In my opinion, all indications are that aboriginals were not consulted appropriately. If you look at the bill, honourable senators, you will see that there is nothing in it for aboriginal people. They were not consulted; they did not sit down at the table; they did not get to the point of being able to talk about their rights.

Although I do not have the time today, I believe that we senators should take the time to read the decisions and the comments of the aboriginal community. Suffice it to say that it is not good enough to consider aboriginal rights in the formulation of regulations. It is not good enough to consider aboriginal rights by saying, "Trust me, we will correct it."

There is nothing in the bill which says that we have looked to the constitutional imperatives that are put forward. The minister indicated that he had consulted with the aboriginal community. Virtually every aboriginal leader in Canada has told us that he or she was not consulted on Bill C-68.

That creates a dilemma for us, honourable senators. Do we accept that there was adequate consultation because the minister said that there was? Do we accept that there was not just because all the aboriginal leaders said there was not? I do not believe that is the position we should take. We should look to the legislation to determine our responsibilities. In my opinion, our responsibilities are to ensure that there is not an adversarial situation between the aboriginal peoples and the Crown, but a trust-like situation.

There is nothing in the bill that indicates to me that the government took into account aboriginal rights. The minister, however, after tabling the bill set in place an adequate program to look at regulations and how they will affect aboriginal people. This comes as a result of clause 117(*u*), which indicates that cultural situations and aboriginal rights must be taken into account so as to have the least form of intrusion on aboriginal rights. However, the clause is permissive. It states that the minister "may."

At every turn, and I do not have time to go through all of it, whenever the issue of aboriginal rights —

The Hon. the Speaker: I hesitate to interrupt the honourable senator but her time has expired. Is there leave for the honourable senator to continue her remarks?

Hon. Senators: Agreed.

Senator Andreychuk: I thank honourable senators.

Had clause 117 been put in place earlier, it might have been of value. It could have been of value if it stated that the minister "shall" make regulations. However, that was not the case.

Honourable senators, after over 100 years of saying that we care about the rule of law, we have breached our fiduciary responsibilities. As I understand it, a delegation of eight Canadians is attending the international aboriginal talks in Geneva. Not one of them is aboriginal.

At every turn we continue to overlook opportunities to live up to our fiduciary responsibilities and to abide by the obligations that I think have been placed upon us. The minister says that he has consulted. In his first appearance before the committee he said that he would consider amendments to the bill and that he wanted to improve it. He said that he had concern for aboriginal issues. However, when he arrived for his last discussion with the committee, he said, with regard to consultation, that the court states that the minimum requirement is to inform the aboriginal peoples of Canada, and that he had at least done that.

Honourable senators, I do not think that, after so many years, we should still be doing what is minimal for aboriginals. We should do what is honourable and expected.

• (1540)

The minister also indicated:

> My experience with the animal called "consultation" is that it bears the meaning which the person using the word chooses to give it. Consultation, in my experience, only exists if you do exactly what the person being consulted asks you to do. Let me give you an example.

The example of course is of the Yukon.

I believe that if we are to take consultation seriously, we cannot start out by believing that those who consult simply want their way. The aboriginal people want to be at the table. They have a right to be at the table; they have a right to be heard. We have not given them a full and adequate hearing. We did not bring them into the process early enough.

The constitutional experts said that consultation was a precondition to the passage of this bill. Have we, in fact, met that precondition? Mr. Binnie, who gave a long assessment, said that the consultations had to be before the bill was proclaimed and that we could, in fact, have the consultation. In committee, Mr. Binnie said:

> However, one way or another, consultation is established as a condition precedent which must be satisfied before a valid limitation can be imposed.

Then Senator Beaudoin, the chairman, asked Professor Hogg if he agreed with that statement, and Professor Hogg, who I think most of us rely heavily on in constitutional law said: "Yes, I agree with that."

In other words, consultation is a condition precedent. It cannot be something that can be perfected after the act is passed. If that is the case, honourable senators, I have a dilemma. While I want the gun control bill, do I have to sacrifice aboriginal rights? Do I have to put my own opinions before my responsibilities to the aboriginal people?