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THE HONOURABLE DAN HAYS
SPEAKER

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THE SENATE

Wednesday, February 5, 2003

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

Prayers.

THE LATE RIGHT HONOURABLE RAMON JOHN HNATYSHYN, P.C., C.C., C.M.M., C.D., Q.C.

TRIBUTES

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I rise today to speak about the loss of a very special Canadian. The Right Honourable Ramon John Hnatyshyn was a Governor General with a special place in the hearts of Canadians. His personal warmth and the interest he took in people were his hallmarks. He was able to bridge the distance between his office and the Canadian people, and he managed to impart his love and appreciation for being Canadian to everyone he met.

In my province, and in the other Prairie provinces, this first Governor General of Ukrainian background was particularly appreciated. He made Rideau Hall a place of the people when he opened the grounds to the public. By creating the Governor General's Summer Concert Series and by reopening the skating rink to members of the public, Canadians were welcomed and felt welcomed to their place.

Mr. Hnatyshyn and his wife were most welcome patrons of the arts. He created the Governor General's Performing Arts Awards and the Ramon John Hnatyshyn Award for Volunteerism in the Arts. It was so typical, I think, of him that he would recognize the often-unsung hero and heroine, the volunteer.

Mr. Hnatyshyn was a strong supporter of multiculturalism, literacy and education. In 1989, he was honoured with the St. Volodymyr Medal Award from the World Congress of Ukrainians in recognition of "outstanding contribution to the cause of justice and civil liberties."

We were all witness to the outpouring of affection and respect from Canadians upon hearing of his death, and he will always occupy a special place in the history and in the hearts of the Canadian people, most particularly because he was taken from us much too young.

Hon. Lowell Murray: Honourable senators, I thank the Honourable Leader of the Government for the warm tribute she has just paid to our late friend. The life of the Right Honourable Ramon Hnatyshyn is a remarkable Canadian story in both its political and personal dimensions. In the House of Commons, he served as House leader in opposition and later in government. The House leader is at the forefront of the parliamentary struggle, yet he must know how to rise above it. The good House leader enjoys the confidence of his own caucus colleagues and, at least equally important, the trust of his adversaries. House leaders have, in their hands, the daily business of Parliament and also, to some extent, the well-being of the institution itself.

Of the various cabinet offices Ray Hnatyshyn held in the Clark and Mulroney governments, it was the justice portfolio that he

had always wanted, that he most loved and where he best shone. Like the House leader, the good justice minister is a person apart. He is a member of a political team but must sometimes transcend party and even cabinet loyalty. This is because the Minister of Justice, pre-eminently among ministers, owes a primary duty to the criteria of his profession, to the rule of law and to the principles of natural justice. He must never let government lose sight of these. Uniquely and surpassingly among ministers, the justice minister must be trustworthy.

In all those respects, as in his dedication to Parliament and his commitment to the law, Ray Hnatyshyn the minister was never ever found wanting. It is no secret that, as House leader, he was never partisan enough for some of his colleagues and, as justice minister, never conservative enough for some, but he was his own man. Affability and good-humoured banter was his way of bringing blessed moderation and proportion to apparently intractable and confrontational issues. If, occasionally, it meant exposing absurdity and shocking some, then too bad they did not have a better sense of humour.

He was a person of sound principles and intellect and of the most humane instincts and convictions. He was a westerner and during his political career a Tory, but nobody was going to tell him how a westerner or a Tory should think or act. As a young lawyer in Saskatoon, his community service ranged from chairmanship of the United Way to presidency of the United Nations Association. Ray Hnatyshyn was thinking globally and acting locally before the slogan was coined.

His hero had been John Diefenbaker, another Saskatchewan lawyer and champion of minorities and human rights. In 1974, he proudly joined Mr. Diefenbaker in the House of Commons. When, on one occasion, Mr. Diefenbaker departed from his principles on a capital punishment vote, Ray stuck with the principles — and parted with the Chief.

During his final mandate in Parliament, it fell to Ray Hnatyshyn to carry, through the House of Commons, the new Official Languages Act of 1988, the Meech Lake Constitutional Accord, and the early resolutions aimed at filling the legislative vacuum on abortion. His cabinet responsibilities and mine overlapped on those three issues. In him, I always had — all of us had — the most thoughtful, well-informed, collegial and supportive of colleagues. I do not know, because being Ray he never said, how much one or other or all of those three great and controversial issues may have contributed to the loss of his own seat in the November 1988 election. Perhaps, in his constituency, the election had turned on the free trade issue. If so, it would be somewhat ironic. It was in consultation with Ray Hnatyshyn that the retired Mr. Justice Emmett Hall decided to intervene in that campaign to disprove the alarmist propaganda of those who suggested that universal health care was threatened by the free trade agreement. Those Canadians who had been frightened by some of the campaign rhetoric were reassured by Justice Hall's intervention, and it may well be that more than one of Ray's colleagues owed their election or re-election to this.

[Translation]

When he became Governor General in 1990, criticism arose because he had just left the federal political arena. By the end of his mandate, however, reporters remembered, first and foremost, how he opened Rideau Hall to the public. They pointed out that he brought the Crown and the people of Canada closer. They emphasized his dedication to artists, youth and the promotion of education and multiculturalism. As Senator Carstairs said, through these concrete initiatives, both Mr. and Mrs. Hnatyshyn have left their mark on the institution of Governor General of Canada and on Canada.

• (1340)

In 1907, his father came to Canada from the Ukraine when he was only two months old. In 1959, John Hnatyshyn, a lawyer by profession, was appointed to this House and became both the first senator for Saskatoon and the first senator of Ukrainian descent. You can therefore imagine what an emotional experience it was for his son, the Right Honourable Ramon Hnatyshyn, a first generation Canadian, to travel to the Ukraine in 1992 on an official visit as the Governor General of Canada. This is a remarkable page in Canadian history.

[English]

We may be humbly grateful for a country where such a story is possible, and we may pray that this country will continue to be worthy of such people as the Hnatyshyns.

Hon. A. Raynell Andreychuk: Honourable senators, I, too, want to pay tribute to the exceptional life and contribution of the late Right Honourable Ramon Hnatyshyn. To someone growing up in Saskatoon, as I did, the Hnatyshyn family was well known for their contributions to the community, to Canada and to a broader field.

Ramon Hnatyshyn's father was the first senator of Ukrainian heritage, appointed by the Right Honourable John Diefenbaker. His mother, Helen, contributed greatly to the acceleration of rights and opportunities for women through her varied associations and organizations, including the United Nations conferences on women.

With that parental background, Mr. Hnatyshyn was quickly committed to a life of excellence in his profession and to public service, something which he did throughout his life. In his years of practice in Saskatoon, he was involved in many institutions and organizations, including many Ukrainian organizations. I will not, at this time, point out the many varied ways that he contributed not only to the life and fabric of Ukrainians in Canada but to the multicultural fabric of Canada. Perhaps I will do that at a later date.

Suffice to say that I have been overwhelmed by the comments to me personally, as I travelled throughout Canada, by ordinary Canadians who knew of his accomplishments. Each had their own story that served to illustrate Mr. Hnatyshyn's sense of humour.

Throughout his political career, in particular when he was appointed Minister of Justice, his sense of social justice and

concern for minorities led him to take on many issues of injustice. In particular, one can point to his commitment to attacking crimes against humanity.

When he became the first Governor General of Ukrainian heritage, he served as a role model to some 1 million Ukrainian Canadians, showing them that their contribution could and would be accepted in our broad society and would enrich the policies, practices and daily life of Canada.

One can never underestimate the symbolic value of such an event to those whose roots are neither English nor French. What is interesting about Mr. Hnatyshyn is that this was not mere symbolism. He went on to live a life of which any Canadian could be proud. Consequently, it was not token action but real and sustained effort on his part that led Canadians from all walks of life to believe that they can contribute, through their skills and commitment, to enriching their roots and their heritage.

While he took issues seriously, Ray Hnatyshyn rarely took himself seriously. His wit, his down-to-earth nature, his openness and his ability to meet with people on their terms created environments and opportunities in which not only could he achieve success, but in which he could encourage others.

Ray Hnatyshyn was a true role model. He was a role model in expressing a love of his roots and a respect for the struggle of his forefathers that could be blended into a commitment to the goals and ideals of Canada. I, for one, benefited from being raised in Saskatoon and Saskatchewan and gained from his example.

His example extended to the entire multiculturalism community. Dr. Dmytro Cipywnyk, Past President of the Canadian Ethnocultural Council, remembered the former Governor General with admiration when he stated:

He was an exemplary statesman and model politician who served Canada with pride and dignity. He opened the doors of Rideau Hall to all Canadians from all walks of life and cultures. It was during his tenure that the Canadian Ethnocultural Council was granted its own Coat of Arms, through the Governor General's Canadian Heraldic Authority. The CEC's Coat of Arms demonstrates that multicultural diversity is a natural element in our society with the power to strengthen us. At that occasion, Mr. Hnatyshyn reminded the CEC that it was important to reflect that people came from many places to build this great country and that this heritage contributes to our values and our foundation for the future. This was part of his legacy to all Canadians.

It is the measure of a man who could take these opportunities and have this kind of legacy. His example will surely live on.

I extend my condolences to Gerda, who shared and was committed to many of his values and who spent many hours in support of his activities. I also extend my condolences to his sons and the entire Hnatyshyn family. I appreciate that they so generously shared the life of Ramon Hnatyshyn with so many of us.

[Senator Murray]

Hon. David Tkachuk: Honourable senators, much of what I intended to say about the life of Ray Hnatyshyn has already been said.

Ray Hnatyshyn was an important role model because of the way he conducted himself as a member of Parliament. When I was first appointed to this place in 1994, all the talk was about direct democracy. Honourable senators may remember that, at the time, much was being said about how important it was that constituents be polled to see how they wanted their members of Parliament to vote on certain issues. Any member of Parliament who voted against what his constituents wanted was considered not to be a good member of Parliament. Ray Hnatyshyn was a politician who did not need to do that.

• (1350)

I will give honourable senators two examples. I met Ray Hnatyshyn after the 1974 election when we were trying to build the Saskatchewan Conservative Party. There were different coalitions in those days. The federal party people in Saskatchewan did not want to get involved with Saskatchewan PCs because they had a deal with the Liberals to defeat the NDP. John Diefenbaker, the member of Parliament for my riding and whom I admire with all my heart, disappointed me greatly because, in that campaign of 1975, he did not come out and campaign for us because of whatever coalition he had with Davy Stuart in Prince Albert. However, Ray Hnatyshyn helped out the provincial Conservative Party, and in a riding in Saskatoon that was not normally Conservative. Ray Hnatyshyn helped out by knocking on doors for a party that had no seats in a riding he had just won, and it was at great political peril to him. Ray Hnatyshyn also had Gerda Hnatyshyn knocking on doors. All his campaign people were knocking on doors.

Honourable senators, Ray Hnatyshyn won the next election in 1979. Ray Hnatyshyn was an abolitionist in a riding that was probably considered a hang-them-high riding. Probably 80 per cent were in favour of capital punishment. Ray Hnatyshyn did not poll the members to say what was the right thing. Ray Hnatyshyn exemplified what I think every member of Parliament should be. Running an election campaign can be one of most difficult things and yet one of the most satisfying things, and I admire people who get re-elected, time and again, over the years.

However, he understood something that all good members of Parliament understand, that a man or a woman is judged by what they do over a period of time and not on one particular thing they stand for. The people of Saskatoon and Saskatchewan elected Ray Hnatyshyn in 1974, 1979, 1980, and 1984. He served for 14 years. There is no greater tribute than having your peers send you to this great place in Ottawa. It shows what they thought of him.

On behalf of all the volunteers for the Conservative Party in the Province of Saskatchewan and federally whom he worked so hard for, I extend condolences and sympathy to Gerda, Carl, John and their extended family.

[Translation]

Hon. Jean-Robert Gauthier: Honourable senators, I came to know Ray Hnatyshyn well in the House of Commons. He made a great impression on me as Minister of Justice and as Government

House Leader. At the time, I was my party's whip, so we met nearly every day to discuss strategy and agenda issues. Back then, in the House, there were only 40 Liberal members of Parliament, out of 210. Never, as Government House Leader, did Ray Hnatyshyn make us feel we were in actual disagreement. He always knew the right thing to say. He was a likeable man with a disarming smile.

When he was appointed Governor General, honourable senators will recall that I was the member for Ottawa—Vanier. I called him up to congratulate him, and added: "By the way, Ray, maybe you could open the gates to that 100-acre property you will now call home." His answer was: "Don't worry about it." And he did open Rideau Hall to the public. That, for me, was something important.

He was a man of the people who wanted to encourage dialogue, peace and friendship. I would like his wife, Gerda, to know how much we miss him.

[English]

Hon. Leonard J. Gustafson: Honourable senators, I have a brief comment about Ray Hnatyshyn that is in somewhat of a lighter vein.

Ray could bring a smile to anyone, even while discussing a serious subject. We were in the Prime Minister's office one day when he said, "Len, some day you will understand hunky power." At the reception after he had assumed the high office of Governor General, my wife and I were going through the greeting line. When I shook his hand, I said, "Ray, now I understand hunky power." He could always get people to smile.

Hon. Joyce Fairbairn: Honourable senators, it is fair to say, perhaps, that Canadians who listen to the radio, watch television or read their newspapers about life on Parliament Hill come to the conclusion that, generally speaking, the inhabitants of Parliament Hill do not get along very well with each other, that this is a place of conflict, a place of sometimes bitter argument and that everyone stands firmly behind their political label while questioning what is wrong with the other folks.

I wish to say a word about Ray Hnatyshyn today because Parliament Hill, both chambers, can be, if you wish it to be, a place where terrific friendships are built, no matter what party you support or what caucus you sit in, and the Senate is a great example of that.

Ray Hnatyshyn and I were friends over a long period of time on Parliament Hill. I will always remember him as one of a younger group of feisty Conservative members of Parliament from Western Canada. He always had just a touch of wonderment over the fact that he was here on Parliament Hill representing his province, representing his area, representing Ukrainians. It was part of his humility, I think, over what he thought was his great good fortune to become a member of Parliament, that endeared him so much to all of us.

He worked enormously hard at what he did. Perhaps the greatest tribute from his colleagues today is that he managed to work in government, in difficult portfolios, and at the same time, hang on to his own principles and, in the end, do it his way.

His entry into Rideau Hall as Governor General was, I think, more than he could ever have anticipated or dreamed of, and he carried out his responsibilities as Governor General in that very spirit. I do not think anyone whoever entered Government House will recall that period without remembering one thing about Ray Hnatyshyn, and that was his smile. It was there all the time, along with the warmth and the fact that once again, he never forgot where he came from. He understood all the people who would walk through those doors, the high, the mighty, and the ordinary Canadians who cared for their country as he cared for it, passionately and emotionally.

• (1400)

He would be the first to say that he could not have done what he did without the strength and support of Gerda, who was like a rock for him, throughout the time he was here and certainly in those final days. My friendship and heart goes out to Gerda and her family. I hope that they are comforted with the knowledge that they have such terrific memories of a wonderful Canadian, memories that could only be imagined by others.

SENATOR'S STATEMENT

AGRICULTURE AND AGRI-FOOD

NET INCOME STABILIZATION ACCOUNT

Hon. Donald H. Oliver: Honourable senators, small farming operations may soon be a thing of the past in Canada. Government policies limiting access to funding in times of need and changing attitudes toward the rural way of life in general are weakening small, family-run operations.

The number of farms in Canada is declining rapidly. The 2001 census indicated a loss of approximately 30,000 farms in our country, representing a 10 per cent decline over a four-year period. The number of younger farmers has been declining as well. Statistics Canada shows that in 1991 there were 18,435 farmers under the age of 35. In 2001, there were fewer than 9,000 people under the age of 35 engaged in farming activities, a drop of 52 per cent.

Problems in the design of government policy have played a part in the decline of small farm operations in Canada. The Net Income Stabilization Account, or NISA, is a system designed to provide supplemental funding to farmers in times of need. Under NISA, participating farmers can contribute up to 3 per cent of their eligible net sales annually. Participating governments match the deposits made by the farmers until a maximum balance is reached. In each case, the maximum account balance is determined by the annual sales of the operation averaged over a number of years.

[Senator Fairbairn]

The idea behind NISA is to provide farmers with a safety net for the bad years when the crops fail or when prices do not match the cost of production. However, access to funds in NISA must be triggered either by suffering a huge loss in that year or by becoming destitute. The trigger mechanism is the weakest part of the program. In 2001, Ipsos-Reid prepared a NISA review report for Agriculture and Agri-Food Canada that clearly identified the trigger mechanism as the program's greatest weakness. The report said:

Improved access is the change desired by the largest number. Many stakeholders want the triggers eliminated or somehow altered to allow quicker and easier access to the accounts. Contributors frustrated with the program were often very aggravated by their inability to get money when they needed it.

The result of the flawed trigger policy is twofold. Access to funding is not provided when it is really needed, and the increasing balances in the NISA accounts give the federal government the false impression that farmers do not need assistance. Under the current policy guidelines, the balances in the accounts are increasing to their maximum limit because a withdrawal cannot be triggered.

Honourable senators, the Department of Agriculture and Agri-Food now has proof that the trigger policy should be altered to allow greater access to NISA funds. The users of NISA have identified the trigger mechanism as the major problem with the program. If a change is not made to allow greater access, small farms in Canada may become extinct. Our farmers should be able to access their NISA funds in times of need, not just when policy dictates.

[Translation]

ROUTINE PROCEEDINGS

STATISTICS ACT

BILL TO AMEND—FIRST READING

Hon. Fernand Robichaud (Deputy Leader of the Government) introduced Bill S-13, to amend the Statistics Act.

Bill read first time.

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

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

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

FOURTH PART OF 2002 ORDINARY SESSION
OF PARLIAMENTARY ASSEMBLY OF COUNCIL
OF EUROPE, SEPTEMBER 23-27, 2002—REPORT TABLED

Hon. Lucie Pépin: Honourable senators, I have the honour to table the report of the Canadian delegation of the Canada-Europe Parliamentary Association to the fourth part of the 2002 ordinary session of the Parliamentary Assembly of the Council of Europe, held in Strasbourg, France, September 23-27, 2002.

OFFICIAL LANGUAGES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO STUDY NORTHWEST TERRITORIES ACT

Hon. Jean-Robert Gauthier: Honourable senators, I give notice that on Tuesday next, February 11, I shall move:

That the Standing Senate Committee on Official Languages be authorized to consider the issue of official languages in the Northwest Territories, and

That the Committee report no later than April 11, 2003.

PRIVACY COMMISSIONER

NOTICE OF MOTION TO RECEIVE IN COMMITTEE
OF THE WHOLE AND TO AUTHORIZE
ELECTRONIC COVERAGE

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I give notice that on Tuesday next, February 11, I shall move:

That the report of the Privacy Commissioner for the fiscal year ended March 31, 2002, tabled in the Senate on Tuesday, February 4, 2003, be referred to a Committee of the Whole for the purpose of hearing the Privacy Commissioner, Mr. George Radwanski, and making a report, and

That the Cable Public Affairs Channel (CPAC) be authorized to bring television cameras into the Chamber to broadcast the proceedings of the Committee of the Whole, with the least possible disruption of the proceedings.

[English]

ACCESS TO CENSUS INFORMATION

PRESENTATION OF PETITION

Hon. Lorna Milne: Honourable senators, I have the honour to present 467 signatures from Canadians in the provinces of British Columbia, Saskatchewan, Ontario, Quebec, New Brunswick, Nova Scotia and Prince Edward Island who are researching their ancestry, as well as signatures from 89 people in the United States, three from Australia, two from Norway, one from Iceland and one from the U.K. who are researching their Canadian roots; a total of 563 people, some with surnames such as Lynch, Fraser, Léger, Losier, Smith, Morin, Graham and Kenny. Jason Milne — no relation — from Vancouver, and even a George Baker, also from Vancouver, signed the petition.

These people are petitioning the following:

Your petitioners call upon Parliament to take whatever steps necessary to retroactively amend the Confidentiality-Privacy clauses of Statistics Acts since 1906, to allow release to the Public, after a reasonable period of time, the Post 1901 Census reports starting with the 1906 Census.

Honourable senators, I have now presented petitions with 20,486 signatures to the Thirty-seventh Parliament and petitions with over 6,000 signatures to the Thirty-sixth Parliament, all calling for immediate action on this very important matter of Canadian history.

• (1410)

I am thrilled to inform those honourable senators who may not have heard that on Friday, January 24, at 11:15 a.m., the government released the nominal census returns from the 1906 census. Further, as we heard a few moments ago, the government has now introduced legislation to govern the release of the 1911 census and all subsequent censuses. On behalf of the —

The Hon. the Speaker: Senator Milne, I am sorry to interrupt, but I must remind honourable senators that the item under Routine Proceedings, Presentation of Petitions, is just that: A presentation of petitions.

QUESTION PERIOD

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—
STATEMENT OF OPERATIONAL REQUIREMENTS

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate. In response to my question yesterday, the minister informed me that the operational requirement, the SOR, for the new maritime helicopter had not changed. The minister reassured me to that effect. I was so happy with that information, and thought to myself, "at long last."

What the minister did not tell us, and what I failed to notice, is that the specification for the acquisition of the maritime helicopter, which is supposed to reflect the SOR, has been diluted and changed to allow for a much less capable helicopter. Is the Leader of the Government in the Senate able to confirm that information?

Hon. Sharon Carstairs (Leader of the Government): As I indicated to the honourable senator yesterday, the operational requirement has not been changed. I cannot speak specifically to the acquisition SOR, but I cannot understand how one could have been changed and diluted significantly if the statement of operational requirements was not modified. These specifications are based on military analyses, extensive statistical research and realistic force planning scenarios based on Canadian Forces operations. The position is clear: The statement of operational requirements has not been changed.

While I am on my feet, the honourable senator specifically asked a question yesterday about defence representatives going to France. I do have information for him on that matter.

The Government of Canada's goal is to obtain the right aircraft. The purpose of the January visit was to conduct a formal demonstration flight of the NH-90 helicopter. However, the honourable senator may have thought that the Eurocopter was being looked at again — or perhaps he did not. In any event, I was surprised that the NH-90 helicopter was made available at the Eurocopter facility. That could have led someone to think that we had gone beyond, and were now providing flights or briefings on the Cougar. That is not the case. The Cougar is no longer part of the process, but the NH-90 was demonstrated at the Eurocopter facility.

Senator Forrestall: I was not confused at all. It would be interesting to ask the minister's colleagues whether or not Canadians took up the offer to participate in the demonstration of the NH-90. The answer, of course, is "No, they did not."

There was no question about the scenario yesterday. However, somewhere along the line, somewhere between the SOR and what we have in place now, is the authority to compromise. Let me ask the minister a question specifically about that compromise which disturbs me. I ask this question against the fact that two of the EH-101s, the Cormorant, that version, had made extraordinary, exceptional, long-range rescue programs of approximately 1,600 kilometres to save lives that could never be saved by anything other than long-range, heavy, substantial aircraft of this nature.

Will the minister confirm that the latest version of the specification reflects almost a 60 per cent reduction in the weight of self-defence and operational stores that the new maritime helicopter needs to carry out its duties?

Senator Carstairs: As the honourable senator has indicated, the Cormorant, as a search and rescue helicopter, has performed extremely well. Recently, a heart attack victim was rescued. We are all proud of the work that our services provide to those in life-threatening situations.

As to the honourable senator's extraordinarily specific question, I do not have that information but I will seek to obtain an answer for him.

Senator Forrestall: Would the minister be able to answer this rather brief question: Has safety been compromised, to save weight and to accommodate a much less capable helicopter? I will offer two examples of many that I could give: Reduced protection against small arms fire and elimination of a backup altimeter.

It appears that, by hook or by crook, we will expand the acquisition process for replacement for the ship-borne helicopter that would otherwise not be acceptable in terms of the workload that we would require of it. This is not only a military vehicle; it is a search and rescue vehicle. It is a vehicle to be used for 101 other good, solid, Canadian reasons.

If the minister could obtain responses to those questions for me, I would be grateful.

[Senator Carstairs]

Senator Carstairs: Honourable senators, I can say definitively now that safety has not been compromised. The safety of personnel on those craft, if they are on search and rescue, is high on the priority list of this government.

As to the specific question asked with respect to the acquisition SOR, I will try to provide that information at the first opportunity.

Senator Forrestall: The earliest opportunity.

CITIZENSHIP AND IMMIGRATION

DENIAL OF APPEAL FOR LANDED IMMIGRANT STATUS OF NIGERIAN FAMILY

Hon. A. Raynell Andreychuk: Honourable senators, on December 5, 2002, I brought to the attention of the Leader of the Government in the Senate the case of the Nigerian mother and her four daughters who had taken refuge in a Calgary church because their claim for refugee status had been denied. The family feared returning to Nigeria since that would mean that the daughters could be subjected to the cultural practice known as female genital mutilation, a practice that Canada now condemns.

On December 12, the family was granted a 30-day extension. In early January, they applied for pre-removal risk assessment, which means a review of whether those previously denied refugee status would be at risk if returned to their country. Citizenship and Immigration Canada has until mid-February to make its decision on this case.

At the time, the minister indicated that she would take this matter up with a specific minister. My question is whether the matter was, in fact, taken up and whether there were any assurances given that an assessment would also be made on humanitarian grounds, should the other process fail, to leave this family in Canada.

Hon. Sharon Carstairs (Leader of the Government): First, let me explain the process of what occurs here. As soon as a senator asks a question in this place, that question is immediately referred to the minister, literally within hours of the question having been asked. I assure the honourable senators that the issue was raised with the minister, and included her comments and my comments.

• (1420)

As you know, the government has taken significant steps in this case, first by granting the extension and then by moving into the review process. Having said that, there are very clear rules. The decisions are made at arm's length by individuals, as is appropriate, until the very final stage when the minister can step in. We will not have a decision until mid-February on this particular case.

The humanitarian aspect is always taken into account, so I presume it has been considered in this case. Obviously, if one were to go on to a ministerial directive, that aspect would form a significant part of the case.

Senator Andreychuk: Honourable senators, I have been reviewing some of these processes. I am concerned that, while our officers are trained on immigration policies and refugee policies, they receive very little specific information on how to assess the best interests of children. What are the guidelines and the rules that govern officers in assessing the best interests of these children who find themselves on Canadian soil?

Senator Carstairs: Honourable senators, I would be very surprised if any immigration or appeal refugee board member did not take into consideration the best interests of children. That is their job. They must not only consider the best interests of Canada in these cases but also those of the claimants who come before them. Although the actual claim is made by the adult or parent, the officers are well aware that the adult in question may have a number of children who could be adversely affected.

As to the specific guidelines governing immigration officials, I do not have those at my fingertips, as you can imagine, but if I can uncover any information as to what guides them, I will make that available to the honourable senator.

[Translation]

OFFICIAL LANGUAGES

NORTHWEST TERRITORIES ACT

Hon. Jean-Robert Gauthier: Honourable senators, yesterday, the Leader of the Government said in this house with regard to the Official Languages Act in the Northwest Territories, and I quote:

The territorial government, therefore, has the responsibility to determine its orientations and proposed legislative amendments, as required. The Government of Canada will not interfere in that particular direction.

Section 43.1 of the Northwest Territories Act stipulates that the ordinance entitled the Official Languages Act may be amended or repealed by the Commissioner in Council only if the amendment or repeal is concurred in by Parliament through an amendment to this act.

In this context, will the federal government take action before the beginning of March 2003, i.e. before the Government of the Northwest Territories amends its Official Languages Act?

[English]

Hon. Sharon Carstairs (Leader of the Government): The honourable senator asked this question yesterday, and I tried to provide him with the information that I had at that time. I have no further information today.

We do need to be careful here. This case is presently before the courts, and I do not think we would want to get into the actual presentation of arguments being made before that court.

Let me restate what I said yesterday: The Territories' Official Languages Act does have special status. However, the Northwest Territories Act provides that a Commissioner in Council of the Northwest Territories can amend or repeal the act only if

Parliament gives its agreement to that effect by amending the Official Languages Act. That is very clear. There is a special status.

Having said that, the Northwest Territories Official Languages Act falls under the jurisdiction of that territory.

[Translation]

Senator Gauthier: Honourable senators, in the defence tabled on February 28, 2002, the Northwest Territories contend that they are not required to comply with sections 16 to 20 of the Charter and deny having contravened the Charter of Rights and Freedoms. Is the Government of the Northwest Territories a federal institution subject to the Charter, just like the federal government, the House of Commons, the Senate and the Library of Parliament? Under section 32 of the Charter, are the commissioner in council and the territorial government required, as institutions of Parliament, to respect the language rights guaranteed under sections 16 to 20? This is clear. This is not an issue to be referred to the courts; it is a Charter issue, the Charter being one of our fundamental pieces of legislation. We are told the Northwest Territories are above the Charter. Are they? I say no.

[English]

Senator Carstairs: Honourable senators, the position continues to be one with which the honourable senator does not agree. The position is that the Northwest Territories is not subject to sections 16 to 20 of the Charter because it is not an institution of the Parliament and Government of Canada. The Attorney General maintains that part 7 of the OLA, the Official Languages Act, does not create obligations or rights.

Hon. Gérald-A. Beaudoin: Honourable senators, I have a supplementary question.

The Leader of the Government referred to the doctrine of *sub judice*, but absolutely nothing prevents a legislative house such as the Senate from discussing any point, any question, that relates to the federal competence. We have many precedents in that sense. That being said, we are prudent, of course, but we may discuss constitutional law questions.

From our discussion of yesterday, we see that the honourable Leader of the Government is defending a point of view. I have a different point of view. This question is before the courts. We would like the government to act before the judgment is rendered; it may help. At the end of the day, as we say, the courts will rule on this matter. However, I still cannot agree with the honourable Leader of the Government.

When a territory is created, in my opinion it is a federal institution, a federal creation. If it is not, what is it? What else could it be? It is a federal territory having a very large delegated power, and I agree with that. We have done this three times at least in our history, but I still think that when Parliament is creating an institution as important as a territory, the government is obliged — and Parliament is obliged — to respect the Constitution. In the federal field, there is equality of French and English. It is not only I who is saying that.

The Hon. the Speaker: Senator Beaudoin, I am sorry to interrupt you. I thought I should remind honourable senators of the references in our rules to brevity in the case of both questions and responses in relation to Question Period.

Senator Beaudoin: If I may, I will ask another question. My point is this: A territory is created by a law of Parliament. A province is created by the Constitution, so it is not the same thing. There is a difference, not of degree but of substance, between a territory and a province. We, the Parliament of Canada, must respect section 16 of the Charter of Rights because it is part of the Constitution. Some people say yes, but read the Official Languages Act. The Constitution takes precedence over the Official Languages Act. The Constitution clearly states that the two languages are equal in the federal domain and federal institutions. If I have to ask a question, then I ask if the honourable senator agrees or disagrees, but I know she agrees.

• (1430)

Senator Carstairs: The honourable senator, with all of his constitutional expertise, raises an interesting issue. First, I would agree with him totally on the issue of prudence. That is why I placed the caution on the record that we had to be careful that we did not touch on the close specifics of the case but, rather, that we speak in terms of generalities. However, I would have a slight disagreement with him in terms of semantics.

We have a discussion of whether something is a creature or a creation, or whether it is an institution. I maintain that the two things can be quite different. An entity can be a creation without necessarily being an institution.

Senator Beaudoin: The Constitution still applies whether it is a creation or an institution. An institution is a creation also. What else is it? My honourable friend says that section 16 of the Charter does not apply.

The Hon. the Speaker: I am sorry to interrupt, honourable senators. Question Period is for putting questions forward and for questions being answered, not a time for debate.

Senator Beaudoin: Today, I have nothing to add.

Hon. Marcel Prud'homme: This debate is taking place with the expertise of Senator Beaudoin.

We are seeing something happen more frequently with the National Capital Commission. I always thought Canada was one Canadian flag, 10 provincial flags and three territorial flags. More and more we see the NCC using 13 flags, plus the flag of Canada. We see that the territories are invited to constitutional conferences, yet we know that, to amend the Canadian Constitution, we cannot say that the 13 are on an equal footing; 10 are on an equal footing. The amending formula is based on 7 out of 10 provincial legislatures representing 50 per cent of the population. A precedent is being established. That is what I follow very closely.

Does the honourable leader consider that the 10 provinces and three territories are on an equal footing? If so, we better start reflecting on a new amending formula for the Constitution. If they must be on an equal footing, they should have an equal responsibility. Does that not make sense?

Senator Carstairs: Honourable senators, it is clear that they are not on an equal footing. They are not provinces; they are territories. We want to be open and cooperative with those territories. That is why I view their presence at first ministers' meetings to be an important component. Otherwise, the citizens of this nation who live within those territories would not be adequately represented.

THE BUDGET

CREATION OF NEW ARM'S-LENGTH AGENCIES— APPOINTMENT OF AUDITOR GENERAL AS AUDITOR

Hon. Donald H. Oliver: My question is for the Leader of the Government in the Senate and deals with government accounting.

In recent years, the government has shown a disposition toward using its budgets to create arm's-length foundations. This is often done to achieve an accounting result, that of shifting future years' spending to the current fiscal year. However, these agencies are often not accountable to Parliament and are not subject to normal audit safeguards.

In recent weeks, there has been speculation that the coming budget will create two more arm's-length agencies. The first, the Canadian Health Council, will monitor provincial health spending; the second, the Canadian Learning Institute, will act as a clearing house for new ideas in research and education. These are both areas that are traditionally within the domain of the provinces. Given that these agencies will have a mandate that will inevitably lead to conflict with the provincial governments, can the Leader of the Government in the Senate assure us that, unlike the foundations and centres created in past budgets, these new ones will be accountable to the Parliament of Canada?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senators knows, tougher principles have been applied to foundations that have been put into force and effect in recent years.

There has been some talk of councils that, in the past, were supposed to be foundations. Here, I am thinking of the Africa fund. It was changed from being a foundation to being a fund so it would be directly responsible. We are being a little anticipatory here in terms of the Canadian Health Council and the Canadian Learning Institute.

Senator Oliver: This will be the first budget since the Auditor General reported last April on the growing use of arm's-length agencies. The Auditor General called her report "Placing the Public's Money Beyond Parliament's Reach." She noted that:

Parliament is not receiving reports on independent, broad-scope audits that examine more than financial statements of delegated arrangements, including compliance with authorities, propriety, and value for money. With a few exceptions, Parliament's auditor should be appointed as the external auditor of existing foundations and any created in the future, to provide assurance that they are exercising sound control of the significant public resources and authorities entrusted to them.

Can the Leader of the Government assure the Senate that the Auditor General will be the auditor of any new institutes or councils announced in the coming budget?

Senator Carstairs: No, I cannot make that assurance. Quite frankly, I do not agree with the concept. I do not think there is any particular advantage in this nation to the Auditor General auditing everything. I think we have good accounting and auditing firms from coast to coast in this country. They are capable of auditing a number of institutions. I would be in disagreement with the honourable senator's suggestion that everything must be audited by the Auditor General.

JUSTICE

OPERATION OF FIREARMS REGISTRY

Hon. Lowell Murray: Honourable senators, recently, the government commissioned two studies at a cost of \$150,000, I think, to look into the federal gun registry. One of those studies by Raymond Hessian, whose report was issued a day ago or so, concluded that the operation of the federal gun registry had been "suboptimized."

As an old English teacher, does the minister agree that, from the point of view of the government, the coining of such an elegant term as "suboptimal" to describe the gun registry in place of crude and pejorative expressions, such as "fiasco" and "screw-up," was worth the \$150,000 they paid for it?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as an old English teacher, although I primarily taught history, I do not like new vocabulary as it is advanced, often because I do not know what it means.

UNITED NATIONS

POSSIBLE WAR WITH IRAQ

Hon. David Tkachuk: In light of Colin Powell's presentation in the United Nations today, showing conclusively that Iraq is in flagrant violation of UN Security Council resolutions on Iraq, what will Canada's position be regarding military action against Iraq?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, many Canadians would argue that the presentation made by Mr. Powell this morning was conclusive. I think many would argue that no conclusion could be drawn. However, what is clear is that he certainly gave very disturbing and persuasive material, some of which had not been afforded to those who have been watching this situation very carefully.

It is important to note that the UN Security Council is currently conducting a debate concerning this matter. I was fortunate enough to hear the foreign ministers of France and Mexico before I had to come here. However, it is clear that the UN Security Council's judgment as to the extent that Iraq has failed to live up to its obligations under Resolution 1441 has yet to be made. Hopefully, it will resolve itself sometime in the next little bit, but the next step in this process is to hear from Dr. Blix again on February 14.

• (1440)

Senator Tkachuk: I understand that the United Nations is discussing this issue. They have been doing that for quite some time. What is Canada's position on what Colin Powell has said, and what is Canada's position in the United Nations regarding action on Iraq? Will we support the U.S. position or not?

Senator Carstairs: We will be supportive of the United Nations' position.

Senator Tkachuk: What is the United Nations position? More important, what is our position before the United Nations on behalf of Canadians?

Senator Carstairs: Our position is clear: We respect Resolution 1441. We were clear in our support of that resolution. That resolution was passed unanimously. The Security Council is now investigating. They have sent Dr. Blix and others to Iraq to examine and to find, if they exist, those weapons of mass destruction, but the Government of Canada's position is to support the United Nations.

The Hon. the Speaker: The time for Question Period has expired.

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour of tabling two responses to oral questions. The first is in response to the question raised by the Honourable Senator Tkachuk on October 23, 2002, regarding tax relief for Hezbollah organizations. The second is in response to an oral question raised by Senator Nolin in the Senate on November 6, 2002, regarding illegal activities in Canada by the Drug Enforcement Agency, the *Licht* case.

NATIONAL REVENUE

TAX RELIEF FOR HEZBOLLAH ORGANIZATIONS

(Response to question raised by the Hon. David Tkachuk on October 23, 2002)

Confidentiality provisions prevent the Canada Customs and Revenue Agency (CCRA) from discussing specific cases but the Honourable Senator can be assured that the CCRA monitors charities and investigates their operations where warranted.

Registration as a charity is available only to organizations that are resident in Canada and that were either created or established in Canada. In addition, an organization must demonstrate that it is established and operated exclusively for charitable purposes.

Special provisions introduced under *Part 6* of the *Anti-terrorism Act* came into force in December 2001 with the adoption of the *Charities Registration (Security Information) Act*. This legislation recognizes that money is fungible, and that many terrorist groups seek to create a layer of legitimacy and deniability by establishing a support network of humanitarian and social services. That is why the

UN Convention on the Suppression of Terrorist Financing calls on all states to take steps to prevent and counteract the financing of terrorists and terrorist organizations, “whether such financing is direct or indirect through organizations which also have, or claim to have, charitable, social or cultural goals”.

This new legislation provides grounds to disqualify an organization from registration where there is solid evidence that it provides any of its resources to activities that support terrorism. It provides a legal framework that will allow the CCRA to use and protect sensitive security information in determining an organization’s eligibility for registration.

Under this legislation, the Solicitor General of Canada and the Minister of National Revenue may jointly sign a special certificate based on security or criminal intelligence reports. This is a fact-based process, and is subject to automatic judicial review.

The test to be applied in such cases is whether there are reasonable grounds to believe that a registered charity or an organization applying for registration has made, makes, or will make available any of its resources, directly or indirectly, to a terrorist group that is a listed entity under the *Criminal Code*, or to any other organization engaged in terrorist activities or in activities that support terrorist activities. Hezbollah was named as a listed entity under the *Criminal Code* on December 11, 2002.

If the Federal Court upholds a certificate issued on these grounds, it is conclusive proof that an organization is ineligible for registration as a charity under the *Income Tax Act* and therefore unable to issue tax receipts to donors.

SOLICITOR GENERAL

UNITED STATES DRUG ENFORCEMENT AGENCY— ILLEGAL ACTIVITIES IN CANADA

(Response to question raised by the Hon. Pierre Claude Nolin on November 6, 2002)

The Honourable Senator has cited the recent Supreme Court of British Columbia decision, ordering a stay of proceedings to an extradition petition by the United States.

I am aware of the facts of this case and can assure you that it represents an isolated incident that occurred without the knowledge of either the RCMP or the U.S. Drug Enforcement Agency. The Supreme Court of British Columbia appropriately recognized that this was not a bona fide foreign investigation being carried out in Canada.

The Honourable Senators would clearly agree that in any large organization with thousands of employees, there are bound to be individual incidents that take place. And it is inappropriate and irresponsible for anyone to malign the excellent Canada-US law enforcement relationship because of an isolated incident.

On the contrary, we should be thanking the many dedicated and hard working individuals who risk a great deal to keep citizens safe.

I also wish to underline that both the RCMP and the U.S. Drug Enforcement Agency fully respect the Memorandum of Understanding concerning cross-border cooperation and investigation, and their respective policies in using sources and police agents in foreign jurisdictions. Because of respect for Canada’s sovereignty, there is no need to lodge a formal complaint with U.S. authorities.

An excellent example of this collaboration was the arrest in January 2002 of 121 individuals who were involved in the trafficking of an illicit drug from Canada into the U.S.

We all agree that the threat to the welfare of Canadians posed by international drug trafficking requires ongoing and cooperative efforts between Canadian and foreign police services. Given the growth of trans-national criminal activity and the threat of terrorism, domestic authorities can no longer operate in isolation. We must work with the global law enforcement community to identify mutual priorities and develop effective responses.

Canada has very effective partnerships with law enforcement agencies around the world.

I want to highlight some important efforts by the RCMP and other federal partners to maintain strong working relationships with our closest neighbours.

The Smart Border Declaration, signed in December 2001, marked an important security milestone between Canada and the United States. With the combined efforts of the RCMP, the Canada Customs and Revenue Agency, and Citizenship and Immigration Canada, this joint initiative enables us to identify and address security risks, while keeping the border open to legitimate travelers and commerce.

The deployment of ten Integrated Border Enforcement Teams along the Canada/U.S. border is another excellent example of the current level of law enforcement cooperation between both countries.

In light of the events of September 2001, the focus on building and maintaining strong relationships will continue to be critical to the integrity of our borders.

I am confident that we have appropriate mechanisms in place to ensure a collaborative approach to law enforcement that respects each country’s sovereignty.

When foreign agencies work in Canada, they must do so within our legal and constitutional framework, in consultation with Canadian law enforcement agencies. Experience shows us that this is exactly what is happening thanks to the strong partnerships the RCMP has forged with its international counterparts.

[English]

ORDERS OF THE DAY

LOUIS RIEL BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Chalifoux, seconded by the Honourable Senator Taylor, for the second reading of Bill S-9, to honour Louis Riel and the Metis People.—(*Honourable Senator Stratton*).

Hon. Terry Stratton: Honourable senators, I rise today to deal with Bill S-9, to honour Louis Riel and the Metis people. This is the second session of this Parliament and the second time that this bill has been introduced. It may not surprise senators to learn that this is also the second time I have had the opportunity to address the issue.

When I spoke last year in the first session on this bill, I made it clear that I did not support it. I do not believe we can rewrite history, nor do I believe that this Parliament need do anything more than what was done by the Progressive Conservative government in 1992. A resolution was passed and adopted unanimously at that time by both the House of Commons and the Senate. The resolution recognized the various and significant contributions of Louis Riel to Canada and to the Metis people, and in particular his unique and historic role as a founder of Manitoba. What more do we need? What more do we want?

Before I continue, I should like to acknowledge that the bill now before us is somewhat different from the bill that was before us in the last session, in that this bill does not pardon Louis Riel. It does not reverse the conviction; it does not seek to exonerate him.

The Metis people are recognized as an Aboriginal people of Canada in the Constitution Act of 1982. We have a resolution in this matter that was passed by Parliament in 1992. Surely there are more important issues concerning the Metis people of Canada than one more acknowledgment of the role of Louis Riel. For example, there are issues of defining and establishing a land base; there are issues of the identification of who is or is not a Metis, and issues of compensation for lost land and lost status over the years. I am left with a number of questions that I hope I can put to Senator Chalifoux this afternoon.

For instance, why did the honourable senator change the bill so that it no longer sets aside the Riel conviction and no longer pardons him? The honourable senator knows that many Indians were involved in incidents at Frog Lake and Duck Lake. Both Chiefs Big Bear and Poundmaker served time in Stoney Mountain Penitentiary, north of Winnipeg, as did many of their fellows. Should we not set the record straight with regard to these men, in the same manner as we are trying to do for Louis Riel?

What does the honourable senator believe that this bill adds that, in reality, was not dealt with in the joint resolution of 1992?

Honourable senators, Senator Chalifoux must agree that this is not the most important issue facing the Metis people of Canada.

These are questions that deserve answers. We cannot continuously attempt to rewrite our history, placing our current beliefs against the beliefs of more than 100 years ago. In our attempts to do so, we are, in the words of a noted author of aboriginal history, turning elements of truly fascinating Canadian history in the person of a rebel and a poet, Riel, into a tepid, milquetoast caricature. I look forward to further consultation on this issue.

On motion of Senator St. Germain, debate adjourned.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

EIGHTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighth report of the Standing Committee on Internal Economy, Budgets and Administration (Senate Supplementary Estimates (B) 2002-03) presented in the Senate on February 4, 2003.—(*Honourable Senator Bacon*).

[Translation]

Hon. Lise Bacon: Honourable senators, the Internal Economy Committee has approved Supplementary Estimates of \$639,000, the object of its eighth report to the Senate.

[English]

The following items requiring supplementary funding are included in the report:

\$90,000 to meet the Senate's 30 per cent share of additional funding requested by the Joint Inter-Parliamentary Council. The funding provided to parliamentary associations at the start of the fiscal year is insufficient to meet Canada's obligations in terms of international contributions and of adequately funding association activities.

• (1450)

The Joint Inter-Parliamentary Council has considered requests from the associations for more funding and is now seeking authority from the Standing Committee on Internal Economy, Budgets and Administration and the House of Commons Board of Internal Economy to obtain an additional \$299,748. Of this amount, the Senate's 30 per cent share is \$89,924.

An amount of \$549,000 is required to provide the necessary funds for the increased expenditures of the office and research expenses budget of senators. The budget for senators' research and office expenses is established each year at a level that reflects expected utilization rates. For 2002-03, the rate used was 78 per cent of the \$127,500 entitlement for 98 senators. The forecast indicates a higher utilization rate; thus, there is a potential shortfall of \$549,000.

[Translation]

The submission on the Supplementary Estimates needs to be prepared by February 7 in order for the Senate's requirements to be included in these estimates, which will be tabled in Parliament on February 17.

[English]

Honourable senators, so that we may pursue our valuable work and meet tight time lines, I ask you to support the adoption of this report.

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

Motion agreed to and report adopted.

STUDY ON PUBLIC INTEREST IMPLICATIONS OF BANK MERGERS

REPORT OF BANKING, TRADE AND
COMMERCE COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the sixth report of the Standing Senate Committee on Banking, Trade and Commerce entitled: *Competition in the Public Interest: Large Bank Mergers in Canada*, tabled in the Senate on December 12, 2002.—(Honourable Senator Kolber).

Hon. E. Leo Kolber: Honourable senators, on December 12, 2002, I was pleased to table the sixth report of the Standing Senate Committee on Banking, Trade and Commerce on the public interest implications of large bank mergers in Canada. I expect that all honourable senators have had an opportunity to see a copy of this report and have likely seen the press coverage that this topic has received since the Banking Committee began its hearings in late November.

I wish to take this opportunity to thank the honourable senators who are members of the committee and their staff for their hard work in completing this study. I should like to thank all the witnesses who made submissions to the committee because that information was crucial to our ability to fully address the public interest concerns relating to large bank mergers in Canada.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I wish to move the adjournment of the debate. This is an important report. However, there is a recommendation before the house from the Standing Committee on Rules, Privileges and the Rights of Parliament that we adopt a rule to allow, if the Senate so wishes, a request to the government for a response to a committee report within 150 days. I should hope that we agree with the recommendation of the Rules Committee, following which we would pass the Banking Committee's report and then apply the new rule in order to receive the government's response to the report within 150 days.

For those reasons, I move the adjournment of the debate.

Hon. Marcel Prud'homme: Honourable senators, having sat on the Banking Committee, I have much to say about this report. There is one particular part of the report that I do not agree with, and so I was prepared to move the adjournment of the debate as well.

On motion of Senator Lynch-Staunton, debate adjourned.

[Senator Bacon]

[Translation]

RULES, PROCEDURES AND RIGHTS OF PARLIAMENT

FOURTH REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Milne, seconded by the Honourable Senator Finnerty, for the adoption of the Fourth Report of the Standing Committee on Rules, Procedures and the Rights of Parliament (*depositing committee reports*) presented in the Senate on November 21, 2002.—(Honourable Senator Corbin).

Hon. Eymard G. Corbin: Honourable senators, I will keep my comments brief. During the debate that took place prior to the holidays, I voiced some of my concerns. I am completely opposed to proceeding this way. I believe that tabling committee reports when the Senate is not sitting deprives the chamber — I am referring to the chamber and not the honourable senators, but the institution — of its right to be the first to look at and comment on the work of the committee. It is important to remember that committees are creatures of the Senate. An order of this chamber compels them to study specific issues, then they have to report back. I presume that this means when the Senate is sitting and not during a parliamentary recess.

What normally happens? Take, for instance, the case of Senator Kenny's report, which is Item No. 3 on today's Order Paper. He tabled his report with the clerk on January 21, 2003. There was a big hue and cry from the media. The Minister of Transport contradicted some of the data contained in the report. The way Transport Canada dealt with the matter was a public relations fiasco, as far as I am concerned, and the department ended up rushing to announce a new security policy at Canadian sea ports. All this despite the fact that the Senate had not even had the opportunity to consider the report. This erodes the credibility of this institution, and that is why I object. Some might say that what Senator Corbin has to say — as Senator Prud'homme would put it — after 35 years in Parliament, no longer matters; the world evolves. The world is not evolving in the right direction, in my opinion. All we are doing is providing fodder for the media, which after all is out to make money. Stories about scandals, murders, wars and massacres are splashed all over the headlines. What were we doing at the time? We were on holidays. No one was minding the shop. The report had been tabled, yet the debate was not taking place where it was meant to take place. That is why I am against these practices that do not bring anything positive to the institution. If you want to live by public relations, you will die by public relations, because the media are no friends of the Senate. The chairs and members of committees are accountable to this chamber when their report is tabled, not one, two or three months later. We all know that public opinion is based not so much on the content of a report, but often on the reaction from the government or its spokespersons.

So what is our role? We must give this some thought.

[English]

Hon. Tommy Banks: Honourable senators, I have the temerity to rise to briefly disagree with the honourable senator in whose opinions I place a great deal of stock. However, Senator Corbin said one thing that I think needs to be questioned and that I call to his attention.

• (1500)

The honourable senator said that if we live by PR, we will die by PR, and that is at least partly true. Thus far, however, if we take the cartoon version of the Senate that is in the minds of most newspaper editors and most Canadians, as all of us know, we, and all of our predecessors, have only died from PR.

In the last little while, though, there have been many pieces of evidence that we are beginning to live by PR. Editorial comment — which does not determine what we do, nor is it the most important thing about what we do — does have something to do with this institution and the way in which it is regarded by Canadians. Editorial comment has begun to express matters other than the conditioned knee-jerk reaction of inserting the words “plush-lined clubhouse” before the word “Senate” each time it is written. They have come to say that the Senate is the place where first, original thought is taking place, and they have come to say, “For God’s sake, send this item to the Senate. At least they will pay some attention and tell us the truth about it, and deal with it properly.”

Honourable senators, I think it is not immodest of us to say that we have, in fact, done rather better as an institution in the minds of the Canadian people, in a very small way and with small steps, partly as a result of our having obtained good PR. There is no doubt in my view, having once been in that game, that the timing of the release of our reports has much to do with the extent to which attention is paid to them by the press — however commercial it might be — and therefore by the Canadian public.

As the honourable senator has said, these are not mere tidbits; they are matters of considerable substance. I regard those things as very important. The consideration of the efficacy, in the end, of the release of our reports and of their timing is a very important question that must be considered very carefully.

Hon. Laurier L. LaPierre: Honourable senators, I must stand and agree with Senator Corbin. I think I know all about public relations, or at least a great deal, and about the timing, and I have agreed with Senator Kenny’s proposition that the report could be released.

I have been telephoned on the two reports that have made news: the one about defence and the magnificent report on public health. I said that I would not allow myself to be interviewed because these were reports of the committee, and that the Senate had not yet consented to these reports. I had been a member of one committee at one point but am no longer a member, and I was not a member of the Standing Senate Committee on Social Affairs, Science and Technology, and therefore I had to wait to have my say when the Senate would discuss this report.

I have now come to the conclusion that there should be a caveat when we release reports. The caveat should be to the effect that this is not a Senate report, as such, since it has not yet been presented to the Senate, or that it will be presented for confirmation or refusal by the Senate at a later date. A report

could be released to the press maintaining the principle that it is this house, it is the Senate, that consents or dissents on a report of one or more of its creatures. Consequently, we could find, with the wisdom herein, the capacity to sit on a report for two or three months because we are away.

There were many and varied discussions of immense importance that occurred at the time of the release of the security report concerning its subject matter. I do not object to it having been released. However, honourable senators, I do object that the Canadian public believes that the Senate has reported or has said that the situation in the Armed Forces is a pile of nonsense, or whatever it is that was contained in that report. I would have preferred that they had made it quite clear that these reports are not the reports of the Senate but of committees of the Senate, and that they had been placed on the table for debate by the Senate at another time. It would be a better procedure.

[Translation]

We could get the best of both worlds, not put ourselves in an awkward position and not go against the fundamental principle that it is the prerogative of this institution to say whether or not its members, the senators, consent or dissent on the output of one of its creatures. I support Senator Corbin’s great idea; I thank him for sharing it with us.

[English]

Hon. Lorna Milne: Will the honourable senator accept a question?

The Hon. the Speaker: Will you take a question?

Senator LaPierre: It is against my principles. However, for you, madam, anything.

Senator Milne: Thank you, Senator LaPierre. Honourable senators, since I cannot speak a second time on this report, having already spoken to it, I would like to ask the honourable senator if he is aware that the Senate retains the ability always to refuse permission to any committee to table a report when the Senate is not sitting? The report of that committee must be presented to the Senate, and the under our rules, permission of the Senate is required before a report can be tabled when the Senate is not sitting.

Senator LaPierre: Honourable senators, I know that because I am here most of the time, and I hear senators making motions to that effect, and I consent to it. All I am saying is that it is taken as a fact that such reports are Senate reports, and therefore an official document of the Senate, which has been accepted by the Senate, and, therefore, all honourable senators are implicated in the conclusions that are drawn.

There are some aspects of the report on security with which I profoundly disagree, as committee members knew from when I attended at their meetings. Therefore, I would have liked to have had a chance to express my views before the media gets to say that it is the most magnificent thing since sliced bread. Perhaps some of us have some different views that may be totally lost in the process of the argument.

Honourable senators, my point is not to prevent reports from being released if the members of the committee, and of the Senate, judge it to be necessary. However, there ought to be a caveat or a statement to the effect that the report has been presented and shall be debated later by the Senate. In the meantime, here is what the committee of the Senate has found. That is all that I want to have done.

The Hon. the Speaker: Is the house ready for the question?

An Hon. Senator: Question!

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

Some Hon. Senators: Agreed.

Senator Corbin: On division.

Motion agreed to and report adopted on division.

[Translation]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I would like to point out that there are guests of Senator Ferretti Barth in the gallery today. They are the members of the Board of Trustees as well as Governors of the Fondation communautaire canadienne-italienne du Québec, as well as representatives of the Italian press in Montreal and of RAI International.

Welcome to the Senate of Canada.

• (1510)

OFFICIAL LANGUAGES

COMMITTEE AUTHORIZED TO STUDY REPORT ENTITLED "ENVIRONMENTAL SCAN: ACCESS TO JUSTICE IN BOTH OFFICIAL LANGUAGES"

On the Order:

Resuming debate on the motion, as modified, of the Honourable Senator Gauthier, seconded by the Honourable Senator Fraser:

That the report entitled *Environmental Scan: Access to Justice in Both Official Languages*, revised on July 25, 2002, and commissioned by the Department of Justice of Canada, be referred to the Standing Senate Committee on Official Languages for study and report;

That the Committee review the issue of clarifying the access and exercise of language rights with respect to the *Divorce Act*, the *Bankruptcy Act*, the *Criminal Code*, the *Contraventions Act* and other appropriate acts as applicable; and

That the Committee report no later than May 31, 2003.—(Honourable Senator Corbin).

Hon. Eymard G. Corbin: Honourable senators, I will begin with a reassurance to you all, including Senator Gauthier, that I will be

brief. I wanted to take a little time to consider the scope of Senator Gauthier's motion. The recess afforded me the opportunity to reach the conclusion that we must adopt it.

Senator Gauthier has already shared his arguments with you all. I need not repeat them here, but I am very much aware, having sat on the House of Commons committee when the first Canadian legislation on official languages was enacted, that there has not been much in the way of change in access to justice in both official languages in Canada.

Certain things have changed, certain things have improved, but there are regions of this country where obtaining justice in the language of one's choice is impossible. In 1969, during consideration of the first official languages bill, I had asked the then Minister of Justice, the Right Honourable John Turner, why he did not extend the scope of the bill to cover regions with significant linguistic minorities. I have not had the opportunity to re-examine the transcripts of that time. However, I remember the crux of his answer. I have been waiting for things to change and evolve ever since, but they have neither changed nor evolved. He told me that there was no infrastructure in place to meet my expectations and the expectations of minorities in Manitoba, Saskatchewan, Alberta, and elsewhere in Canada. I do not want to limit my examples to Western Canada. There are other regions where properly drafted legislation could have done some good and met the expectations of official language minorities.

We are still, for all intents and purposes, at the same point today. Since the Official Languages Act was adopted in 1969, 34 years ago, my honourable colleague, Senator Jean-Robert Gauthier, has been rising to obtain justice on this issue. I know that, privately, he is getting evasive answers, and his question is being ignored.

This leads me to believe that nothing will change in the next 34 years. I believe that Senator Gauthier's motion should be adopted and referred to the Standing Senate Committee on Official Languages, which will then report back to the Senate of Canada, as soon as possible, because the situation is becoming ridiculous, absurd, and cannot continue.

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

Motion agreed to.

[English]

FOREIGN AFFAIRS

MOTION TO REFER 2002 BERLIN RESOLUTION OF ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE PARLIAMENTARY ASSEMBLY TO COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Joyal, P.C.:

That the following resolution, encapsulating the 2002 Berlin OSCE (PA) Resolution, be referred to the Standing Senate Committee on Foreign Affairs for consideration and report before June 30, 2003:

[Senator LaPierre]

WHEREAS Canada is a founding member State of the Organization for Security and Economic Co-operation in Europe (OSCE) and the 1975 Helsinki Accords;

WHEREAS all the participating member States to the Helsinki Accords affirmed respect for the right of persons belonging to national minorities to equality before the law and the full opportunity for the enjoyment of human rights and fundamental freedoms and further that the participating member States recognized that such respect was an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and co-operation between themselves and among all member States;

WHEREAS the OSCE condemned anti-Semitism in the 1990 Copenhagen Concluding Document and undertook to take effective measures to protect individuals from anti-Semitic violence;

WHEREAS the 1996 Lisbon Concluding Document of the OSCE called for improved implementation of all commitments in the human dimension, in particular with respect to human rights and fundamental freedoms and urged participating member States to address the acute problem of anti-Semitism;

WHEREAS the 1999 Charter for European Security committed Canada and other participating members States to counter violations of human rights and fundamental freedoms, including freedom of thought, conscience, religion or belief and manifestations of intolerance, aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism;

WHEREAS on July 8, 2002, at its Parliamentary Assembly held at the Reichstag in Berlin, Germany, the OSCE passed a unanimous resolution, as appended, condemning the current anti-Semitic violence throughout the OSCE space;

WHEREAS the 2002 Berlin Resolution urged all member States to make public statements recognizing violence against Jews and Jewish cultural properties as anti-Semitic and to issue strong, public declarations condemning the depredations;

WHEREAS the 2002 Berlin Resolution called on all participating member States to combat anti-Semitism by ensuring aggressive law enforcement by local and national authorities;

WHEREAS the 2002 Berlin Resolution urged participating members States to bolster the importance of combating anti-Semitism by exploring effective measures to prevent anti-Semitism and by ensuring that laws, regulations, practices and policies conform with relevant OSCE commitments on anti-Semitism;

WHEREAS the 2002 Berlin Resolution also encouraged all delegates to the Parliamentary Assembly to vocally and unconditionally condemn manifestations of anti-Semitic violence in their respective countries;

WHEREAS the alarming rise in anti-Semitic incidents and violence has been documented in Canada, as well as Europe and worldwide.

Appendix

RESOLUTION ON ANTI-SEMITIC VIOLENCE IN THE OSCE REGION Berlin, 6 — 10 July 2002

1. Recalling that the OSCE was among those organizations which publicly achieved international condemnation of anti-Semitism through the crafting of the 1990 Copenhagen Concluding Document;
2. Noting that all participating States, as stated in the Copenhagen Concluding Document, commit to “unequivocally condemn” anti-Semitism and take effective measures to protect individuals from anti-Semitic violence;
3. Remembering the 1996 Lisbon Concluding Document, which highlights the OSCE’s “comprehensive approach” to security, calls for “improvement in the implementation of all commitments in the human dimension, in particular with respect to human rights and fundamental freedoms”, and urges participating States to address “acute problems”, such as anti-Semitism;
4. Reaffirming the 1999 Charter for European Security, committing participating States to “counter such threats to security as violations of human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief and manifestations of intolerance, aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism”;
5. Recognizing that the scourge of anti-Semitism is not unique to any one country, and calls for steadfast perseverance by all participating States;

The OSCE Parliamentary Assembly:

6. Unequivocally condemns the alarming escalation of anti-Semitic violence throughout the OSCE region;
7. Voices deep concern over the recent escalation in anti-Semitic violence, as individuals of the Judaic faith and Jewish cultural properties have suffered attacks in many OSCE participating States;
8. Urges those States which undertake to return confiscated properties to rightful owners, or to provide alternative compensation to such owners, to ensure that their property restitution and compensation programmes are implemented in a non-discriminatory manner and according to the rule of law;

9. Recognizes the commendable efforts of many post-communist States to redress injustices inflicted by previous regimes based on religious heritage, considering that the interests of justice dictate that more work remains to be done in this regard, particularly with regard to individual and community property restitution compensation;
10. Recognizes the danger of anti-Semitic violence to European security, especially in light of the trend of increasing violence and attacks regions wide;
11. Declares that violence against Jews and other manifestations of intolerance will never be justified by international developments or political issues, and that it obstructs democracy, pluralism, and peace;
12. Urges all States to make public statements recognizing violence against Jews and Jewish cultural properties as anti-Semitic, as well as to issue strong, public declarations condemning the depredations;
13. Calls upon participating States to ensure aggressive law enforcement by local and national authorities, including thorough investigation of anti-Semitic criminal acts, apprehension of perpetrators, initiation of appropriate criminal prosecutions and judicial proceedings;
14. Urges participating States to bolster the importance of combating anti-Semitism by holding a follow-up seminar or human dimension meeting that explores effective measures to prevent anti-Semitism, and to ensure that their laws, regulations, practices and policies conform with relevant OSCE commitments on anti-Semitism; and
15. Encourages all delegates to the Parliamentary Assembly to vocally and unconditionally condemn manifestations of anti-Semitic violence in their respective countries and at all regional and international forums.—(*Honourable Senator Spivak*).

Hon. Mira Spivak: Honourable senators, I am pleased to speak to this motion about the 2002 Berlin Resolution of the Organization for Security and Economic Co-operation in Europe that will be referred to one of our committees, I hope.

Like my colleague, the Honourable Senator Grafstein, I believe it is crucial for this Parliament to voice its deep concern for the new anti-Semitism, anti-Jewishness, that is surfacing not only abroad but also in Canada. The Berlin Resolution that calls on states to combat anti-Semitism provides an excellent mechanism for addressing this new evil and, hopefully, one of our committees will be the appropriate place for us to pursue it.

I refer to the “new anti-Jewishness.” It is not my phrase. It is the phrase used by Professor Irwin Cotler, who is perhaps better known to many senators as a colleague in the other place. He is on leave from McGill University where he is also a Professor of Law and Director of the University’s Human Rights Program.

Last month, he published a paper in which he literally sounded the alarm about human rights and the new form of anti-Semitism:

What we are witnessing today — which has been developing incrementally, almost imperceptibly, and sometimes indulgently, for some thirty years now — is a new, virulent, globalizing and even lethal anti-Jewishness reminiscent of the atmosphere of the 1930s, and without parallel or precedence since the end of the Second World War.

He defines it as discrimination against or denial of or assault upon national particularity and “peoplehood” anywhere, whenever that national particularity and peoplehood happen to be Jewish. It is expressed in the singling out of Israel and the Jewish people for differential and discriminatory treatment in the international arena. In its most lethal form, it is expressed as a singling out of Israel and the Jewish people for assault, as evidenced by the suicide bombers.

He has developed some 13 indices to identify this new anti-Jewishness. I will not go through all of them, but I would be happy to share this paper with honourable senators who would like to read it in its entirety. I would, however, like to highlight some of them.

First are the public calls for the destruction of Israel and the Jewish people by terrorist organizations, by radical Islamic clerics and by states such as Iran and Iraq.

Israel is the only state in the world today, and the Jews the only people in the world today, that are the object of a standing set of threats from governmental, religious and terrorist bodies seeking their destruction. And what is most disturbing is the silence —

— something Senator Grafstein talked about —

— the indifference, and sometimes even the indulgence, in the face of such genocidal anti-Semitism.

He also speaks of political anti-Semitism — the “demonizing of Israel” and the denial of its legitimacy — and of ideological and theological anti-Semitism.

He has two other indices that I think we need to pay special attention to here in Canada. One is cultural anti-Semitism, expressed in the attitudes, sentiments, innuendo, et cetera, in academe, in parliaments and elsewhere, including the discourse of the “chattering classes” and the enlightened elites. As an example, he cites a remark by the French Ambassador to the United Kingdom that prompted British journalist Petronella Wyatt to write:

Anti-Semitism and its open expression has become respectable at London dinner tables.

The second indices that must particularly concern us, he describes as European anti-Semitism, but as Senator Grafstein pointed out, it is not confined to Europe. One prime example is assaults upon and desecration of synagogues, cemeteries and Jewish institutions in the past two years. As Senator Grafstein said, we have had four synagogues burned or scorched, four synagogues in four provinces of Canada.

Denial of the Holocaust, economic discrimination against Jews and state-sanctioned anti-Semitism — these are new examples of the new anti-Jewishness.

Irwin Cotler is sounding an alarm, not only for Israel and the Jewish people, but also for the world community and the human condition as a whole. As he said:

For as history has taught us only too well, while the persecution and discrimination may begin with Jews, it doesn't end with Jews.

Honourable senators, I believe we should not be silent in the face of what is happening globally and in our own backyards. Adopting Senator Grafstein's motion is an excellent place to start. It is an important and timely undertaking for one of our standing committees.

On motion of Senator LaPierre, debate adjourned.

The Senate adjourned until Thursday, February 6, 2003, at 1:30 p.m.

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