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(HANSARD)**

Wednesday, November 21, 2001

**THE HONOURABLE DAN HAYS
SPEAKER**

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THE SENATE

Wednesday, November 21, 2001

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

Prayers.

SENATORS' STATEMENTS

**THE LATE GARNET "ACE" BAILEY
THE LATE BILLY "HINKY" HARRIS
THE LATE CARL BREWER**

TRIBUTE

Hon. Francis William Mahovlich: Honourable senators, the fall of 2001 was not the most glorious for the National Hockey League alumni. We lost three of our most distinguished members, Garnet "Ace" Bailey, Billy "Hinky" Harris and Carl Brewer.

Carl did not have a nickname because he never stayed long enough in one place. He went to five different high schools in Toronto in five years and seemed to always be quitting the NHL to play in Europe or in the IHL or on Canada's Olympic team.

The common denominator of the three players was that they all left beautiful, successful families. Bailey left a son and wife in Boston where he began his career with Bob Orr. Ironically, his career ended in Edmonton with Wayne Gretzky as his roommate; they were two of hockey's greatest players. Bailey was on his way to Los Angeles when his plane was terrorized and crashed into the New York World Trade Center.

Harris played from 1955 to 1965 with the Toronto Maple Leafs, who won the Stanley Cup in 1962, 1963 and 1964. His book *The Glory Years* brings to life that period when the Leafs were a dynasty. We had won more championships than the Montreal Canadiens or the New York Yankees. I believe it was 13, up to 1964.

Billy coached the Canadian national team during the 1969-70 season. "Hinky" left the coaching ranks to pursue his B.A. in education at Laurentian University. Billy also served for many years as the President of the Maple Leafs' Alumni Association.

In 1966-67, Harris was with my brother, Peter, when they won the Calder Cup, emblematic of the American Hockey League. I remember both of them phoning me to wish me luck in the Stanley Cup playoffs that year when we were playing against the Montreal Canadiens.

Billy is survived by his companion, Tonie Simpson, and his children, Wendy, Billy Jr., Patti and Bob, and was predeceased by his wife, Sylvia.

Carl Brewer: defender of the underdog. To take on the NHL, it was David against Goliath. August 25, 2001, Carl passed away. The alumni were well represented at the funeral in appreciation of what Carl did in their lawsuit against the National Hockey League that won players of his generation U.S. \$40 million in pension money. Brewer started his battle with the National Hockey League Pension Society by questioning the practices of Alan Eagleson, then the head of National Hockey League Players Association, and organizing players to enter into a lawsuit against the National Hockey League. Winning the civil battle ultimately brought down Eagleson, who served six months in jail for fraud and theft after pleading guilty to criminal charges.

The pension battle overshadows what was a successful NHL career for Carl. A swift skater whose abrasive style agitated his opponents, he played 604 career games and had 25 goals and 198 assists.

The Hon. the Speaker: I am sorry to advise the honourable senator that his time has expired.

Hon. John Lynch-Staunton (Leader of the Opposition): Give him five minutes of overtime.

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

Hon. Senators: Agreed.

Senator Mahovlich: Carl was a key member of the Leafs teams that won three Stanley Cups from 1961 to 1964, yet he was never inducted into hockey's Hall of Fame.

Carl leaves his long-time friend and companion, Susan Foster, sons Michael and Christopher, daughter Anna-Lisa, granddaughter Astrid, and former wife, Marilyn. Carl will be remembered for his exceptional hockey talent, a man of vision with a mission, a believer in principles, a fighter for the NHL players' rights.

ANTI-RACISM LAWSUIT AGAINST JOHNSON & JOHNSON

Hon. Donald H. Oliver: Honourable senators, there is yet another multi-million dollar anti-racism lawsuit launched south of the border. This one is against Johnson & Johnson, a multi-billion dollar corporation with 195 operating companies in 51 countries around the world.

This follows on the heels of the anti-discrimination lawsuit successfully brought against Texaco Inc. and Coca-Cola, which I previously brought to honourable senators' attention. I continue to raise these issues in the chamber because the same systemic racism against the promotion and advancement of Blacks and visible minorities exists in our Canadian corporations. Something must be done about it.

• (1340)

In March, I advised honourable senators that the Coca-Cola Company of Atlanta paid out the largest settlement in history for a discrimination lawsuit, U.S. \$200 million. In the Texaco case, it was \$176 million. The Johnson & Johnson lawsuit, which seeks class action status for more than 1,000 minority workers, mainly Blacks and Hispanics, alleges that they are not given a fair and equal opportunity to attain senior positions in divisions that earn the highest revenue. The suit alleges that "Blacks and Hispanics endured discrimination in pay because merit increases, cash bonuses, stock awards and stock options are based on a flawed and unduly subjective performance rating system." The suit further alleges that "senior management and human resource supervisors at Johnson & Johnson, the maker of Band-aids and baby shampoo, have repeatedly failed to monitor the company's promotion and compensation practises for discrimination." The actions of these corporations are not only breaking the backs and the pockets of the workers but also their dreams, be it employment stability or financial prosperity.

Honourable senators, we need to be up close and personal to the issue of discrimination and racial bias in the workplace. Canada must not only take the issue seriously but also, as public policy-makers, we must put in place legislative safeguards to prevent racism and discrimination of any sort in the workplace. We know this type of behaviour is going on in Canada. Let us not wait for it to be our corporations and our government in the news.

I call upon all honourable senators to join me in this fight, which has gone on in North America for too long. Let us make a commitment. I know we can make a difference.

LIBERAL PARTY SUPPORT FOR FREE TRADE AGREEMENT

Hon. Gerald J. Comeau: Honourable senators, in response to a question on November 7, the Leader of the Government in the Senate stated, "Let me begin by saying that I do not think the Liberals were ever opposed to free trade." She went on to explain that her opposition had been to the dispute settlement mechanism.

We all understand that the minister's job is to put a positive spin on Liberal policy positions. It may well be that the dispute settlement mechanism was the central issue in free trade in Manitoba, but that certainly was not the case in Atlantic Canada. I know. I was a federal candidate during the free trade election referendum of 1988.

History recalls that when then Liberal leader John Turner vowed to make free trade the fight of his life, when he said that free trade would cut Atlantic Canada adrift, and when he called on the Liberal dominated Senate to block free trade to precipitate an election, he was not referring to the dispute settlement mechanism.

I remind honourable senators of what was said by the Liberal leader, candidates and canvassers during the campaign, namely,

Liberal TV ads erasing the Canada-U.S. border on the map. Social programs, medicare, old age pensions, senior provincial drug programs and child care would be finished. Hospitals and schools would be privatized. Surgery patients would have to pay for blood transfusions. Cultural industries were gone. Regional development programs were gone. There would be no more R&D in Canada. The Americans would take over fish quotas. Fish caught in our Canadian waters would be landed in American ports. Management of our fish stocks was gone. Logs would be shipped round. Supply management was dead. Chicken farming, hog ranching and the milk industries were gone. Processed products such as powdered eggs, chickens, milk products and processed food, all gone.

These were the doubts and fears raised in senior citizens' homes, fish plants, sawmills, farms and schools — fears which were raised amongst the most vulnerable in society: the sick, the elderly, the working poor, people on fixed income and the young. As a result, Progressive Conservative candidates in the 1988 election fell like flies. It was a turkey shoot.

Senator St. Germain: I was one of them.

An Hon. Senator: So was I!

Senator Comeau: Massaging the facts today cannot change what was history.

An Hon. Senator: Mendacities!

FAMILY AND GENDER VIOLENCE

Hon. Catherine S. Callbeck: Honourable senators, I rise today to speak about a serious situation experienced by countless women and families across Canada. This devastating problem causes broken homes, unbearable living circumstances, injuries and, in many cases, death. This issue is family and gender violence.

Honourable senators, November 25 to December 10 is known as the 16 days of activism against gender violence. This coming Sunday, November 25, marks the International Day to End Violence Against Women. December 10 is International Human Rights Day. In between these dates, on December 6, men and women throughout Canada will join together to commemorate the twelfth annual national day of remembrance and action with regard to the "Montreal massacre." I am sure I do not have to remind anyone here of the 14 women who were murdered in Montreal in 1989, simply because they were women.

The events in Montreal 12 years ago have truly opened many eyes to the problem of family and gender violence. Startling statistics have been kept that reveal the severity and frequency of the violence. Over half of Canadian women — 51 per cent — have been victims of at least one act of violence since the age of 16. Their attackers are seldom strangers. Last year, 55 per cent of those murdered women had been killed by someone they either knew or had been with in a relationship.

Women and children are reaching out for support. In the span of one year, almost 100,000 women and children were admitted to shelters in Canada. To raise awareness of this issue, the Status of Women organization of Prince Edward Island has forwarded purple ribbons to be sent to the offices of all senators. I encourage honourable senators to wear their ribbon during this important period to show to others their desire to eliminate family and gender violence everywhere.

[Translation]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO STUDY TIME ALLOTTED FOR TRIBUTES

Hon. Jean Lapointe: Honourable senators, I hereby give notice that, tomorrow, Thursday, November 22, 2001, I will move:

That the Standing Senate Committee on Rules, Procedures and the Rights of Parliament be authorized to examine the time allocated to tributes in the Upper Chamber and to report no later than March 31, 2002.

[English]

QUESTION PERIOD

TREASURY BOARD

REPORTS BY DEPARTMENTS EVALUATING EQUALITY AND
DIVERSITY AGENDA—REQUEST FOR TABLING

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate. The events of September 11 have shocked governments around the world, and they are affecting their legislative agendas. As a body of sober second thought, it behoves us in the Senate of Canada to ensure that our government does not lose sight of the equality and diversity agenda that would provide for a representative public service.

Media reports confirm that there are pressures on the Minister of Finance and cabinet to move financial resources to help fight terrorism. My fear is that these reallocations not take place at the expense of implementing the program adopted by cabinet flowing from the report entitled "Embracing Change in the Federal Public Service." Diversity has never been more important than now, and we need heightened accountability of departments because not enough has been accomplished to date.

Will the minister obtain copies of the departmental report cards from each and every department plus copies of the evaluations done to date by each department to determine the extent to which they have incorporated the benchmarks approved by cabinet to help departments and managers achieve diversity? Will she lay these reports before this chamber before the Christmas break?

Hon. Sharon Carstairs (Leader of the Government): I thank Senator Oliver for his question. Far from the events of September 11 having an impact on the equality and diversity agenda, the honourable senator should take comfort from the fact that the government has an understanding of the need to address diversity because of the actions of September 11.

ROUTINE PROCEEDINGS

OFFICIAL LANGUAGES

GOVERNMENT RESPONSE TO FIFTH REPORT OF
JOINT COMMITTEE TABLED

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour of tabling the Government's response to the fifth report of the Standing Joint Committee on Official Languages titled "Study on the bilingual services offered by Air Canada."

[English]

CANADA-COSTA RICA FREE TRADE AGREEMENT IMPLEMENTATION BILL

REPORT OF COMMITTEE

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

Wednesday, November 21, 2001

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

SEVENTH REPORT

Your Committee, to which was referred Bill C-32, An Act to implement the Free Trade Agreement between the Government of Canada and the Government of the Republic of Costa Rica and to make related amendments to other Acts, has examined the said Bill in obedience to its Order of Reference dated Wednesday, November 7, 2001, and now reports the same without amendment.

Respectfully submitted,

PETER A. STOLLERY
Chair

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

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

[Senator Callback]

We have seen indications since September 11 of things within our communities that we would rather not see. I can say with a great deal of comfort that I can assure him today that the equality and diversity agenda will proceed.

With respect to the report cards of the evaluations, if that information is available, I will certainly obtain it for the honourable senator. I will get it back to him as quickly as I can and if at all possible before we recess for Christmas.

Senator Oliver: As a supplementary, Canadians live with diversity as a Canadian reality. They see diversity when they visit their children's classrooms, turn on multicultural television channels, read a brochure from the City of Toronto that is written in 13 different languages or ask for help from the Customs and Revenue Agency, which is available in some 20 languages; yet the federal public service is still not representative of the country, and particularly not representative of the four target groups, namely, Aboriginals, visible minorities, women and the disabled.

Will the minister table before this house, before the budget comes down, background documents confirming the progress made on implementing the provisions of the Perinbam report called "Embracing Change in the Public Service"?

Senator Carstairs: I will obtain for the honourable senator any background information that I can possibly obtain for him, but I want to assure him that the government is working, particularly, to have much better representation from the four target groups that have been identified consistently as lacking appropriate representation in our public service.

FINANCE

CUTS TO EMPLOYMENT INSURANCE PREMIUMS

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate. Today's topic is our friendly EI premiums.

The *Ottawa Citizen* reported today that even though the EI account is running a surplus of \$7 billion a year, the government may cancel next year's planned cuts in EI premiums.

When the Minister of Finance says he has cut taxes by \$100 billion, his figures assume a drop in EI premiums next year, another in 2003 and then another in 2004. The fact that he had to pass Bill C-2 to keep premiums from falling even further is beside the point. To date, he has called these planned tax cuts in EI and added them to his total figure.

Is the government planning to cancel further drops in EI premiums, and will the government cancel other tax cuts promised last year?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, clearly we will not know the budget for the following year until the budget has been announced.

However, I can assure the honourable senator that the government has, as he has indicated, consistently reduced EI premiums. To date, I know of no policy change with respect to that, which just proves once again that one should not always believe everything one reads.

Senator Stratton: A good point, except that when things get tough, one always becomes a little suspicious about what happens to the EI premiums because in the past we have built a very substantial surplus. As a matter of fact, the surplus is well above \$40 billion right now. Obviously, the government has used that to take credit for a substantial surplus.

Can the minister confirm that if the number of claims for regular benefits were to jump by 50 per cent next year, even if the premiums were to be cut to \$2 a year, the program would still run an annual surplus?

Senator Carstairs: As honourable senators well know, this government has consistently reduced EI premiums since 1994. This is the seventh consecutive year that EI rates have been reduced, bringing the total reduction to 82 cents since 1994.

Senator Taylor: Fantastic.

Senator Carstairs: That is an excellent record, and I see no reason why that record would not continue.

Senator Stratton: That is how the government built its surplus of more than \$40 billion — on the backs of the working Canadians. Do not talk to me about cutting taxes and good government management. It has been on the backs of Canadian workers and the EI premiums that they pay. How does the honourable leader respond to Canadians with respect to that issue?

Senator Carstairs: The honourable senator and I have had this discussion before, and I am sure that we will have it again. As he knows clearly, and as he has insisted that I state clearly, the Government of Canada is in such a good economic situation because of the Canadian taxpayers, the Canadian workers. There is no doubt about that. They sacrificed in order for us to rid ourselves of a \$45-billion-a-year deficit that was left to us by the Tories. They have sacrificed to bring down the debt. They have sacrificed to leave us in this economic position, and they have accepted, three times now, the leadership of the Liberal Party of Canada for doing it right.

Some Hon. Senators: Hear, hear!

Senator Stratton: Let us face the situation now. We are into a recession. If the depths of the recession are as severe as that of the early 1990s that took us into that deficit, will the leader be singing the same tune a year from now?

Senator Carstairs: The honourable senator does drive me to rhetoric.

Who was the government in the early 1990s, in 1991 and in 1992? It seems to me that it was the Conservative Party. No Liberal government would allow the depths of that kind of debt and deficit situation.

Senator Stratton: Did your government not allow it in 1983?

Senator Lynch-Staunton: Was not Mr. Chrétien the finance minister at that time?

INTERNATIONAL TRADE

UNITED STATES—RENEWAL OF SOFTWOOD LUMBER AGREEMENT

Hon. Gerry St. Germain: Honourable senators, had it not been for the free trade agreement, which the Liberal Party viciously opposed, this government would have had no revenue at all. It was that initiative that turned the economy around. This is not just my statement. This statement has been made by some of the greatest economists in this country.

What would the minister say to the thousands and thousands of people in British Columbia today who are unemployed as a result of the ineptitude of this government in having entered into a softwood agreement in the past and having not fought the Americans like the government should have? What does the minister say about that?

• (1400)

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not agree with the honourable senator. I believe that good management has provided us with the kind of economic viability that we have today.

However, in terms of the specific question, which is a serious question, about the softwood lumber situation, I will say that negotiations are proceeding. The meetings earlier this month went extremely well. The representative of the United States seems to be keen and is participating, possibly because he knows there will be a serious reduction in the penalties that they can charge on December 14. That may well be bringing them to the negotiating table somewhat faster than in the past.

The reality is that the negotiations are ongoing. The minister responsible is holding firm and fast, and from his comments I would assume that is how he will remain.

TREASURY BOARD

ACCOUNTING PRACTICES WITH REGARD TO CALCULATING DEFICIT AS PERCENTAGE OF GROSS NATIONAL PRODUCT

Hon. Marjory LeBreton: Does the Leader of the Government in the Senate accept the standard accounting practice that reflects the deficit as a percentage of the gross domestic product, "yes" or "no"?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I am not exactly sure what the honourable senator is driving at. Perhaps she could be more detailed in her question.

Senator LeBreton: Honourable senators, all countries in the world calculate their deficit as a percentage of the gross domestic product. It is an absolute fallacy to say that the Progressive Conservative government left the largest deficit.

The largest ever deficit in this country was left in the early 1980s by then Minister of Finance, Jean Chrétien, and former Prime Minister Pierre Elliott Trudeau, when it was 8.9 per cent of the GDP. The government of which I was a member got the deficit down to 4.6 per cent. Even with the worldwide recession of 1990-91, we left office with a deficit percentage of GDP that was 3 per cent lower than when we found it.

Senator Carstairs: Honourable senators, the reality is that the amount of money that was in that deficit was such that it infuriated Canadians. Canadians wanted a change of government. They got that change of government. That change of government has resulted in a surplus position for three years in a row.

Senator LeBreton: Canadians should be infuriated for believing such propaganda. Even the figures in the propaganda are not consistent.

When the Progressive Conservative Party left government, the deficit was 3 percentage points lower than when we were elected. Furthermore, when we left power, in November 1993, the newly elected Liberal government had until the end of the fiscal year to add up every single item, including the change in the accounting procedure on GST payments to increase the figure.

The figure in question is the percentage of the GDP. Any honest politician who speaks to issues such as the GDP or the deficit should speak in those terms.

Senator Carstairs: There is an expression that says that there are statistics, and there are facts, and there are damn lies, and sometimes we combine them. The reality is that Canada is better off today than it has been for a very, very long time.

Some Hon. Senators: Oh, oh!

Senator Carstairs: Quite frankly, the reason for that is the good governance provided by the Liberal government since 1993, and recognized by the Canadian people as good government in 1997 and again in 2000. If one reads the public opinion polls, one will see that we are being recognized at a higher and higher level.

Senator LeBreton: Honourable senators, that shows me what a fool's paradise the government is living in. In five years, our standard of living will be half that of the Americans, and we are all trapped here behind our borders thanks to a 62-cent dollar.

Senator Carstairs: With the greatest of respect, I consider myself a very proud Canadian and I do not consider myself trapped in any way, shape or form.

THE ECONOMY

INFLUENCE OF DEVALUATION OF DOLLAR

Hon. Leonard J. Gustafson: Honourable senators, my question is for the Leader of the Government in the Senate. How can the Leader of the Government in the Senate come to the conclusion that we are better off when we have a 62-cent dollar, when people with experience, like Conrad Black, say that the average Canadian has lost 40 per cent of the value of his holdings?

Some Hon. Senators: Oh, oh!

Senator Gustafson: That is absolutely true.

We are told here that the 62-cent dollar is a good thing. Recently in this chamber I raised the issue that we have lost sports teams such as the Montreal Expos, the Vancouver Grizzlies and the Winnipeg Jets.

Senator Taylor: We kept the Stampeters.

Senator LeBreton: Thanks to the PC government in Alberta.

Senator Gustafson: Today our farmers are worth half what they were five years ago. Our commercial real estate is worth much less than it was. How can we say we are better off?

Hon. Sharon Carstairs (Leader of the Government): The honourable senator begins with a sports analogy. Sports teams often trade with one another. I do not think a trade of Conrad Black for Nelson Mandela is such a bad trade.

Some Hon. Senators: Hear, hear!

Senator Carstairs: The honourable senator from Saskatchewan, has been arguing over the last few years that the WTO negotiations are going nowhere. I expected to see him rise today to congratulate the Government of Canada for what took place in Qatar last week, where the subsidy issue was placed first on the agenda for all future World Trade Organization meetings. That was a grand accomplishment. As someone who also represents an agricultural province, I have every hope that those negotiations will be as successful as the meeting last week.

INTERNATIONAL TRADE

WORLD TRADE ORGANIZATION MEETING IN QATAR— POSITION ON FARM SUBSIDIES

Hon. Leonard J. Gustafson: Honourable senators, the government has told the farmers of this country for the past

20 years that we will get the Europeans and the Americans off subsidies. The Standing Senate Committee on Agriculture and Forestry heard witnesses from the European Commission last evening and we heard quite the opposite. They said that they will look after their farmers.

The Archer Daniels & Midland Company has bought up much of the grain business in the Prairies. We are waiting for them to buy up the Saskatchewan Wheat Pool. Whether it is ConAgra or Cargill, Americans think that they have hit a bonanza where they can come in and buy up the entire country.

The same thing is happening in the oil industry. Companies like Gulf Oil, Phillips and Conoco are banding together and Canadian companies are being bought out. How can the minister say that that is good?

Senator Carstairs: Honourable senators, what I think is good is what came out of the WTO meeting last week. For the first time, subsidies, both national subsidies and subsidies of exporting nations, will be the primary issue. We have not seen that before. This is the first time that organization has managed to get the cooperation of all members in order to ensure, it is hoped, that this issue will come to the conclusion that we want, which conclusion Senator Gustafson certainly wants, by January of 2005. We were not successful in Seattle, as he knows. He was there and tried to bring it about. This time we were successful.

• (1410)

Bravo, Canada. Well done, Minister Pettigrew. Well done, Minister Vanclief. You have succeeded where many previous ministers have not.

THE ECONOMY

INFLUENCE OF PRODUCTIVITY OF UNITED STATES ON INVESTMENT

Hon. Roch Bolduc: Honourable senators, the Leader of the Government in the Senate has told us that the Canadian government's finances were in good shape. Could she tell us whether the Canadian economy is in good shape? That is what is important.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, today's Organization for Economic Co-operation and Development report certainly indicates that the economy of Canada is functioning much better than that of the United States. We are all awaiting with anticipation the budget that will come down in two or three weeks. We will know the exact date soon. Then, we will know exactly what our circumstances are.

However, by way of example, last month inflation decreased a considerable amount. Not all parts of the country, not all industry and not all sectors are performing as well as we would like, but overall the economy is doing well.

[Translation]

Senator Bolduc: Honourable senators, the Leader of the Government in the Senate is judging the economic situation on a month-to-month basis. What has happened over the past eight years, since the Liberal Party took office? Canada's relative productivity compared to the U.S. economy has dropped, which is why we have a 62-cent dollar. This is a reflection of the fact that the Canadian economy is not as productive as the American. Why is that? It relates to the present government. The present government is still taxing capital. Canada needs capital for investment. It would increase our productivity and yet the present government is taxing it at the present time, which is terrible.

[English]

Senator Carstairs: Honourable senators, it is interesting that those on the other side like to preach doom and gloom. To be fair, having sat on the other side, I, too, used to preach doom and gloom. It is one of the things one does when one sits on the other side. One preaches doom and gloom.

I suggest to you today that there is some good news out there. We can lighten our outlook, get ready for the Christmas season and the budget, and we will learn that not all the doom and gloom scenarios are justified.

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, it is my pleasure to table two delayed answers, first to the question raised by Senator Kinsella on October 23, 2001 on the subject of generic drugs testing and, second, to two questions raised by Senator Forrestall on October 23 and 25 on the subject of the elimination of specialized platoons.

HEALTH

PURCHASE OF GENERIC ANTI-ANTHRAX DRUG— ACQUISITION PROCESS—TESTS TO DETERMINE SAFETY

(Response to question raised by Hon. Noël A. Kinsella on October 23, 2001)

Health Canada is responsible for evaluating the safety, efficacy and quality of drugs. The current process for evaluating drug products has been in place for almost thirty years and it applies equally to brand name and generic drugs. Health Canada conducts its evaluation of drugs in accordance with the *Food and Drugs Act* and Regulations. Health Canada issues guidelines and policies which provide specific guidance including assessment criteria for the evaluation of drug submissions. Such policies and guidelines are established through an open and transparent

process and are comparable to, and in some instances superior to, those of other countries.

Just as with brand name drugs, generic drugs are subject to a full review process in accordance with the *Food and Drugs Act* and Regulations.

The safety and efficacy of a generic drug product is generally established through the requirement of comparative bio-availability studies in healthy human volunteers instead of repeating all of the clinical studies conducted by the sponsor of the brand name product.

With respect to drug quality, the chemistry and manufacturing data requirements are identical for generic and brand name products.

The manufacturer is required to provide sufficient stability data in order to establish the shelf life of the product. Health Canada approves the shelf life of the product based on the data provided.

NATIONAL DEFENCE

ELIMINATION OF HAZARDOUS MATERIALS PLATOONS FROM INFANTRY BATTALIONS

(Response to questions raised by Hon. J. Michael Forrestall on October 23 and 25, 2001)

The Army is studying its organization with the purpose of modernizing the force structure to meet contemporary and future threats. The future of Pioneer Platoons is one of many items under consideration. No final decision has been taken with regard to this restructuring process.

ORDERS OF THE DAY

NUNAVUT WATERS AND NUNAVUT SURFACE RIGHTS TRIBUNAL BILL

MOTION TO DECLARE BILL NULL AND VOID ADOPTED

On the Order:

Second reading of Bill C-33, respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal and to make consequential amendments to other Acts.

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with respect to the first item on the Order Paper under Government Business, the copy of the bill currently before us does not faithfully represent the bill passed by the House of Commons. In fact, the amendments passed in the House were omitted. As this is not a true copy, we cannot continue debate on this item as it appears before us.

Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That, notwithstanding rule 63(1), the proceedings on Bill C-33, respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal and to make consequential amendments to other Acts, which took place on Tuesday, November 6, 2001, be declared null and void.

[English]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, as indicated yesterday when we were considering this matter, we wanted the opportunity to consult through the usual channels, which we have done.

It is my understanding from those consultations that if we could dispose of this bill in the manner that has been indicated by my honourable colleague, Senator Robichaud, we would then proceed to adopting a resolution to send a message to the House of Commons informing that House of our decision, and that the Senate attends any message that the House of Commons may have regarding the matter.

There are two parts to this approach. That is my understanding of the model under which we would be proceeding, based upon the discussions that have been held. If that is my colleague's understanding, we would grant leave.

[Translation]

Senator Robichaud: Honourable senators, our agreement was based on two phases. First we would withdraw the bill and declare it null and void. The second phase will take place tomorrow or at another sitting.

[English]

Senator Kinsella: In order to expedite the matter, if it is the will of the chamber I would move an amendment now to Senator Robichaud's motion. My motion in amendment would be:

; and

That a message be sent to the House of Commons informing that House of this decision and that the Senate attends any message that the House of Commons may have regarding the matter.

The Hon. the Speaker: To clarify, the motion that Senator Robichaud read has not been put. We are having an exchange now between Deputy Leaders.

[Translation]

Senator Robichaud: Honourable senators, Senator Kinsella's motion creates no problem for me. I was under the impression that consideration of Bill C-33 would be in two phases. That is what the senator said when he first addressed the issue. We would go on to the second phase tomorrow or at a later sitting,

once we were sure of the procedure to be followed. I would prefer to do as the senator had proposed in the first place.

[English]

Senator Kinsella: Honourable senators, on that basis we would grant leave. The motion of Senator Robichaud could be properly put and I shall rise and move an amendment thereto. The leave is granted.

• (1420)

The Hon. the Speaker: It is moved by the Honourable Senator Robichaud, PC, seconded by the Honourable Senator Rompkey, PC, with leave of the Senate and notwithstanding rule 58(1)(h):

That, notwithstanding rule 63(1), the proceedings on Bill C-33, An Act respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal and to make consequential amendments to other Acts, which took place on Tuesday, November 6, 2001, be declared null and void.

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

MOTION IN AMENDMENT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I support the motion. I move in amendment, seconded by the Honourable Senator Stratton:

;and

That a message be sent to the House of Commons informing that House of this decision and that the Senate attends any message that the House of Commons may have regarding this matter.

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

Hon. Senators: Agreed.

The Hon. the Speaker: Carried.

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

Hon. Senators: Agreed.

Motion agreed to, as amended.

AGRICULTURE AND FORESTRY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO MEET DURING SITTING OF THE SENATE

Leave having been granted to revert to Notices of Motions:

Hon. Leonard J. Gustafson: Honourable senators, I give notice that, on Thursday, November 22, 2001, I will move:

That the Standing Senate Committee on Agriculture and Forestry have the power to sit on Thursday, November 29, 2001, at 3:30 p.m. to hear from the Minister of Agriculture and Agri-Food, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

YOUTH CRIMINAL JUSTICE BILL

REPORT OF COMMITTEE—POINT OF ORDER—
SPEAKER'S RULING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Milne, seconded by the Honourable Senator Rompkey, P.C., for the adoption of the Tenth Report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill C-7, in respect of criminal justice for young persons and to amend and repeal other Acts, with amendments) presented in the Senate on November 8, 2001.

The Hon. the Speaker: Honourable senators, there is a point of order on this matter, and I am prepared to rule now. The ruling that I am about to read will be distributed as I read it.

[Translation]

On Tuesday, November 20, Senator Milne in her capacity as the Chair of the Standing Committee on Legal and Constitutional Affairs moved the adoption of its 10th report which seeks to amend Bill C-7, in respect of criminal justice for young persons and to amend and repeal other Acts.

[English]

At the conclusion of her remarks summarizing the various amendments that the committee was recommending be made to the bill, Senator Milne indicated that she herself would be voting against the adoption of the report. For this reason, Senator Milne also declined subsequently to answer any questions about the report following her summation. The declaration of Senator Milne that she intended to vote against the report caused Senator Lynch-Staunton to rise on a point of order. While commending the Chair for her honesty, the Leader of the Opposition questioned the procedural propriety of having a chair sponsor a report that she does not support. Senator Lynch-Staunton asked me as Speaker to make a ruling with respect to this practice.

This request was followed by several interventions. Senator Taylor noted that an incident similar to this one had happened before. He is right, as it turns out. It occurred in 1987 when Senator Ghitter as Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources presented a report on Bill C-29, the MMT bill, to which he disagreed. On this occasion, I can find no evidence that the senator actually voted against the bill, since no recorded vote was taken. There are, however, two other more telling examples. The first occurred with respect to Bill C-68, dealing with gun control. A report was

presented November 20, 1995, by the Chair of the Standing Senate Committee on Legal and Constitutional Affairs, at that time Senator Beaudoin. Two days later, the Chair voted against the adoption of the report in a recorded division. The second example dates from January 1991. At that time, the Chair of the Standing Senate Committee on Transport and Communications, former Senator Findlay MacDonald, presented a report on Bill C-40, dealing with broadcasting. When the recorded vote on the report was taken, the results confirmed that Senator MacDonald voted against it.

[Translation]

In a subsequent intervention, Senator Taylor referred to citation 873 in the sixth edition of *Beauchesne's Parliamentary Rules and Forms* which explains the obligation of a committee chair, or someone else delegated for the purpose, to sign a report on behalf of the committee in order to authenticate it. This is done whether or not the chair actually supports the report adopted by the committee.

[English]

The position taken by Senator Taylor dovetailed with remarks previously made by Senator Kinsella who had based many of his comments on the meaning of Senate rules 98 and 99. These two rules require that a committee recommending amendments to a bill to report these amendments and the senator presenting the report "shall explain to the Senate the basis for and the effect of each amendment." According to Senator Robichaud, this is exactly what Senator Milne had done. As Chair of the Standing Senate Committee on Legal and Constitutional Affairs, Senator Milne presented the report on Thursday, November 8, and yesterday she moved its adoption and provided an explanation of its recommendations.

For her part, Senator Cools took a somewhat different position. In her view, the chair, like every other member of the committee, is bound by its decisions. According to the senator, it is only through a process of debate in this chamber that any member of the committee, or perhaps the Senate for that matter, can come to a position different from that stated in the committee's report. Senator Cools also referred to rule 99 which, as she interprets it, imposes an obligation on the sponsor of the report to provide a suitable and proper explanation of the amendments recommended by a committee.

• (1430)

Senator Corbin also intervened on this point of order. Speaking just before Senator Cools, Senator Corbin made two points. First, the senator explained that a committee chair functions as a messenger of the committee and is bound by this function to present its report to the Senate. Such a role, he stated, does not commit the chair "ideologically, morally, personally or in any other fashion to the contents of the report." Second, in response to Senator Kinsella, Senator Corbin noted that anyone wishing to know the position of individual committee members with respect to the amendments can consult the transcript of the committee's deliberations.

[Senator Gustafson]

[Translation]

I want to thank all honourable senators who spoke to this point of order yesterday. I have reviewed the authorities that were cited and have looked at our relevant precedents. Not wishing to delay unduly the proceedings on this report, I am prepared to make my ruling now.

[English]

In ruling on this point of order, I am conscious of the need not to interfere with the legitimate proceedings of a committee. I do not believe that I am, since we are dealing with the report of the committee in this chamber. I have been asked to determine whether or not it is procedurally acceptable for a chair of a committee to present a report of that committee even though the chair disagrees with it and, in fact, has stated an intention to vote against it.

In order to answer this point of order adequately, I think it is useful to review briefly the process that we follow in considering legislation. Once a bill has been adopted at second reading and agreed to in principle, it is usually assigned to a committee for detailed examination. This normally involves hearing witnesses prior to going through the bill clause by clause. At this stage, it is proper to consider amendments, which, if adopted, become the basis of the committee's report that it must make to the Senate according to rule 98. Further, rule 99 requires the senator who is sponsoring the report to explain the basis for and the effect of each amendment. This is what happened yesterday when Senator Milne spoke to the report on Bill C-7.

Our rules, however, are silent on the matter that was raised in the point of order by Senator Lynch-Staunton. Nonetheless, I think it is possible to come to an understanding as to whether or not what occurred is acceptable procedurally. Under our rules and practices, decisions of the committee, just like those of the Senate itself, are made by the majority. There is no binding obligation for consensus or unanimity. The fact that a bill receives second reading, for example, does not mean that all members of the Senate agree with it and will no longer oppose the bill either at report stage or third reading. Nonetheless, the decision stands as a legitimate decision of the Senate and is, in this limited sense, binding.

Similarly, in a committee, decisions are reached by a majority. There is no requirement for all committee members to agree in order for it to report a bill back to the Senate. Accordingly, it is possible that the chair of the committee may disagree with all or part of a report. Nonetheless, as Senator Taylor pointed out through his reference to Beauchesne's, the chair will sign the report, authenticating it. As Senator Corbin suggested, in presenting the report the chair is really acting as a messenger of the committee. Once the requirement of rule 99 to explain the amendments has been carried out, the chair or whoever is the sponsor of the report is under no additional obligation. If the chair should ever be uncomfortable in carrying out this function, arrangements can be made under our rules to find another member to act as sponsor of the report. Such a decision, however, does not rest with the Speaker. This can only be

determined by the chair as allowed under rule 97(1), which states:

A report from a select committee shall be presented by the chairman of the committee or by a Senator designated by the chairman.

Accordingly, I find there is no point of order in this case, and debate on the report of the committee on Bill C-7 can proceed.

[Translation]

Hon. Gérard-A. Beaudoin: Honourable senators, I wish to say a few words at the consideration stage of the tenth report by the Standing Senate Committee on Legal and Constitutional Affairs on Bill C-7.

First, I feel that paragraphs 76(1)(b) and 76(1)(c) must be amended. If Bill C-7 is passed as is, a young offender could serve his sentence in a provincial correctional facility for adults. This could be detrimental to the youth sentencing system. The Supreme Court has repeatedly recognized the need for a separate youth justice system.

Paragraphs 76(1)(b) and 76(1)(c) must therefore be replaced by the following:

(b) an area of a provincial correctional facility for adults separate and apart from any adult who is detained or held in custody;

(c) if the sentence is for two years or more, in an area of a penitentiary separate and apart from any adult who is detained or held in custody.

There is no doubt that one of the objectives of the Youth Criminal Justice Act must be to protect society. Should it be the first? This puts the needs of the youth second. The absence of any notion of balance between the needs of the youth and the protection of society means that the lines between the youth sentencing system and the one for adults will be increasingly blurred. However, as I said, the Supreme Court has repeatedly recognized the need for a separate youth justice system.

My second point has to do with clause 146. I feel that clauses 146(5) and (6) should be deleted. Clause 146(5) provides for the admissibility of a waiver of certain rights — such as the right to counsel — made in spite of technical irregularities. This adversely affects the procedural rights of the youth. In my opinion, if the waiver is not properly obtained, any evidence thus collected should automatically be excluded.

The Canadian Bar Association suggested that the statement and the evidence be automatically rejected in such a case. The Supreme Court feels that, in order for a waiver of the right to consult with counsel to be valid, the person arrested or detained must realize, when the waiver is made, all the consequences of his decision. In *Smith*, the Supreme Court of Canada specified the factors to be taken into consideration when a waiver of the right to counsel is made.

In that case, Smith was arrested following a shooting. Immediately after his arrest, he was informed twice of his right to consult with a lawyer. He refused to do so and subsequently made an incriminating statement. When police officers interrogated Smith, they omitted to tell him that the victim had died following the shooting.

However, it appears that the accused had a general knowledge of the risks involved in waiving his right to counsel. According to the Supreme Court, that knowledge is sufficient.

In *Whittle*, the Supreme Court looked at the waiving of one's right to consult a lawyer. The criteria governing the waiving of that right were written by Mr. Justice Sopinka on behalf of the court. These criteria are based on the operating mind of a person.

• (1440)

This test requires that the accused understand what he or she is saying, and that it could later be used against him or her. Justice Sopinka explains the scope of this test. I quote:

The operating mind test, which is an aspect of the confession rule, includes a limited mental component which requires that the accused have sufficient cognitive capacity to understand what he is saying and what is being said. This includes the ability to understand a caution that the evidence can be used against the accused.

The same standard applies with respect to the right to silence in determining whether the accused has the mental capacity to make an active choice.

In exercising the right to counsel or waiving the right, the accused must possess the limited cognitive capacity that is required for fitness to stand trial. The accused must be capable of communicating with counsel to instruct counsel, and understand the function of counsel and that he can dispense with counsel even if this is not in the accused's best interests. It is not necessary that the accused possess analytical ability. The level of cognitive ability is the same as that required with respect to the confession rule and the right to silence: the accused must have the mental capacity of an operating mind. As I mentioned before, the accused must have the cognitive capacity that comes from an operating mind.

Lastly, subclause 146(6) provides for a provision whereby a statement may be considered admissible despite technical irregularities. In my opinion, this violates the procedural rights of the adolescent and diminishes the protection of rights conferred upon adolescents.

In my opinion, irregular statements, even if the irregularity is of a technical nature, must be deemed inadmissible. If the statement or waiver is admitted, it could have a negative effect on the administration of justice in Canada.

On motion of Senator Cools, debate adjourned.

[English]

ANTI-TERRORISM BILL

REPORT OF SPECIAL COMMITTEE ON SUBJECT MATTER
OF BILL C-36—DEBATE CONTINUED

On the Order:

Resuming debate on consideration of the first report of the Special Committee of the Senate on the Subject Matter of Bill C-36, to amend the Criminal Code, the Official Secrets Act, the Canada Evidence Act, the Proceeds of Crime (Money Laundering) Act and other Acts, and to enact measures respecting the registration of charities in order to combat terrorism, tabled in the Senate on November 1, 2001.

Hon. James F. Kelleher: Honourable senators, I rise today to speak to the report of the Special Committee of the Senate on the Subject Matter of Bill C-36. First, I must commend my colleagues on the committee for their extraordinary efforts and for producing what I believe to be an outstanding report. The committee worked day and night to produce this report. We were working not only to satisfy the government's timelines, but also because we all felt a sense of urgency following the tragic events of September 11.

The committee heard from dozens of witnesses and several ministers. After some thought-provoking internal debate, the committee came together to produce a series of recommendations that we believed would improve this bill and create a better balance between the needs of the government to combat terrorism and the individual rights of every Canadian.

Senator Fairbairn outlined the committee's recommendations to you two weeks ago when she spoke in support of our report. I do not intend to recite them again here today. However, in light of the testimony of the Minister of Justice yesterday to the House Justice Committee, I do have several comments to make.

The Minister of Justice stated yesterday that the government is prepared to amend Bill C-36 in several ways to respond to the recommendations of the special Senate committee and to those of many other observers. We on this side of the chamber are pleased with the proposed amendments that will refine the definition of terrorist activity and will ensure that knowledge is a necessary component of any offence of facilitating terrorist activities.

We are also pleased that the powers of the Attorney General to prevent the release of information have been circumscribed. The Attorney General will still be able to issue a certificate to prevent the release of information, but the certificate will now be reviewable by the Federal Court of Appeal. This is a step in the right direction.

We are concerned, however, that no officer of Parliament will be appointed to monitor the exercise of powers granted by this bill. It is all very well and good that the Attorney General and Solicitor General will report to Parliament annually about the exercise of the powers under this bill, but independent monitoring is still necessary.

The powers granted by this bill are extraordinary. We need an independent body to ensure that they are not abused. It is not enough to have those who could potentially abuse these powers to be the ones reporting whether the powers have been abused or not.

We are also very concerned about the so-called sunset clause that the Minister of Justice is proposing. The special committee recommended a sunset clause for the entire bill, except for those provisions dealing with our international commitments. The government now proposes to sunset only two sections of the bill — those dealing with preventative detentions and investigative hearings. This is not enough. The committee believes that when the government wants to obtain all the extraordinary powers contained in this bill, it should have to establish the need for these powers, not only in the first instance but on a regular basis thereafter.

Furthermore, the sunset clause that has been proposed does not even require the government to reintroduce the affected provisions. Instead, Parliament will be asked to vote on whether to extend the provisions. Since majority governments generally do not lose these votes, the conclusion becomes foregone and the clause relatively meaningless. The only effective sunset clause is that which requires the government to reintroduce the bill. Only in that way are Canadians assured of a full debate and the opportunity to be heard. We, as parliamentarians, must ensure that Canadians get that debate and that opportunity.

Our party has other concerns about what the Minister of Justice said or, more important, what she did not say. I will save some of these for when the bill arrives in this chamber. Let me be clear about one thing, however. It is our intention to again review this bill and any amendments to it as thoroughly as possible. This legislation is simply too important to be dealt with in undue haste. The government's own recognition of some of the bill's flaws is evidence enough of what happens when bills are drafted in a rush.

Before I conclude, there is one other comment I wish to make.

• (1450)

Honourable senators who have read the committee's report will know that several members of the committee, myself included, had serious concerns about the adequacy of Canada's immigration and refugee policies in the wake of the events of September 11. As far as we know, no new steps have been taken since September 11 to ensure that our immigration and refugee policies are as strong as they can be to deter would-be terrorists from entering Canada. This is a shocking omission, in our view.

The Minister of Citizenship and Immigration was invited to appear before the special committee, but she declined. Why she declined, I have no idea.

Fortunately for us, the Minister of Justice undertook to take our concerns to the Minister of Citizenship and Immigration and to Minister Manley's National Security Committee. A letter was drafted on behalf of committee members outlining our concerns and was signed by the chair of the committee and by me. The letter was sent to Minister McLellan, and we are now awaiting a response.

Honourable senators, I believe that the special committee has fulfilled your requirements. In a very short time, we took a careful look at some of the most important provisions of Bill C-36 and produced a useful report. I am hopeful that the chamber will adopt it.

On motion of Senator Robichaud, debate adjourned.

BILL TO REMOVE CERTAIN DOUBTS REGARDING THE MEANING OF MARRIAGE

SECOND READING—DEBATE CONTINUED

On the Order:

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

Hon. Tommy Banks: Honourable senators, I have the honour to rise today to speak to Bill S-9. In that respect, it has been said that, today, gay and lesbian couples are confined to a nebulous state. That is right. I, for one, believe that society ought to correct that obvious shortcoming. We must find, sooner or later, a word or a term to properly describe the union between a man and a man or between a woman and a woman.

We have brought a degree of redress of rightness to same-sex couples in respect of pension rights and succession. Now, society needs to find the right word or phrase to describe the state into which same-sex couples enter. However, that word is not, in my strongly held opinion, "marriage."

Honourable senators, the idea of finding or coining a new word or phrase or usage is not only not rare, but it is one of the glories of the great languages of which we are so proud. It is also a process that has been invoked specifically having to do with homosexuality. The term "gay," for example, while it was used by the homosexual community for many years before it came into common usage, is a relatively new term as it applies to male homosexuals. It is now a word that is quite specific as a descriptive, which is now used with propriety and confidence in common social discourse. It replaces, happily, a long and despicable list of terms that are now consigned quite properly to the dustbins of bigotry.

We must find such a term or a word, but it is not “marriage.” It may be as simple as the words “same-sex union” or “same-sex partnership,” or it may be more creative than that. However, there needs to be a clear distinction between marriage, on the one hand, and a homosexual relationship, however loving, on the other hand. They are clearly not the same thing. In many respects, they are similar, and there are certainly many examples of such unions that are, to my direct personal knowledge, unassailable examples of constancy, of responsibility and of true lasting love; but they are not the same thing.

Honourable senators, we must not use section 15 or any other section of the Charter to bring about changes in the meaning of words. We cannot ignore the facts of life or the words of our languages.

The word “marriage” is laden with such weight of history, of practice, of application, of common usage and of universal understanding in its various translations as to make it impossible to apply in any way other than the one that is known and understood in every society on every continent, and which transcends virtually all races, languages, religions and geography.

Honourable senators, you heard from Senator Cools, the author of Bill S-9, and from Senator Wiebe, its seconder, definitions from several good dictionaries. They have kindly, or perhaps inadvertently, omitted to quote from “the” lexicographical authority in English, the *Oxford English Dictionary*, which defines “marriage” as:

...condition of man and woman legally united for purpose of living together and usually procreating legal offspring.

That definition is irrefutably clear.

It has been suggested that given all the good changes in pension rights, adoption, spousal support and the like, a move to calling same-sex unions “marriage” would be merely symbolic; but it would not. It is a matter of the most cogent substance.

Lord Birkenhead said:

...marriage is more than a simple contract between spouses, or a thing which they can dissolve by their own acts and choice, even consensually. It is a status involving other and more important interests.

More recently, Mr. Justice Pitfield called marriage “a deep-rooted social and legal institution,” the legal nature of which is so entrenched in our society that Parliament, and not the court, must decide its definition.

Honourable senators, we must decide on the definition which is universally understood and which is contained in Bill S-9. I urge all honourable senators to recognize and acknowledge the rightness of this bill, and to support its passage.

On motion of Senator Finnerty, debate adjourned.

[Translation]

THE SENATE

TIME ALLOTTED FOR TRIBUTES—INQUIRY—
DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Lapointe calling the attention of the Senate to the time allotted for tributes.—(*Honourable Senator Gill*).

Hon. Eymard G. Corbin: Honourable senators, we owe a debt of gratitude to Senator Lapointe for this inquiry concerning the time devoted to tributes.

• (1500)

This is particularly important because such activities tend to take place right at the beginning of a sitting and may go on for over an hour delaying the more important points we have to address as senators.

I do not wish in any way to detract from the dignity of the senators, who rightly deserve our recognition and tribute, but it seems to me that there ought to be a more formal framework for this, an approach on which we must reach agreement.

As Senator Lapointe and others have suggested, it would seem best for our leaders in the Senate, or someone they have delegated to do so, to deliver tributes of this type. Senator Lapointe has even suggested that an especially good friend of the senator in question might rise to deliver a tribute.

This is not what is happening now. After the daily prayers, away we go, and we never know when it will end. This is somewhat stressful, especially since, sometimes, people get carried away. The speakers go into details of people's private lives, as if there were no places besides the Senate such speeches could be made.

It has been forgotten that a party is also held for departing senators, an excellent opportunity for such tributes. As for tributes when someone dies, funerals now include an opportunity for people to get up in church and pay tribute to the deceased. As well, we seem to have lost touch with the old-fashioned habit of writing letters to people. In the past, if we had something private to say to someone, we wrote a letter. Literature abounds with epistolary works. The demise of this practice has brought a lot of business to the makers of greeting cards with ready-made messages.

I am happy that Senator Lapointe made his first motion of inquiry on this subject. He comes to this with a fresh perspective, as opposed to the rest of us, who are sometimes quite set in our ways. He was inspired by his father, who was a member of Parliament many years ago. We must thank him. Now, it is time to take the bull by the horns. We have spoken about this matter on numerous occasions, but nothing has happened. I fear that once this issue is referred to the Senate Standing Committee on Rules, Procedures and the Rights of Parliament, it will sit on the shelf and collect dust. There are so many issues on which this committee has not been able to make any progress, that it is becoming embarrassing.

We could, if senators are insistent on paying never ending tribute to their departing colleagues, designate a time outside that of our official business. Why not begin Thursday sittings — for example, since everyone is eager to leave early on Thursdays — at 11:00, in order to deal with these tributes.

Obviously, there would be committees sitting at the same time, but all we need is quorum and the attendance of those senators who are interested. At the same time, we could also deal with a whole host of other issues that are not urgent, in the strict sense of the term, such as senators' private initiatives, motions and private bills. In the other place, after adjournment, they can attend to these types of issues that may not necessarily interest everyone, or may not concern the assembly as a whole.

This way, at least there would be an outlet, a time when all other kinds of things could be dealt with that do not pertain to the business of government legislation, committee reports and so on. This is my suggestion, but I do not feel strongly. I have made suggestions in the past that have been promptly disregarded, but I believe that we do not use the time at our disposal properly.

Like Senator Lapointe, I think that we have reached a point of extreme exaggeration. It is even embarrassing. Frankly, I am in no hurry to leave this place, if I do not go out feet first before then. It is time to sort this out.

Hon. Jean-Claude Rivest: Honourable senators, I wish to add my voice to that of Senator Lapointe, the sponsor of this initiative. Senator Corbin has just examined all aspects of the issue and indicated why this chamber should support the motion made by Senator Lapointe.

I would merely point out that we had the same problem in the National Assembly when paying tribute to members or singing the praises of Canadians who had distinguished themselves in some way. An agreement was reached between the Leader of the Government and the Leader of the Opposition in the Assembly.

First, it was agreed that the National Assembly would express its sentiments about one of its members or a public personality. This is one of the duties of a parliamentary institution.

Second, it was decided to do so within the framework of a motion consistent with the procedure and rules of the National Assembly. It is an unannounced motion to have the person concerned or their family receive an official document from the

assembly expressing regrets over their departure or death and paying tribute to them for their accomplishments.

Third, in these circumstances, the Premier or one of his representatives, or the Leader of the Opposition or one of his representatives, speaks for a limited time in the National Assembly. Five minutes is allowed, but this is not hard and fast.

• (1510)

Of course, it is possible for a member of the National Assembly who has a special interest or who has a special relationship with the person in question to pay tribute to that person. The idea is not to set rules that are too strict, but to limit ourselves and, above all, to using common sense. It involves acknowledging the absolute need for a parliamentary institution to recognize the merit of its members and to occasionally point out the achievements of our fellow citizens and the distinction with which they fulfil their responsibilities.

I congratulate Senator Lapointe and I can assure him of our full support in his representations to the Standing Senate Committee on Rules, Procedures and the Rights of Parliament which, hopefully, will examine this issue.

[English]

Hon. Bill Rompkey: Honourable senators, I wish to thank Senator Lapointe for bringing forward this important motion. I associate myself with the remarks of Senator Corbin, who made the points I wanted to make. I was particularly struck by his comments about quorum on Thursday, which I wholeheartedly support. However, that is not the only point I support.

I believe it was the Pope who said that brevity is the soul of wit. We do not necessarily honour people with a great many words. There was another poet, whose name I cannot remember at the moment, who said that, for the important things in life, there is really only silence. Many people when paying tribute often start by saying "Words cannot express..."

Words can do honour, but a few words can do just as much honour as a great many words. As Senator Corbin said, we have other fora for expressing honour for our colleagues.

This is a practice that we should reform. I support Senator Lapointe and I thank him for bringing forward this motion.

[Translation]

Hon. Aurélien Gill: Honourable senators, in light of the various comments made regarding the time allotted for tributes by senators, it seems perfectly reasonable to me to support such a suggestion.

Based on the experience and wisdom that we have probably gained to various degrees as senators, I am confident that we can strike the right balance regarding the time allotted for tributes. I support Senator Lapointe's motion, while hoping that we will allow enough time for tributes and for fulfilling our duties as representatives of our constituents.

Hon. Marisa Ferretti Barth: Honourable senators, I fully support Senator Corbin's comments. I have noticed for a long time that the time allotted for tributes was much too long.

At times, I have wondered whether it might be better to pay tribute to someone while the person is still living. Who listens to these sometimes endless tributes? On several occasions, I have noticed that those who pay tribute to other persons often get lost in childhood memories, with the result that new senators are left wondering who they are really talking about.

In my opinion, it is better to avoid getting lost in childhood memories that are of no interest to us. It would be preferable to say very specific and honourable things about the deceased senator. If we did so while he is still alive, we could take that opportunity to tell him how good a job he did and how good a colleague he was.

[English]

The Hon. the Speaker: Is the Honourable Senator Lapointe rising to ask a question?

[Translation]

Senator Lapointe: I respect the decision of all honourable senators who wish to participate in tributes to one of their own.

[English]

The Hon. the Speaker: Senator Lapointe, Senator Cools wishes to adjourn the debate so that she might speak to your motion at another time.

Hon Jean Lapointe: I do not want it to go on any longer.

The Hon. the Speaker: Let me explain. The Honourable Senator Lapointe has the right to speak, but if he speaks his speech will have the effect of closing debate on the inquiry.

Senator Lapointe: That is what I want.

The Hon. the Speaker: I know. However, my job is not to limit debate but, rather, to provide honourable senators with an opportunity to speak, and Senator Cools wishes to speak. I feel obliged to recognize Senator Cools on debate.

On motion of Senator Cools, debate adjourned.

UNITED STATES NATIONAL MISSILE DEFENCE SYSTEM

MOTION RECOMMENDING THAT THE GOVERNMENT
NOT SUPPORT DEVELOPMENT—MOTION IN AMENDMENT—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Roche, seconded by the Honourable Senator Finestone, P.C.:

That the Senate of Canada recommends that the Government of Canada avoid involvement and support for the development of a National Missile Defence (NMD) system that would run counter to the legal obligations enshrined in the Anti-Ballistic Missile Treaty, which has been a cornerstone of strategic stability and an important foundation for international efforts on nuclear disarmament and non-proliferation for almost thirty years,

And on the motion in amendment of the Honourable Senator Finestone, P.C., seconded by the Honourable Senator Bacon, that the subject-matter of this motion be referred to the Standing Senate Committee on Defence and Security for study and report back to the Senate.—(*Honourable Senator Taylor*).

Hon. Nicholas W. Taylor: Honourable senators, this motion concerning the national missile defence system was moved by Senator Roche. He wanted the Senate to investigate shutting the whole thing down. I, too, was thinking along those lines, until the last several weeks. It seems there is so much progress being made by Mr. Bush of the U.S. with Mr. Putin of Russia that, perhaps, we should wait. However, being an old Alberta farm boy, when I see a Texas oilman going against a former chief of the Russian state police, I do not know who will win. Nevertheless, they are apparently negotiating something involving the NMD and the ABM treaty.

The subject has now become extremely obscure and convoluted, especially with terrorism thrown in. There was a recent article in the *National Post* — which I hate to quote, but now and again I guess one has to — that mentions that there are certain ballistic missiles available to terrorists. All told, this sets up a set of questions and concerns that I think would be best handled by Senator Finestone's amendment that the subject matter of the motion be referred to the Standing Senate Committee on National Security and Defence for study and report back to the Senate.

On motion of Senator Stratton, debate adjourned.

• (1520)

BIOLOGICAL WEAPONS AND BIOWARFARE

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Finestone, P.C., calling the attention of the Senate to the issue of biological weapons and biowarfare.—(*Honourable Senator Finestone, P.C.*).

Hon. Sheila Finestone: Honourable senators, I said that I would talk to the fact that terrorism is real, immediate and evolving, and that we must remain vigilant.

We are in a race with the dark side of biomedical science and the capacity for the development of genetically engineered pathogens for mass destruction is now a reality. Understanding the ways in which terrorists may exploit biotechnology is crucial.

We are in a race for advanced technology, but at what cost? As science has worked diligently to alleviate suffering, it has also placed in the hands of our enemy potential tools of mass destruction.

We are in a race to develop effective defences to protect and preserve the physical and psychological health of our population. We are well aware that a negative synergy can be created between a weak population and its ability to respond to enemy attack.

As I reflect on the threats to Canadian security, what strikes me the most is the accelerated pace of change in so many sectors that affect our national defence. My concerns focus overall on five major trends — globalization, proliferation, communications, demographics and biotechnology. Rapid evolution in these sectors has certainly favoured terrorist biowarfare.

Starting with globalization, I must admit to being a strong advocate of the global village. I believe that the increasing flow of people and the sharing of information, technology, ideas and education is a positive, dominant force for the improvement of the human condition around the world. Yet I have come to realize that in some ways globalization has exacerbated local and regional tensions, amplified the possibility of conflict and empowered those who are doing us harm. As globalization is independent of any national policy, it creates fertile grounds for political, ethnic, ideological and religious extremism. Globalization of information technology has made available to smaller groups, states and individuals destructive capabilities, previously limited to major world powers.

Globalization also favours terrorists to engage in violent attacks against policies, facilities, interests and the values and lifestyle of the people of a targeted country. Within the larger view of a global society, terrorist groups remain a key challenge to western security. We are witnessing this situation within the current state of world affairs.

Second, proliferation of bioweapons is accelerating. State-sponsored programs and new asymmetrical associations between state and private companies, disgruntled engineers, fanatics and radicals are exploiting the increased accessibility to computer-based information, weak export controls, and availability of technologies.

Third, let us take a look at communications. The same communications technology that has greatly helped law enforcement and intelligence has, at the same time, enabled terrorists to advance their capabilities. E-commerce and technologies that allow consumers to search out and buy goods on-line have also allowed terrorists to attract financial resources, spread terrorist dogma, find recruits and plan operations from afar. Terrorist groups using the Internet to acquire information

build the capability for chemical and biological attacks and to obtain unconventional weapons to carry out their misguided religious duty.

Fourth, present global demographic trends can further precipitate adverse attacks. In a recent UN study we learned that the world's population would increase by more than a billion by the year 2015 with 95 per cent of the growth occurring in underdeveloped countries. This has much significance. According to the experts these trends will have a dramatic impact on world stability, as many will struggle to cope in impoverished lands, many others will join uncoordinated reactionary groups, thereby creating additional sources of political stress and instability.

Finally, let us focus on biotechnology. Innovations on the biomedical sciences can be used for good or bad purposes. On one hand, new discoveries can hold the key to dramatic advances in the battle to fight malignant and congenital diseases. On the other hand, genetic modifications, molecular engineering and bioproduction technologies have made it easier for terrorist states to acquire and turn into weapons biological discoveries meant to save lives.

Honourable senators, studies have identified a host of profoundly disturbing applications of biotechnology to the development of biowarfare agents. Consider the following. There exists genetically engineered micro-organisms capable of withstanding stress associated with storage and dissemination. There are strains with 100 per cent increased virulence, genetically engineered strains capable of resisting antibiotic treatments and stealth viruses.

Although ostensibly intended to endanger our lives, biological agents make unpredictable killers by inducing fear, terror, confusion and uncertainty. Anthrax-laced letters and space suit clad medics have become part of our daily lives. Our collective psyche has been profoundly wounded.

I had thought that anti-personnel land mines were close to the most insidious, destructive and indiscriminate war weapons ever developed by man. They are weapons that kill and maim lives indiscriminately to prevent poor populations from acquiring agricultural and economic self-sufficiency. Today, we all agree that biological weapons are one more of the most perverted and repugnant forms of human knowledge.

Honourable senators, it would be extremely naive, however, to assume that the horror of their indiscriminate nature would limit their use or to hope that the pain, suffering and death they can inflict on populations would awaken the conscience of men to standards of moral decency. It is indeed the horror and dread of these weapons that is particularly appealing to terrorists.

As we are witness to the perversity of man asserting himself through weapons of mass destruction, we must remain cognizant of the intimate relationship between health and security. Diseases do have a strategically decisive impact on the outcome of a conflict.

Honourable senators, historically, national security has focused on the use of military power to protect national borders. More recently, it has evolved to encompass economic prosperity, access to natural resources, and internal stability.

Today, this concept has gone even further. When we know that an Ebola virus can be only a flight away from our land, we realize that our population's health is a crucial factor for Canadian security.

The burning question remains: What can we do to better defend ourselves? A whole series of anti-terrorist measures are already in place. Other measures await Royal Assent. Nevertheless, we must understand that bioterrorism poses a very difficult challenge upon those responsible for our domestic security. The threat cannot be handled by law enforcement and intelligence organizations alone.

Management of bioterrorist counter measures involves the entire country. Accordingly, we must ensure that federal, provincial and local surveillance and counter measure systems are working effectively and productively. This includes land, sea and air protection and early warning systems. Where are the modern canaries of the mining era?

In a speech to the forty-seventh NATO Parliamentary Assembly, the Prime Minister stated and I quote:

...We are taking...on...a band of marauding extremists who seek to impose...a state of terror.

Their twisted calculus for success...rip at the very fibre of our societies...

For these reasons, honourable senators, I believe that our greatest challenge today is the ability to strike a balance between moral considerations and security necessities. The effectiveness of our defence will ultimately depend upon the degree of repugnance and exclusion we place on the use of biological weapons.

For the past 50 years the world has lived under the shadow of atomic weapons threatening a nuclear nightmare that would bring us back to the Stone Age. Today, we may have inadvertently unleashed a new threat to a peaceful night's sleep — that of a biological nightmare.

The danger is real and it may get worse. As our predecessors took a full stand against nuclear weapons, we must take an equally forceful position against bioweapons. A resolute moral stance and an informed approach will sustain our ability to develop and rigorously enforce fierce countermeasures against biowarfare.

This, honourable senators, will stand as one more proof of the indestructible fibre of our country. However, we must get on with the job.

On motion of Senator Bacon, debate adjourned.

[Translation]

BUSINESS OF THE SENATE

The Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, today is Wednesday, a day on which committees sit at 3:30 p.m. These committees hear from very important witnesses — they always are I might add — and I believe that there is agreement to stand all of the items on the Order Paper in their place until the next sitting of the Senate.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Thursday, November 22, 2001, at 1:30 p.m.

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