You may remember TFO's application to the CRTC. The CRTC was asked to require cable companies in Quebec to provide, on an optional basis, TFO's signal in Quebec. It was perfectly justified to allow francophones in this country to speak to each other from province to province. The CRTC said no, that this was not in the public interest. That was the reason invoked by the CRTC. We tried to enlist the help of cabinet. We were told that cabinet could do something about a legal or jurisdictional matter. Was this the case? I said that it was a legal issue, that I was not a lawyer, but that I wanted to use some sections, including section 41 of the Official Languages Act. In my opinion, this section is binding. If we use section 41, since the CRTC is a federal body, it would be forced to help the country's linguistic minorities thrive, develop and promote their identity. I was told that this section was not strong enough, since the Minister of Justice said that section 41 was declaratory. So, the government's position is that section 41 is declaratory.

I asked questions about this decision. I was told to raise them with the Federal Court, so I did. I hired a lawyer. I waited five or six months before being told that the court could not hear us. The case was left pending with no reason given. I said that I wanted someone to listen to me and they said that it was unfortunate, but

that they were not interested. I then went to the Supreme Court with the same lawyer and the same arguments and got the same results. After six months, I was told: "Listen, we cannot hear your case." I was again upset. I returned to the political arena, to the Senate, to try to convince my colleagues in this chamber to pass a bill that would give the CRTC the authority to review its decisions, to take a second look, to perhaps hear convincing arguments so as to resolve the issue in the fairest manner.

This is the reason I became involved with Bill S-29: to find a way of allowing the CRTC to change its mind. It may do so with respect to telecommunications. Why not with respect to broadcasting? In today's world, where convergence is the order of the day, this would strike me as entirely logical.

• (1510)

Bill S-29 represents another important step in the disappearance of the artificial and pointless distinctions which continue to exist between telecommunication and broadcasting policies.

Bill S-29 would allow the commission, on request or on its own initiative, to review, rescind or vary any of its decisions, or rehear any matter before rendering a decision. The CRTC will thus have the same powers as it has under the Telecommunications Act. Just as the CRTC has broad discretionary power to review its decisions under the Telecommunications Act, it should have the authority to review its broadcasting decisions. It does not take a rocket scientist to figure this out.

If the CRTC is to play an important role in modern communications, it will have to be given greater authority and flexibility to set broadcasting policy. In certain cases, the commission might have to review its earlier decisions, or rehear a matter before rendering a decision. Similarly, it should have the power to review the conditions of existing licences, if circumstances so require. We know, and the CRTC knows, of course, that amending the conditions of an existing licence can have a very significant impact on a broadcasting undertaking; that is why this is not a power which would be exercised without serious and extensive prior consideration.

You may say that the CRTC can review its policy and decisions at any time. Is that not sufficient power? I would answer no.

The commission has two distinct functions. First, it has the power to set broadcasting policy and make regulations; this applies to the whole industry. Second, it can make decisions regarding licensing, which only have an effect on an individual broadcaster subject to the conditions of licence who may, someday, wish to be granted a licence.

First, the commission develops policy. Then, it acts in a quasi-judicial manner by making decisions based on established criteria, decisions that have an effect on the rights and responsibilities of those concerned.

Under the Broadcasting Act, the conditions of licence may not be appealed. This is something that I have experienced. They may only be subject to judicial review by the Federal Court of Appeal, only on a question of law or a question of jurisdiction, and only with leave of the court. If the court does not wish to hear your case, you are out of luck.

Cabinet review is subject to strict rules under the terms of section 28. The Governor in Council may, on the Governor in Council's own motion, or on petition in writing, set aside a decision or refer it to the commission for review, if the Governor in Council is satisfied that the decision derogates from the attainment of the objectives of the broadcasting policy set out in the act.

It is worth pointing out that even the review by cabinet is not absolute. It may examine the decision to award, modify or renew a licence but it may neither revoke nor suspend a licence.

For the CRTC to be taken seriously as the authority governing Canadian broadcasting, it should have real authority over setting policy in this industry. In certain cases, the CRTC would need to review its decisions and hold a new hearing before reaching a decision. Similarly, it should have the authority to review the conditions of existing licences — and even to revoke them if circumstances require, after serious and profound reflection.

[English]

In conclusion, honourable senators, Bill S-29 is a legislative measure that seeks to establish a level playing field between both the Telecommunications Act and the Broadcasting Act. This bill seeks to establish fair access for individuals and small broadcasters as well as for the large enterprises.

The large enterprises have the money and resources, legal and otherwise, to present and defend their case. The small broadcaster should have equal access. If Bill S-7 is approved, as I hope it will be, then the small broadcaster will have access to funds for expenses occurred in preparing a case.

Currently, the CRTC cannot do its own research. It relies on information from interveners to determine what decisions will be taken regarding the Broadcasting Act.

There were more than 1,550 interveners in the case of TFO. Only 11 of the interveners were against the proposal to allow TFO to go into Quebec. Of all the interveners, 99.3 per cent were in favour of the proposal, yet the CRTC decided that it was not in the national interest.

Honourable senators, I hope that this bill is approved in this house and the other place in order that we may have equity in broadcasting.

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

[Senator Gauthier]

[Translation]

TRANSPORT AND COMMUNICATIONS

AUTHORITY TO STUDY ISSUES
FACING INTERCITY BUSING INDUSTRY—
REPORT ADOPTED

The Senate proceeded to consideration of the fifth report of the Standing Committee on Transport and Communications (*study on the intercity busing industry*) presented in the Senate on September 25, 2001.—(Honourable Senator Bacon).

Hon. Lise Bacon: Honourable senators, I move adoption of the report.

In the recent study in the Senate of Bill S-3, to amend the Motor Vehicle Transport Act, the economic regulation of intercity buses was extended.

The bill as passed included clauses that enabled the provinces, through powers delegated to them by the federal government, to continue to set tariffs and conditions for the entry of extra-provincial bus services as they see fit, and as was done for trucking more than ten years ago.

Of all the long-distance transportation services in Canada, whether for passengers or freight, bus transportation is the only one where the federal government still has some influence on fares.

• (1520)

On June 6, the Minister of Transport made a presentation on the bus industry to the Standing Senate Committee on Transport and Communications. On this occasion he asked us to look at the public policy issues relating to the busing industry that would contribute to the prosperity, efficiency and competitiveness of that industry, and to report on the strategic issues affecting the busing industry.

In Canada, the number of intercity bus users has been dropping steadily. In 1970, intercity buses transported 46 million people, compared to 30 million in 1981. In 1987, airlines in Canada transported as many passengers as buses did, but now the number of air passengers stands at 25 million, compared to 11 million for intercity bus passengers.

Railway transportation, a mode that is used relatively little, has some 4 million passengers annually. Most intercity travel is done by car.

The committee examined the minister's request and it is asking for the adoption of its fifth report, which will give it the order of reference that it needs to undertake this mandate. The committee is asking for authorization to examine the strategic issues affecting the intercity busing industry. It is also recommending that its final report be tabled no later than December 20, 2002; that, notwithstanding the usual rules, it be allowed to table any report to the Clerk of the Senate even if the Senate is not sitting at the time, and that the report be deemed to have been tabled in the Senate Chamber. I therefore move adoption of the report.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

[*English*]

**POLITICAL REPONSES TO ACTIONS OF
PRIME MINISTER REGARDING TERRORIST
ATTACKS ON UNITED STATES**

POINT OF ORDER

The Hon. the Speaker: Honourable senators, before proceeding to Inquiries, Senator LaPierre has requested leave to speak to his earlier statement. I am recognizing Senator LaPierre.

Hon. Laurier L. LaPierre: Honourable senators, I wish to withdraw the word “God” from my statement earlier today. It is my understanding that it offended certain members of the house.

The Hon. the Speaker: Honourable senators, we have a request from Senator LaPierre to withdraw the word “God” from his statement earlier, which prompted a point of order. Is it your pleasure, honourable senators, to accept the withdrawal of the word?

Hon. Senators: Agreed.

The Senate adjourned until Thursday, September 27, 2001, at 1:30 p.m.

CONTENTS

Wednesday, September 26, 2001

PAGE

PAGE

SENATORS' STATEMENTS

The Late Honourable Gildas L. Molgat

Commander of Order of Leopold Awarded Posthumously.
Senator Carstairs 1299

Transport

Airline Industry—Effect of Terrorist Attacks on United States—
Government Support. Senator Hervieux-Payette 1299

Political Responses to Actions of Prime Minister Regarding Terrorist Attacks on United States

Senator LaPierre 1299

Women's Conference on Reunification of Korean Peninsula and Issues in Asia-Pacific Region

Senator Wilson 1300

ROUTINE PROCEEDINGS

Study on State of Health Care System

Interim Report of Social Affairs, Science and Technology
Committee Tabled. Senator Kirby 1300

Adjournment

Senator Robichaud 1300

Aboriginal Peoples

Notice of Motion to Authorize Committee to Study Issues
Affecting Urban Aboriginal Youth. Senator Chalifoux 1300

QUESTION PERIOD

National Defence

Present Location and Assignment of HMCS Charlottetown.
Senator Forrestall 1301
Senator Carstairs 1301

Citizenship and Immigration

Comments by Minister Regarding Immigration and Refugee
Protection Bill. Senator Lynch-Staunton 1301
Senator Carstairs 1301

Foreign Affairs

Terrorist Attacks on United States—Effect on People of
Afghanistan—Aid by Nongovernmental Organizations.
Senator Di Nino 1302
Senator Carstairs 1302
State of Sanctions Against India and Pakistan. Senator Di Nino . 1302
Senator Carstairs 1302

Citizenship and Immigration

Comments by Minister Regarding Immigration and Refugee
Protection Bill. Senator Lynch-Staunton 1302
Senator Carstairs 1303

Finance

Effect of Devaluation of Dollar. Senator St. Germain 1303
Senator Carstairs 1303

The Economy

Effect of Terrorist Attacks on United States. Senator Stratton ... 1303
Senator Carstairs 1304

Foreign Affairs

Changes to Regulations on Relations with Afghanistan.
Senator Tkachuk 1304
Senator Carstairs 1305

Visitors in the Gallery

The Hon. the Speaker 1305

Delayed Answers to Oral Questions

Senator Robichaud 1306

National Defence

Replacement of Sea King Helicopters—Changes to Basic
Vehicle Requirements.
Question by Senator Tkachuk.
Senator Robichaud (Delayed Answer) 1306

Treasury Board and Justice

Membership of Access to Information Review Task Force.
Question by Senator Stratton.
Senator Robichaud (Delayed Answer) 1306

Point of Order

Senator Stratton 1306
Senator Cools 1306
The Hon. the Speaker 1306

ORDERS OF THE DAY

Immigration and Refugee Protection Bill (Bill C-11)

Second Reading—Debate Continued. Senator Beaudoin 1306
Motion to Allot Time Adopted. Senator Robichaud 1307

Criminal Code (Bill C-24)

Bill to Amend—Second Reading. Senator Joyal 1308
Senator Robichaud 1310
Referred to Committee. 1310

Broadcasting Act (Bill S-29)

Bill to Amend—Second Reading—Debate Adjourned.
Senator Gauthier 1310

Transport and Communications

Authority to Study Issues Facing Intercity Busing Industry—
Report Adopted. Senator Bacon 1312

Political Responses to Actions of Prime Minister Regarding Terrorist Attacks on United States

Point of Order. Senator LaPierre 1313
The Hon. the Speaker 1313



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